

**RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
March 14, 2019**

Regular Meeting

1

1 **Call to Order**

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

4 **Roll Call**

5 Present: Kelvin Barton, Natalie McClendon, Atul Deshmane, Dominic Mocerri, Jon
6 Maberry, Robert Bartel, Gary Honcoop
7 Absent: Kimberley Lund

8 **Staff Present**

9 Cliff Strong, Ryan Ericson, Ashley Ubil

10 **Department Update**

11 There was no department update.

12 **Open Session for Public Comment**

13 There was no public comment.

14 **Commissioner Comments**

15 There were no commissioner comments.

16 **Approval of Minutes**

17 An email was sent out to Commissioners with two minor changes the week prior to the
18 meeting.

19 **Commissioner Deshmane moved to approve with email amendments.**
20 **Commissioner Maberry seconded. The motion carried (ayes-5, nays-0,**
21 **abstain-2).**

22 (Commissioner Honcoop arrived at 6:34 p.m.)

23 **Public Hearing**

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

25 Cliff Strong presented the staff report.

26 In July 2018 the Washington Department of Ecology (DOE) modified the habitat score
27 ranges and recommended buffer widths in their wetland buffer tables, with some minor
28 text changes to ensure consistency. In DOE's previous wetland buffer tables, low
29 habitat function was represented by a score of 3 or 4 points and moderate habitat
30 function by a score of 5 to 7 points. However, after the conducted a detailed analysis
31 of habitat scores for the 211 reference wetlands used to calibrate the rating system,
32 they found that wetlands scoring 3, 4, or 5 points for habitat are more similarly
33 distributed to those scoring ≤ 19 points in the 2004 version. The DOE made the
34 change based on public feedback and their review of the reference wetland data used

**RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
March 14, 2019**

Regular Meeting

2

1 to calibrate the rating system. Their preference is to maintain similar distributions
2 between the 2004 and 2014 versions of the Washington State Wetland Rating System.
3 This information prompted the DOE to adjust the habitat score break points in the
4 current wetland buffer tables. The modified tables now group habitat scores of 3 to 5
5 into low habitat function and scores of 6 and 7 into moderate habitat function.
6 However, concurrent with the reclassification of the Habitat Function Scores, the DOE
7 has also revised some of their recommended buffers for the revised categories, as
8 shown in table 1.

9 Mr. Strong then apologized that the table presented in the staff report did not include
10 the original text, just the proposed amendments. The Adobe PDF processor removed
11 the track changes from the original document, but the table with both sets of numbers
12 is presented on the projector screen.

13 Commissioner Deshmane asked why a similar distribution is desired, based on the DOE
14 preference.

15 Mr. Ericson stated that the distribution is similar, but is just readjusted so that some of
16 the lower quality wetlands would end up with smaller buffers and some of the higher
17 quality wetlands would end up with larger buffers.

18 Commissioner McClendon asked if the amendments in the table shown on the projector
19 screen in the presentation are what the commission is voting on.

20 Mr. Strong stated yes.

21 Commissioner Honcoop stated that some of the setbacks have dramatically increased.
22 These increases cause the area of impact to grow at a much greater rate.

23 Mr. Ericson stated that while some of the proposed setbacks have increased in some of
24 the higher habitat function score categories, some of the other proposed setbacks have
25 either decreased or stayed the same.

26 Mr. Strong then stated that, at staff's request, some of the local environmental
27 consulting firms analyzed some previous wetland work and compared it to the new
28 setback information to show how many of their site buffers increased or decreased.
29 The data shows that while some show increases, others show decreases or no impact.
30 Overall, there were as many wetlands with decreased buffers as increased buffers.

31 Commissioner Honcoop stated that he has worked with many of these consulting firms
32 in the past. Different companies are hired for different types of wetland work, so the
33 data in the table may not reflect the overall impacts.

34 Commissioner McClendon asked if the Commission has the option to adopt the
35 amendments now, or in the future.

36 Mr. Strong stated that the DOE has stated that we are not obligated to adopt them
37 now, but that we could wait until we updated our Critical Areas Ordinance update in 7-
38 8 years. They consider both to be based on Best Available Science.

39 Commissioner Honcoop stated that the staff report states that the proposed
40 amendments are based on *best available science* and that this could change in the
41 next 7-8 years if the commission chooses not to adopt the amendments and wait until
42 the Critical Areas Ordinance is updated.

**RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
March 14, 2019**

Regular Meeting

3

- 1 Commissioner McClendon asked if the Builder Industry Association of Whatcom County
2 (BIAWC) liked the amendments. Mr. Strong stated that the BIAWC was one of the
3 parties that requested this amendment.
- 4 Whatcom County Planning and Development Services (PDS) has no recommendation
5 because staff is unsure of how the the amendments would affect the various
6 stakeholders. The proponents brought the proposed amendments to Whatcom County
7 Executive Jack Louws, who instructed PDS to bring it to the Planning Commission for
8 consideration.
- 9 Commissioner Honcoop stated that the BIAWC was not the only group that was in
10 favor of the amendments, there were other groups involved in bringing this forward.
- 11 Commissioner Mocerri asked what the primary reasons were that were presented to Mr.
12 Louws from the environmental consulting firms and the BIAWC.
- 13 Mr. Strong stated that this information was not shared with staff, but that he would
14 look into it.
- 15 Commissioner Mocerri asked to see the full table again.
- 16 Mr. Ericson stated that the table increased all buffers in the habitat function score
17 range of 8-9 in all categories to match the buffers of category I due to its habitat
18 value.
- 19 Commissioner Bartel asked how soon the amendments would be implemented if
20 passed.
- 21 Mr. Strong stated that it takes 3-4 weeks for a proposal to get to the County Council
22 after the Planning Commission has finished, then usually ordinances take effect 10
23 days after the Council adopts it.
- 24 Mr. Ericson stated that if the amendments were adopted, they would not be
25 retroactively applied to permits currently in process.
- 26 Commissioner Maberry asked if there are maps available to see the wetlands and
27 corresponding categories in Whatcom County.
- 28 Mr. Ericson stated no, Whatcom County does not have the capability to produce maps
29 with that information at this time.
- 30 Commissioner Maberry asked how the wetland restrictions are enforced without maps.
- 31 Mr. Ericson stated that the County uses GIS potential indicators of wetlands, which
32 would prompt a site visit to determine if there are wetlands on the property.
- 33 Commissioner Maberry asked if there are definitions for the Land Use Intensity
34 categories within the table.
- 35 Mr. Strong pointed to the footnote on the table, which states that the definitions for
36 these categories are provided in Article 9 of the chapter.
- 37 Commissioner Maberry asked if the wetland restrictions are enforced in agricultural
38 lands.
- 39 Mr. Ericson stated yes.

**RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
March 14, 2019**

Regular Meeting

4

- 1 Mr. Strong stated that he believes that the proposed amendments may most benefit
2 farmers, where we have more low-quality "field" wetlands.
- 3 Commissioner McClendon asked how the wetland requirements are enforced in
4 agricultural lands.
- 5 Mr. Ericson stated that this is enforced through the Conservation Program on
6 Agricultural Lands (CPAL). Buffers are still required to be met.
- 7 Mr. Strong stated that they can also be enforced through code enforcement cases
8 when we get a complaint.
- 9 Commissioner Maberry asked if there are any cases of ongoing agricultural activities
10 that violate the current setbacks.
- 11 Mr. Ericson stated yes.
- 12 Mr. Strong pointed out that "ongoing agriculture" only applies to agriculture started
13 before 1995. New agriculture must meet the standard CAO buffers.
- 14 Commissioner Honcoop asked where the list of parties who brought the amendments
15 to review is located.
- 16 Mr. Ericson clarified that many of the firms petitioned at the state level, rather than
17 the county level, so there is not a full list provided.
- 18 Commissioner Deshmane asked if it is correct that the PDS staff does not have a
19 recommendation on the matter.
- 20 Commissioner McClendon asked if ecology also does not have an opinion on the
21 matter.
- 22 Mr. Strong stated that PDS staff does not have a recommendation on implementing
23 the amendments because there is not enough information to tell if this is good or bad
24 for the county. The DOE recommends that we adopted them either now or with our
25 next CAO periodic update.
- 26 Commissioner Barton asked what the benefit of adopting the amendments is.
- 27 Mr. Strong stated that the amendments will eventually need to be adopted, either now
28 or when we update our CAO.
- 29 Commissioner Mocerri stated that he is having a hard time making a decision to vote on
30 the matter.
- 31 Commissioner Honcoop stated that he feels there is a missing element to the proposal.
32 The 2004 scoring system in place prior to the current scoring system would bring
33 insight to the issue.
- 34 Mr. Ericson stated that the wetland category IV now includes a function score of 3 to 8,
35 rather than 5 to 8 previously.
- 36 Commissioner McClendon stated that the advantage of the amendments is that it
37 increases buffers where it matters. She then asked Commissioner Honcoop if he
38 considers the amendments better than what is currently in place.

**RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
March 14, 2019**

Regular Meeting

5

- 1 Commissioner Honcoop stated that the amendments are only better related to the
2 habitat function score, not the land use intensities.
- 3 Commissioner Deshmane stated that because there is an improvement in larger
4 buffers for the high habitat function scores, implementing the amendments now would
5 have an ecological benefit.
- 6 Mr. Ericson stated that is true.
- 7 The hearing was opened to the public.
- 8 Nathan Mark, a Western Washington University student, stated that he is not well
9 informed about land use, but believes that there is a potential ecological benefit to
10 implementing the amendments. He stated that he is unsure about what damages there
11 would be.
- 12 The public hearing was closed.
- 13 Commissioner Mocerri stated that he thinks category III of the table is ramped up a bit
14 in regards to the increase in setbacks. Considering other issues in the county and city,
15 such as the homeless issues, he would like to see where this issue stands.
- 16 Commissioner McClendon asked if these amendments would only apply outside of city
17 limits.
- 18 Mr. Strong stated yes.
- 19 Commissioner Deshmane asked Commissioner Honcoop what he feels is the most
20 concerning section on the table and if it was category III.
- 21 Commissioner Honcoop stated that within category III, habitat function score 8 to 9 is
22 not a concern. Within category II, the moderate and low habitat function scores, from
23 6 to 7, is where most development opportunities will be impacted. He then stated he is
24 not ready to vote on the amendments due to the table showing changes being
25 unavailable until tonight. He would like to analyze the table and apply working data
26 towards it.
- 27 Commissioner Deshmane asked if there was any guidance from County Council. He
28 then asked if the Planning Commission could vote on changing some of the setback
29 requirements .
- 30 Mr. Strong stated no, we cannot piecemeal it.
- 31 Commissioner Honcoop stated that this is a significant decision to make without having
32 data showing the potential impacts.
- 33 Mr. Strong stated that there is no data available showing potential impacts.
- 34 Commissioner Deshmane asked if there are other permits in process that these
35 amendments would impact.
- 36 Mr. Ericson stated yes, there are some applicants waiting to see if the amendments
37 pass before applying because it will benefit their situation if they do pass.

**RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
March 14, 2019**

Regular Meeting

6

- 1 Commissioner McClendon asked why there is a lack of data. The DOE released the
2 information a year ago. She then asked if other counties have adopted the
3 amendments.
- 4 Mr. Ericson stated yes, the City of Bellingham is in the process of adopting the new
5 requirements.
- 6 Commissioner Bartel stated that he sees the benefits the amendments would create for
7 the environment, but is concerned that people who are unaware of the changes would
8 be negatively impacted. He expressed concern for homeowners that have not
9 developed their land yet and that it could cause a negative impact for their situation
10 due to the fast implementation timeline if the County Council were to pass the
11 amendments.
- 12 Mr. Strong stated that this is true of all codes adopted by the County Council.
- 13 Mr. Ericson stated that Whatcom County tries to get the word out in these types of
14 situations through the County website and word-of-mouth with consultants.
- 15 Commissioner Mocerri asked if the amendments will need to be adopted in 7 years if
16 they are not passed now.
- 17 Commissioner Honcoop stated that the best available science could change by then
18 which could cause the buffers to change even more.
- 19 Mr. Strong stated that the amendments would eventually need to be adopted.
- 20 Commissioner Honcoop asked why the setbacks in category III, habitat function score
21 8 to 9, doubled.
- 22 Mr. Ericson stated that all of the setbacks in the habitat function scores 8 to 9 were
23 changed to match those of category I.
- 24 Commissioner Barton asked the other commissioners what they would like to do.
- 25 Commissioner Honcoop stated he will not be voting tonight.
- 26 Commissioner Jackson stated he will not be voting tonight.
- 27 Commissioner McClendon asked if staff would provide the Commissioners with
28 additional data prior to voting at the next meeting.
- 29 Commissioner Mocerri stated that he would like to know what points were brought
30 forward to Mr. Louws.
- 31 Commissioner McClendon stated that the BIAWC should be at the meeting if they were
32 the ones who instigated the amendments.
- 33 Commissioner Honcoop stated that the BIAWC is not the only group who supported the
34 amendments.
- 35 Commissioner Barton stated that there is a consensus to wait to vote on the measure.
- 36 Commissioner Deshmane requested that proponents attend the next meeting to
37 explain why the amendments should pass.

**RECORD OF PROCEEDINGS OF THE
WHATCOM COUNTY PLANNING COMMISSION
March 14, 2019**

Regular Meeting

7

1 **Adjournment**

2 The meeting was adjourned at 7:23 p.m.

3 Minutes prepared by Ashley Ubil.

4 WHATCOM COUNTY PLANNING COMMISSION ATTEST:

5

6

7

8

9



Kelvin Barton, Chair



Ashley Ubil, Secretary