## Kitsap County Planning Commission Minutes - March 19, 2019 1 **KITSAP COUNTY PLANNING COMMISSION** 2 Administration Building - Commissioner's Chambers 3 March 19, 2019 @ 5:30 pm These minutes are intended to provide a summary of meeting decisions and, except for motions 4 made, should not be relied upon for specific statements from individuals at the meeting. If the 5 6 reader would like to hear specific discussion, they should visit Kitsap County's Website at 7 http://www.kitsapgov.com/dcd/pc/default.htm and listen to the audio file (to assist in locating 8 information, time-stamps are provided below). 9 Members present Kim Allen (Chair), Shelley Kneip, Tom Nevins, Joe Phillips, Jim Svensson, Mike 10 11 Eliason 12 Members absent Aaron Murphy, Gina Buskirk, Richard Shattuck 13 14 15 Staff present Jim Bolger, Darren Gurnee, Katharine Shaffer, Dave Ward, Liz Williams, Amanda Walston (Clerk) 16 17 18 05:30:14 Α. Introductions 19 Mr. Murphy, Ms. Buskirk & Mr. Shattuck's absences are noted and excused. 20 Adoption of Agenda 21 Β. Motion: Joe Phillips motions to adopt the agenda as presented 22 Second: Jim Svensson seconds 23 Vote: 6 in Favor; 0 Opposed – Motion carries 24 • 25 C. **Approval of Minutes** Postponed to next regular meeting 26 • Work Study: Kent Open Space Application 18-05662, Katharine Shaffer DCD Planner 27 D. Ms. Shaffer provides a brief overview of the Open Space Application process, as well 28 as the Kent application, referencing the Staff report, maps and photographs, and 29 30 recommendation, as provided. Public Hearing: Kent Open Space Application 18-05662, Katharine Shaffer DCD Planner 31 32 Chair Allen opens the Public Hearing. Chair Allen calls for speakers, hearing none, closes the Public Hearing. 33 • 34 Deliberations: Kent Open Space Application 18-05662, Katharine Shaffer DCD Planner Motion: Tom Nevins motions to approve the application 35 Second: Joe Philips seconds 36 • 37 Mike Eliason commends the program and its benefits. Vote: 6 in Favor; 0 Opposed – Motion carries 38 • Findings of Fact: Kent Open Space Application 18-05662, Katharine Shaffer DCD Planner 39

1 Motion: Shelley Kneip motions to approve the Findings of Fact 2 Second: Joe Phillips seconds • 3 Vote: 6 in Favor 0 opposed – Motion carries 4 5:43:01 5 Ε. Briefing: Interim Ordinance 366-2019 - Group Residential Facilities, Secured High Risk – Liz 6 Williams, DCD Planner 7 Ms. Williams provides a brief overview, referencing presentation slides, regarding • 8 Group Residential Facilities, including long history and state law requiring the 9 allowance but no regulation in placement, noting the proposed ordinance provides 10 definition in the code, including limits, allowances and restrictions related to capacity, 11 location and other factors. 12 The Board of County Commissioners (BoCC) has 6 months to adopt a final ordinance. ٠ 13 A BoCC public hearing is scheduled for 03/25/19 at 5:30 pm. Comment received will • 14 help shape the ordinance moving forward, packet of info tonight 15 Ms. Williams outlines the Planning Commission schedule for this item, which includes 16 a 04/16/19 work study, 05/07/19 public hearing, 06/21/19 17 deliberation/recommendations and 06/04/19 findings of fact. 18 Ms. Williams notes the public is encouraged to stay informed and involved, describes 19 public outreach, contact avenues and process to submit comment. Public comment 20 period closes at midnight 03/25/19 and will open again in April during the public 21 hearing before the Planning Commission. 22 QUESTION: Ms. Kneip asks about the existing facility, that appears to have been the 23 reason this issue came forth. 24 ANSWER: Ms. Williams states DCD has issued a notice of violation and ٠ 25 begun the associated process. 26 QUESTION/ANSWER: Ms. Kneip asks, and Ms. Williams confirms, the State does not 27 operate the home, services are contracted out. 28 QUESTION/ANSWER: Mr. Eliason asks, and Ms. Williams states she is unaware of any 29 other jurisdictions having set limits on number of occupants. 30 QUESTION: Ms. Kneip and Mr. Eliason ask if other zoning or designation of essential 31 public facilities has been considered. 32 ANSWER: Ms. Williams confirms neighboring jurisdictions' zoning was • 33 reviewed; legal considerations were applied; this is not viewed as an 34 essential public service. 35 QUESTION/ANSWER: Chair Allen asks, and Ms. Williams confirms, a Conditional Use 36 Permit (CUP) is required, and placement/siting will be prompted by a CUP application. 37 5:53:45 38 F. Deliberations: Wireless Communications Facilities Code Update – Darren Gurnee, DCD

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1 2 3	in	cluding hearin	vides a brief description of the process and proposed items so far, ng, comment, feedback, changes, works study, and clarification on the the Planning Commission.
4	• IV	lotion: Ms. Kr	neip moves to recommend approval of the proposed draft.
5		• Seco	nd: Mr. Eliason seconds, for purpose of discussion
6 7		•	<b>STION:</b> Mr. Nevins and Mr. Svensson ask about the absence of an al avenue for the Administrative Conditional Use Permit (ACUP).
8 9 10 11 12 13		٠	<b>ANSWER:</b> Mr. Gurnee responds that Title 21 provides the County an option to allow an appeal to the Hearing Examiner. Noticing and scheduling requirements for the appeal would push beyond the Federal Communications Commission (FCC) shot clock limit, preventing a full review process, so the County chose not to allow the appeal process here.
14 15 16		addre	<b>STION:</b> Mr. Eliason appreciates staff's work on the comment matrix essing provider and public questions; asks if any stakeholder meetings held.
17 18 19		٠	<b>ANSWER:</b> Mr. Gurnee notes no specific stakeholder meetings, but extensive efforts made to include stakeholders led to this volume of comments, changes, revisions.
20 21 22 23		expir whicl	<b>STION/ANSWER:</b> Mr. Eliason asks, and Mr. Gurnee confirms 6 month ation dates for these permits was chosen after review of typical CUP, n has a 4 year expiration, as well as building permits and other certain ess facility permits which carry 6 month expirations.
24 25			<b>MENT:</b> Mr. Eliason questions whether the industry's suggestion of a r in lieu of a project timeline is adequate.
26 27			<b>STION:</b> Chair Allen asks why proof of a commercial lease is required for permit but not any others.
28 29 30 31		٠	<b>ANSWER:</b> Mr. Gurnee notes a primary difference in consideration is a commercial facility being placed in a rural setting; key is designating a specific use for a specific site or part of the site. Defers to Jeff Smith, DCD Land Use Planner.
32 33 34 35 36		•	Mr. Smith notes DCD requires authorization and proof the property owner knows what is happening and what activities the commercial partner will be performing on their site. Not limited to wireless, also currently required for offsite parking, other landscape agreements, with the key being
37 38		•	Mr. Eliason asks, and Mr. Smith confirms, providing a limited power of attorney and proof of easement could possibly satisfy the code.
39 40 41		•	<b>Chair Allen asks, and Mr. Smith confirms,</b> an exhibit submitted delineating the lease, note of authorization could also possibly satisfy code.

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1 2	<ul> <li>QUESTION: Mr. Eliason asks how the screening and stealth requirements section pertains to migratory birds.</li> </ul>
3 4	<ul> <li>ANSWER: Mr. Gurnee notes the intent was not for screening, but to make the pole more visible to prevent bird strikes.</li> </ul>
5 6 7 8	<ul> <li>Planning Commissioners discuss frustration regarding the limited room for input or regulations on the process due to the FCC's strict rules, which have already been passed. The primary focus is on aesthetics and putting procedures in place to ensure consistent and thorough review is possible.</li> </ul>
9	<ul> <li>Mr. Gurnee notes the Findings of Fact would allow for this expression.</li> </ul>
10 11 12	<ul> <li>QUESTION/ANSWER: Chair Allen asks if making note in the Findings that the amendment is necessary to clarify appeals are not allowed, due to inflexibility of FCC shot clock time requirements.</li> </ul>
13 14 15	<ul> <li>QUESTION: Mr. Svensson notes other jurisdictions are also troubled by this forced FCC and industry effort; asks if any have eliminated appeal options for shot clock concern.</li> </ul>
16 17 18 19 20 21	• <b>ANSWER:</b> Mr. Gurnee is not sure, can look into it. Chair Allen notes, in her work as a wireless consultant, as previously disclosed, a number of cities have adopted interim ordinance as and are working their way through permanent code changes, and many exclude appeal language because it is not possible to complete the appeal process within the FCC's very narrow timeframe.
22	6:15:35
23 24 25 26 27	<ul> <li>QUESTION: Ms. Kneip asks why, under permitting sub-section 17.530.030, if a portion of the facility is being replaced and same-sized, a letter of exemption is accepted without meeting development standards. While height and visual standards may not be affected, noise standards should be addressed.</li> </ul>
28 29 30 31	<ul> <li>ANSWER: Mr. Gurnee notes the change was in response to a stakeholder comment regarding general standards; the Letter of Exemption exempts from Land Use requirements, but not from Building Permit requirements.</li> </ul>
32 33	<ul> <li>MOTION: Ms. Kneip moves to amend the last sentence in section 17.530.030 C2, 'except for subsections a and b.'</li> </ul>
34	Seconded: Kim Allen
35	<ul> <li>Vote: 6 in favor; 0 opposed – motion carries</li> </ul>
36	6:23:51
37 38 39	• <b>QUESTION:</b> Chair Allen asks, on page 10 of 26, under Section 17.530, 1b Visual Impact Analysis, dealing with Balloon testing, why is there a 10-day noticing requirement before the test is performed, if weather and timing
40	could make this impractical.

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1 2 3 4 5 6 7 8	<ul> <li>ANSWER: Mr. Smith notes this provides notice to surrounding property owners of an opportunity to review and comment before the application is submitted. While concerns are acknowledged, there have only been 2 -3 instances where weather prevented the planned and noticed test.</li> <li>Mr. Nevins supports noticing effort to demonstrate what exactly this will look like in their community and comment on it should be made, especially with the restrictions already placed on what can be done.</li> </ul>
9	<ul> <li>Chair Allen and Mr. Phillips ask if a photo of the area with an image</li></ul>
10	imposed showing the effect will suffice.
11	<ul> <li>Mr. Smith notes neighbors like to see empirical data, and visual</li></ul>
12	impact on adjacent and surrounding areas, foreground, background.
13	6:31:50
14	<ul> <li>Ms. Kneip asks, and Chair Allen confirms, the concern is not the test,</li></ul>
15	but the 10-day prior notice requirement.
16	<ul> <li>Ms. Kneip asks, and Mr. Smith confirms, this is a required submittal</li></ul>
17	for the current wireless facility application process.
18	<ul> <li>Mr. Gurnee notes this was required before the permit application was</li></ul>
19	deemed complete, but process now allows for a permit to be
20	submitted as incomplete, with additional documents required for
21	approval.
22	<ul> <li>MOTION: Chair Allen moves, under 17.530.040 section H2, page 8, LINE 21 to amend</li></ul>
23	by replacing the word 'complete' with 'initial.'
24	Second: Mr. Eliason seconds
25	<ul> <li>Vote: 6 In favor: 0 opposed – motion carries.</li> </ul>
26	<ul> <li>MOTION: Ms. Kneip moves, under 17.530.030 section N, on page 9 of 26, line 29, to</li></ul>
27	amend to include the words 'pursuant to' after the word 'permit' and before code
28	citation 17.600.010.
29	Second: Mr. Phillips seconds.
30	<ul> <li>Vote: 6 in favor; 0 opposed – motion carries.</li> </ul>
31	<ul> <li>QUESTION: Chair Allen asks about inconsistency in definitions of height</li></ul>
32	requirements; Instead of current 'minimum height required to function,'
33	could it also 'include additional space needed for potential colocation.'
34	ANSWER: Mr. Ward replies that adding 'to include colocation' could suffice.
35	<ul> <li>MOTION: Chair Allen moves, under Section 17.110.484 Minimum Functional Height,</li></ul>
36	page 21 of 26, line 29, to amend by adding a comma and the words 'including
37	communications and collocation.'
38	Second: Mr. Eliason seconds.

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1 2 3	• <b>Mr. Nevins questions</b> whether this creates a loophole for a provider to build a taller tower than needed for better coverage without actually requiring the colocation piece.
4	<ul> <li>Chair Allen notes most code requires, sometimes in permit process</li></ul>
5	requirements, providers allow colocation once the facility is built.
6	<ul> <li>VOTE: 6 in favor, 0 opposed – motion carries</li> </ul>
7	<ul> <li>MOTION: Mr. Eliason moves, under section, 17.530.030, Subsection G-2a, on page 8</li></ul>
8	of 26, to amend by replacing the number '800' with the number '1,200' to expand
9	the noticing requirements.
10	Second: Mr. Nevins seconds.
11	<ul> <li>QUESTION/ANSWER: Mr. Phillips asks, and Mr. Gurnee confirms this</li></ul>
12	noticing would apply to both the CUP and ACUP processes.
13	<ul> <li>Planning Commissioners discuss the difference in impact of 800 to 1,200</li></ul>
14	feet in urban and rural settings.
15	<ul> <li>Mr. Eliason asks, and Mr. Smith confirms, the number of applications is</li></ul>
16	down, to around 2-3 per year; trending toward existing towers being bought
17	and adding or extending coverage that way.
18	6:59:35
19	<ul> <li>Chair Allen asks, and Mr. Gurnee confirms, notice would be sent when a</li></ul>
20	new facility is proposed, not a replacement or modification of same size.
21	<ul> <li>Chair Allen asks, and Mr. Gurnee confirms, when Puget Sound Energy (PSE)</li></ul>
22	puts in a new pole in the right of way, no notice is sent to surrounding
23	neighbors.
24	<ul> <li>Chair Allen supports a larger radius for towers, but not for small wireless</li></ul>
25	facilities in the right of way; the process should not be more burdensome
26	than that for what is current practice for the utilities.
27	<ul> <li>MOTION: Chair Allen moves to amend the motion to exempt new small</li></ul>
28	wireless facility support structures located in the right of way.
29	<ul> <li>Second: Mr. Svensson seconds.</li> </ul>
30	<ul> <li>Vote: 5 in favor; 1 opposed Motion carries</li> </ul>
31	<ul> <li>QUESTION/ANSWER: Ms. Kneip asks, and Mr. Gurnee clarifies the term</li></ul>
32	'clear zone' is referenced in the road standards section.
33	7:07:55
34	<ul> <li>MOTION: Ms. Kneip moves, under Definitions, section 17.110.073 Antenna, on page</li></ul>
35	20 of 26, line 19, to amend by striking out the words 'part 15 of this title.'
36	Second: Chair Allen seconds.
37	<ul> <li>Vote: 6 in favor; 0 opposed – motion carries</li> </ul>

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1 2 3 4 5 6 7	•	• MOTION	<ul> <li>Planning Commissioners discuss concerns that stakeholder meetings were not held for this code change, as have been for other complex code updates, such as the Agriculture Code. Some feel more time should be taken and would like to ask Staff to consult with pole owners to see if our proposed code will conflict with their requirements, leaving the applicant in the middle.</li> <li>: Chair Allen moves to delay the matter until the next regular meeting, to</li> </ul>
8		allow sta	ff to hold a stakeholder meeting.
9 10		•	<b>Mr. Gurnee notes</b> that the comment period and public hearing have noticing requirements and specific time frames.
11		•	Chair Allen suggests reopening the period.
12 13 14 15 16 17		•	<b>Mr. Gurnee and Jim Bolger, DCD Interim Director, clarify</b> that if the comment period were to be reopened, or if any additional meetings were to be held, they would be limited to comment already received, and not to consider any new comment. Also noting that an advanced copy and draft revisions were provided to stakeholders, and staff received and incorporated changes based on that feedback.
18 19 20		•	<b>Mr. Phillips notes</b> that regardless of stakeholders, public or even our opinions, the FCC has laid down the rules and said we have to comply. Our only role here is the aesthetic.
21 22 23		•	<b>Chair Allen acknowledges</b> limited scope but is concerned code changes may conflict with other stakeholder requirements, effectively making it unworkable; would like more time and to reopen the public hearing.
24 25		•	<b>Mr. Nevins notes</b> that if a carrier disagrees with the code that strongly, they will likely appeal it in court anyway.
26 27		•	<b>Chair Allen agrees</b> the appeal is likely and believes that is why more caution is warranted.
28			7:23:29
29 30		•	<b>Mr. Svensson supports</b> expanding the term stakeholders to include utility providers and maybe more.
31 32 33		•	<b>Mr. Eliason notes</b> Kitsap County does a better job than most with outreach efforts, including with this very technical matter; believes the process is far enough along that it can be considered effectively.
34 35 36 37 38 39		•	<b>Mr. Phillips notes</b> the options for oversight are unpalatable. Changes to the FCC ruling are not likely, and this proposal does a fairly good job tailoring what we have been allowed to. Worrying about future litigation is not for the Planning Commission to decide; and the past meetings held for the Agriculture code stakeholders were part of a process that we had complete control over, which is not the case for this code.
40 41		٠	<b>Mr. Gurnee notes</b> another meeting can be held after the Planning Commission process is complete, and there is also opportunity at the Board

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1 2 3	of County Commissioners (BoCC) hearing. Procedurally, the Planning Commission makes a recommendation to DCD, and the Department then makes a presentation to the BoCC, which includes the Planning
4	Commission's Findings of Fact and Recommendation.
5	• Mr. Eliason asks, and MR. Gurnee confirms, that if there are different
6 7	recommendations from the Planning Commission and DCD, both are submitted to the BoCC.
8	• Mr. Bolger notes if a recommendation is made based on what is heard
9	tonight, and DCD creates a draft version substantially different, the Board
10	could remand it back; the record can't be reopened now, at this level of
11	process, but a new record can certainly be established before the board.
12	• Chair Allen asks if comments and changes are made by DCD, would the
13	Planning Commission see them.
14	• Mr. Bolger agrees that DCD will send a copy of the updated draft to the
15	Planning Commission as it goes to the BoCC, if desired. Also noting that if
16	this item is moved out of deliberations, and into the BoCC agenda process, a
17	new record can be established, and can include any new comment coming
18	out of a stakeholder meeting.
19	<ul> <li>Mr. Eliason asks about the impact of the Planning Commission reopening</li> </ul>
20	the public comment period, for the purpose of a stakeholder meeting.
21	<ul> <li>Mr. Bolger responds that legal noticing requirements would have to be met,</li> </ul>
22	and meetings would have to be held around the County, incurring
23	significant delays to the matter.
24	<ul> <li>Mr. Phillips asks, and Chair Allen confirms, that stakeholders have</li> </ul>
25	identified very specific concerns that she does not feel have been
26	adequately addressed in the comment matrix.
27	<ul> <li>Mr. Bolger also notes there is an opportunity to create and submit a</li> </ul>
28	minority report with this decision, which would also be sent forward with
29	the recommendations.
30	<ul> <li>Mr. Phillips also notes the Planning Commission's role is to recommend to</li> </ul>
31	the Board, not render final decision on the matter.
32	• Ms. Kneip has concerns about opening the matter back up, especially when
33	opportunity already exists in the BoCC process of consideration.
34	• MOTION WITHDRAWN: Chair Allen withdraws the motion to delay to a certain date.
35	<ul> <li>Mr. Svensson asks, and Mr. Gurnee confirms, language can be included in</li> </ul>
36	the Findings encouraging more input collected from stakeholder prior to
37	presentation to BoCC.
38	<ul> <li>Mr. Nevins notes most discussion on this matter assumes stakeholders</li> </ul>
39	means providers; should it be expanded to include utility or pole owners?
40	<ul> <li>MOTION: Mr. Svensson moves to include a recommendation in the Findings that</li> </ul>
41	DCD Conduct a stakeholder meeting and report back to the Planning Commission.

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1	Second: Ms. Kneip seconds
2	<ul> <li>Vote: 6 in favor; 0 opposed – motion carries</li> </ul>
3	• VOTE ON THE MAIN MOTION: 6 in favor, 0 opposed – motion carries.
4	7:48:42
5 6	G. 2018 Annual Planning Commission Annual Report – Dave Ward, DCD Manager, Planning and Environmental Services
7	Mr. Ward briefly describes the annual report process
8 9	<ul> <li>Not all Planning Commissioners received the draft report, this item will be deferred to the next meeting.</li> </ul>
10	H. Administrative Update
11 12 13	• Jim Bolger, DCD Interim Director, provides a brief update, noting the recent Affordable Housing Update was a well attended meeting. Staff will forward a link to the BKAT recording of the event.
14	I. Good of the Order
15 16	<ul> <li>Thanks expressed to Planning Commission and staff for working through this technical, complex process.</li> </ul>
17	
18	Time of Adjournment: 7:52:10
19 20 21 22	Minutes approved this 14th day of May 2019.
23	Kim Allen, Planning Commission Chair
24 25	Sinander a som
26	Amanda Walston, Planning Commission Clerk