

**RECORD OF PROCEEDINGS OF THE  
WHATCOM COUNTY PLANNING COMMISSION  
March 28, 2019**

Regular Meeting

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1 **Call to Order**

2 The meeting was called to order, by Whatcom County Planning Commission Vice Chair,  
3 Kimberley Lund, in the Whatcom County Northwest Annex at 6:30 p.m.

4 **Roll Call**

5 Present: Robert Bartel, Natalie McClendon, Gary Honcoop, Dominic Mocerri, Stephen  
6 Jackson, Atul Deshmane, Kimberley Lund

7 Absent: Kelvin Barton, Jon Maberry

8 **Staff Present**

9 Cliff Strong, Ryan Ericson, Ashley Ubil

10 **Department Update**

11 Mr. Strong updated the Commission on the following:  
12 Work plan recently docketed by County Council

13 **Open Session for Public Comment**

14 There was no public comment.

15 **Commissioner Comments**

16 Commissioner McClendon notified the other commissioners that she will be running for  
17 County Council.

18 **Approval of Minutes**

19 **Commissioner McClendon moved to approve. Commissioner Honcoop**  
20 **seconded. The motion carried (ayes-6, nays-0, abstain-1).**

21 **Public Hearing**

22 **File #PLN2018-00008: Wetland Buffer Amendments.**

23 Cliff Strong presented a recap of the previous meetings discussion.

24 The Department of Ecology (DOE) has updated its wetland guidance and has revised  
25 the habitat function score breakpoints and buffer widths. These changes do not need  
26 to be adopted now, but people have come forward and requested that Whatcom  
27 County adopt them. If they are not adopted now, then they will likely need to be  
28 adopted in the next periodic review in 5 to 6 years. At the end of the previous meeting,  
29 the Commissioners requested that Whatcom County staff look into the following three  
30 topics:

31 (1) Reach out to proponents and ask them to attend the March 28<sup>th</sup> meeting. This  
32 was successful based on the audience members currently in attendance.

33 (2) Research what other jurisdictions are doing. Mr. Ericson stated that the DOE is  
34 synthesizing what other jurisdictions are doing and that information should be  
35 available in about a month.

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1 (3) Find out the reasons the County Executive gave for moving the amendments  
2 forward. Mr. Strong stated that he spoke with Mark Personius about this and the  
3 response was that the Executive didn't provide reasons.

4 Commissioner Jackson asked if this was true.

5 Mr. Strong responded yes. He assumes it is because people asked the Executive to do  
6 so.

7 Mr. Strong continued stating that the proposed amendments shown in table WCC  
8 16.16.630 Table 1, show changes in the habitat function score in column 2, as well as  
9 some of the buffer widths. Some of the buffer widths get smaller, but most of them get  
10 larger. There was also discussion of the analysis of effects from three wetland  
11 consultants that provided the County with data. The consultants looked at wetlands  
12 they have previously delineated and applied the new amendments. One consultant  
13 found that the buffers increased, one consultant found that the buffers decreased, and  
14 one consultant found that they stayed about the same. The conclusion was that there  
15 is uncertainty of whether or not the proposed amendments would help or harm future  
16 projects. Whatcom County PDS staff also spoke with DOE staff, who also seemed  
17 uncertain about the amendments. There is an upcoming meeting on April 18<sup>th</sup>, 2019,  
18 for local wetland consultants and DOE staff to discuss the amendments. It may be  
19 prudent to wait until after that meeting to take an action.

20 The hearing was opened to the public.

21 Jacquelyn Styrna - representing the Building Industry Association of Whatcom County  
22 (BIAWC): First, she expressed her thanks to the Planning Commission for exploring the  
23 wetland buffer amendments. This idea originated in a meeting between BIAWC and the  
24 County Executive last spring. Quarterly meetings are held and the wetland buffer  
25 amendments were one of the topics discussed. The BIAWC supports the protection of  
26 the natural resources in Whatcom County. As a membership, the BIAWC believes in  
27 the density balance between protecting wildlife habitat and being smart about where to  
28 develop human habitat. Arbitrary or marginally affected buffers can cause or create  
29 inefficient development patters which may result in the need to move out further which  
30 could impact additional natural resource areas. Given a determination of non-  
31 significance (DNS) was issued under SEPA, it is difficult to discern whether the  
32 amendments would harm the building industry and further complicate the housing  
33 availability crisis or not.

34 Liliana Hansen, wetland biologist from Miller Environmental: First, she asked Mr.  
35 Ericson which person from the DOE he spoke with.

36 Mr. Ericson responded that he spoke with Diane Hennessey.

37 Ms. Hansen continued by saying she spoke with Kim Weil from the City of Bellingham  
38 regarding the wetland amendments. There was some confusion as to whether or not  
39 the jurisdictions were supposed to adopt all of the tables within the amendments or  
40 whether it was just about the habitat function score changes. They found that under  
41 the old rating form, if you had a habitat function score of 5, it would have been in the  
42 low category. Currently, a habitat score of 5 would fall into the moderate category  
43 which increases the buffer. Ecology was saying that they would like jurisdictions to

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1 adjust the score of 5 to be a low category with the new amendments. Referencing an  
2 email from November between the Diane Hennessey and the Kim Weil, the DOE was  
3 not asking jurisdictions to update the tables at this time; they just wanted the habitat  
4 score of 5 to be adjusted into the low category so it reflects the original intent of the  
5 rating form better.

6 Mr. Strong responded that he also spoke to Kim Weil regarding this issue, who urged  
7 him to contact Diane Hennessey from the DOE. Diane Hennessey's response to Mr.  
8 Strong was confusing with no direct answer. Mr. Strong then directed Mr. Ericson to  
9 read an email that was sent to PDS staff today word for word.

10 Mr. Ericson read the email out loud stating: "The buffer updates and the habitat score  
11 proposed in the staff report follows our most current guidance in appendix C. Looking  
12 back in our records for our comments, we found from Susan Meyer, that we  
13 commented saying that Whatcom County should follow our Appendix C tables. I'm not  
14 sure why these were not adopted in 2017, but it looked like the asterisk about using  
15 the larger buffer from the Cat II and Cat III wetlands with habitat scores 8 and 9 was  
16 missed, and not consistent with our guidance. We recommend that you update your  
17 buffers as proposed along with the habitat score revision 3 through 5. If you choose  
18 not to adopt this, please provide a rationale why you would not adopt these as we  
19 consider our guidance BAS. I am happy to go over this with you on a phone  
20 conversation if you would like to discuss this further."

21 Mr. Strong stated that the DOE told PDS staff that the wrong buffers were adopted in  
22 the CAO update in 2017, even though Diane Hennessey and Susan Meyer proposed the  
23 changes.

24 Ms. Hansen stated she thought that the DOE was letting the jurisdictions use their own  
25 science. She was not under the impression that the DOE was forcing jurisdictions to  
26 adopt their tables. She believed that the DOE was making a recommendation and if  
27 jurisdictions did not want to adopt their tables they would need to provide research.  
28 There was additional confusion during her conversations with Kim Weil and Diane  
29 Hennessey.

30 Katrina Jackson, Whatcom County: She was one of the consultants that submitted her  
31 data within the staff report. Initially she was in support of making the changes, but at  
32 that time she was getting a lot of habitat function scores of 5, which would be  
33 beneficial with the changes. Recently, habitat function scores of 8 have been coming  
34 up, which would make the buffers 225 feet. She believes that if both changes need to  
35 be made (the habitat function scores and the buffer widths), it is not worth making the  
36 changes. It can be easy in the rural areas to reach a habitat function score of 8.

37 Ed Miller, representing Miller Environmental: This company works with an array of  
38 different people and different size projects, doing many different wetland delineations.  
39 When using the newer rating form, they found that the breaks in the habitat function  
40 scores have changed and it is very hard to get a low habitat score in a category III  
41 wetland. Over the last year, there was 5/122 wetlands that scored a low habitat score,  
42 and 70% were category III with a moderate habitat score. Like Ms. Jackson previously  
43 stated, it is currently very easy to reach a moderate habitat score on most properties.  
44 With that being said, he believes the relief the DOE is providing with changing the

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1 breaks is beneficial to obtain a low habitat score. He is in support of the habitat score  
2 break changes. With that being said, he is not in support of the wetland buffer  
3 changes. The 2018 change that happened only reflected the habitat score changes. He  
4 believes that they should be able to separate the habitat score changes and the  
5 wetland buffer changes and adopt or not adopt them separately. Depending on where  
6 your property is located, it could easily have a high habitat score regardless of the use  
7 of the land. There could easily be multiple habitat types in 5,000 or 10,000 square  
8 feet. If the buffers increase to 225 feet, it would take up the majority of the property,  
9 creating a reasonable use situation. He believes the DOE is attempting to help the  
10 situation, but does not think that the larger buffers are necessary.

11 Mr. Ericson stated that in 2014, the DOE updated their wetland tables. Currently, when  
12 you go to the DOE website, they now have the July 2018 updated Appendix C which  
13 reflect all of the new numbers.

14 Mr. Miller stated that the 2018 table and the 2014 tables are listed word for word, but  
15 only the habitat scores have changed. The actual buffer numbers are the same from  
16 2014.

17 Commissioner Honcoop asked Mr. Miller if he means that the proposed buffer widths  
18 are the same, or the existing buffer widths are the same in the tables.

19 Mr. Miller responded that in 2014 the DOE did an earlier update to the Appendix AC  
20 table. That table had the same buffers, but the habitat score breaks were different. In  
21 2018, the same table was used, but they changed the habitat score break.

22 Roger Almskaar, Whatcom County: He appreciates what the wetland scientists have  
23 said today. The tables are difficult to understand unless you are in the field. He would  
24 like to make three points this evening. He is a member of the BIAWC and his  
25 comments are separate from the BIAWC. He believes that the new amendments can  
26 create overregulation, which is one of the main causes of the high cost of housing. The  
27 new buffers are questionable if the wetland is not a high quality wetland. On one 20  
28 acre project he is currently working on, one wetland scientist classified a 7 acre  
29 wetland as a category IV, with moderate land use intensity, which would be a 40 foot  
30 buffer. Other wetland scientists have classified it as a category III, which would change  
31 the buffer to 110 feet. With a 40 foot buffer, it would use about 1.3 acres of land.  
32 Moving to the 110 foot buffer, it would use about 3.5 acres. Adding that to the 7 acre  
33 wetland, it would make the parcel unusable. People are concerned about rural  
34 development, but the pace of rural subdivisions is way down compared to the past. He  
35 does not believe that the destruction of rural landscape is an issue in this situation. He  
36 does appreciate the intent of the proposal, but that it is just scratching the surface of  
37 the issue. The low intensity use is so restrictive that you cannot do much with the land.  
38 He suggests that the matter should be tabled until the April 18<sup>th</sup> meeting to get a  
39 better understanding of the situation. He wanted to state that this is guidance from the  
40 DOE, not a WAC or state regulation. Whatcom County could tweak it some if they  
41 wanted to. A house on 9/10<sup>ths</sup> of an acre is considered high intensity, which is the same  
42 category as an oil refinery or regional mall. That does not make sense. The huge  
43 distinction between rural development and urban development is completely ignored.

44 The public hearing was closed.

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1 Commissioner Deshmane stated that he recalled from the previous meeting that Mr.  
2 Strong stated that the Commission is locked into the table with the new amendments,  
3 but Mr. Almskaar stated that the Commission is not locked into the table.

4 Mr. Strong responded that he specifically asked Diane Hennessey if the County can  
5 make some of the changes, not all of them, and there was no clear answer given. He is  
6 hoping that the meeting on April 18<sup>th</sup> will help clarify the confusion.

7 Commissioner Mocerri stated that before he believed that the current buffer widths  
8 were what the DOE was following, but realized that the buffer widths were actually  
9 updated with the DOE in 2014. Whatcom County did not make the 2014 changes.

10 Mr. Strong stated that Whatcom County believed that they were following the DOE  
11 recommendations because the DOE staff, while on the Technical Advisory Committee,  
12 recommended the changes for Whatcom County.

13 Mr. Ericson stated that the DOE brought forth the first draft for the recommended  
14 changes to Whatcom County.

15 Commissioner Honcoop asked Ms. Jackson to update the Planning Commission about  
16 what places something in low, moderate, or high land use intensity.

17 Ms. Jackson responded stating high land use intensity is a single family residence on a  
18 small lot less than an acre, cemeteries, golf courses, blueberry fields, raspberry fields,  
19 and cattle farming. About the only thing that falls into a low category are the hay  
20 pastures and certain types of forestry. Trails are moderate use, and about everything  
21 else falls into moderate land use intensity.

22 Commissioner Honcoop asked how the different habitat function scores are  
23 determined.

24 Ms. Jackson stated that there are three levels, water quality, hydrology, and habitat  
25 function. It depends on different shrubs and grass, saturation, streams, the number of  
26 plant species, and all of the different factors will result in a habitat function score.  
27 Depending on how much of the land falls into a high habitat function, it will determine  
28 which habitat function score the land will fall into. Falling trees are also a factor in the  
29 habitat function score. Streams can make a large impact of the habitat function score  
30 as well, even if it does not connect into a river.

31 Commissioner Honcoop asked Mr. Miller how the agriculture plots in his data ended up  
32 falling into a high habitat function score.

33 Mr. Miller responded by stating that there are three separate blocks that come  
34 together to create the score. One block is the habitat within the kilometer of the  
35 property. Another block is if there is a stream or log on the property. The last block is  
36 the actual habitat functioning of the wetland. The number of habitat types located on  
37 the property makes a big impact on the habitat function score category.

38 Commissioner Honcoop asked if there were no buildings involved in Mr. Miller's  
39 examples.

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41 Mr. Miller confirmed that the examples did not include buildings. It depends on where  
42 your property is.

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1 Commissioner Lund asked Mr. Miller if he could submit his data for the record.

2 Mr. Miller agreed and submitted the data to Commissioner Lund.

3 Commissioner Deshmane asked for more examples of what would fall into each  
4 wetland categories.

5 Ms. Hansen responded that category I is somewhat rare. She has seen examples of  
6 category I with large beaver pond, areas with ponding, or areas with seasonal  
7 saturation. Category II comes up occasionally. One example was near a gas station  
8 that had an estuary surrounding it. It was in mowed grass and contained snags and  
9 logs. She was shocked that this land fell into a category II wetland. Category III is the  
10 most common. They could be fields, cow fields, a patch of woods. Category IV is  
11 usually in a field on a slope.

12 Ms. Jackson stated that the category IV is commonly found in the City of Bellingham.

13 Mr. Miller stated that the urban areas often see lower habitat categories.

14 Ms. Hansen stated that the category III wetland buffer proposed amendments are  
15 misleading because the large proposed buffers make it seem like there is a high level  
16 of habitat function, which is often not the case.

17 Commissioner McClendon stated that she believes that this entire discussion should  
18 happen in a technical advisory committee. She does not feel like the Commission is in  
19 the position to be making this kind of decision. She agrees that the Commission should  
20 wait until after the April 18<sup>th</sup> meeting with the DOE.

21 Commissioner Honcoop stated that regardless of whether or not the Commission feels  
22 as if they should be voting on the issue, it was still proposed to the Commission to  
23 vote on. There still needs to be discretion used when making the decision. He stated  
24 that he has had phone conversations with wetland specialists both in attendance  
25 tonight and others. He was shocked that a parcel with a house on it can immediately  
26 fall into a high category score. The buffer widths with the new amendments would  
27 drastically impact the size of the usable land on the parcel. He does not support the  
28 proposed buffer widths. He cannot see the justifications of increasing all of the high  
29 habitat function score buffer width changes in the different wetland categories. He  
30 does support the change in habitat function scores. He would like to know what other  
31 jurisdictions are doing, regarding reductions and minimizing impacts. He asked if  
32 Whatcom County could consider something similar. The next update is in about 5 to 6  
33 years. He then asked if Whatcom County would have to wait that long to get there, or  
34 can the county start the process sooner.

35 Mr. Ericson responded that the path that Whatcom County chose, called alternative 3,  
36 is only one of the alternatives that the DOE considers best available science. There is  
37 one that does not use habitat function scores. There is one that just includes category  
38 and standard buffer, and other variations. Looking back at a more comprehensive  
39 change is a bigger discussion topic. It is in the authority of Whatcom County to  
40 determine how the county manages buffer reductions. The County does not have to  
41 wait until the next periodic review, but that is not what the DOE directed the County to  
42 do.

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- 1 Commissioner Lund stated that even though there were statements that reaching a  
2 habitat function score of 8 or higher, the three consultants that submitted data within  
3 the staff report only showed one instance of a habitat function score of 8 or higher. It  
4 is not very frequent that this happens.
- 5 Commissioner Honcoop stated that if a parcel reaches a habitat function score of 8 or  
6 higher, it is likely that the land owner would not proceed with the wetland delineation  
7 or the project, which could skew the data.
- 8 Commissioner Deshmane agreed with Commissioner McClendon that it seems  
9 premature for the Commission to make a decision on these changes. He would like to  
10 know if the DOE would provide an explanation and attend the meeting where the  
11 Commission makes a decision to provide guidance, or have PDS staff provide further  
12 information from the DOE.
- 13 Mr. Strong stated that the PDS staff would ask the DOE for additional guidance on the  
14 matter and that he would like to see something definitive.
- 15 Commissioner Deshmane asked if over time wetland buffers would create a larger  
16 wetland due to the wetland growing into the buffer area.
- 17 Mr. Strong stated that some wetland sizes increase and some decrease, it depends on  
18 the hydrology involved.
- 19 Commissioner Deshmane asked what time of year the wetland boundaries are  
20 determined.
- 21 Ms. Hansen stated that there is a science and methodology that is followed. It could be  
22 done at any time during the year. The buffer does not change the size of the wetland.  
23 It is dependent on the soils, water table, and plants. If there is somehow more water  
24 added to the area, then the wetland could expand. The intent of the buffer is to protect  
25 the wetland function, so an area that is wild will not alter the area of wetland.
- 26 Commissioner Mocerri asked if the land use changes within that kilometer, would the  
27 score change.
- 28 Ms. Jackson stated that the rating could change in that case.
- 29 Ms. Hansen stated that they are often only looking at a piece of the wetland when they  
30 are rating wetlands. There are a lot of assumptions that are made about the wetland.  
31 Different consultants can rate the same wetland under different categories.
- 32 Commissioner Honcoop stated that he cannot support the buffer widths, so he needs  
33 guidance before making a motion. The impacts of the buffers are real, and parcels can  
34 be diminished due to the larger buffer sizes. He is requesting that staff provide  
35 guidance as to what other options are available regarding impact minimizations and  
36 administrative relief.
- 37 Mr. Strong stated that Whatcom County does have buffer reduction rules. He then  
38 suggested that the Commission table the discussion until after the April 18<sup>th</sup> meeting  
39 with the DOE for clarification.

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1 **Commissioner Jackson moved to postpone the matter until after the April 18<sup>th</sup>**  
2 **meeting with the DOE. Commissioner Honcoop seconded. The motion carried**  
3 **(ayes-7, nays-0).**

4 **Adjournment**

5 The meeting was adjourned at 7:37 p.m.

6 Minutes prepared by Ashley Ubil.

7 WHATCOM COUNTY PLANNING COMMISSION ATTEST:

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Kelvin Barton, Chair

  
Ashley Ubil, Secretary