

MEETING NOTES
Channel Migration Zone Citizen Advisory Committee
Wednesday, April 1st, 2009
6:30 – 8:30 p.m.
Pierce County Central Maintenance Facility
4812 196th St. E., Spanaway

CAC Members Present

Don Hawkins, Chair	Shelly Butterfield
Thomas Magnan	Valerie Wilson
Hal Michael	Jerry Harnish
Kathy Hatcher	
Karen Willard	<u>Excused</u>
Ted Hill	Jeff Barney
Betty Zenkner	Harold Smelt, PC SWM
Mike Fenimore	Dennis Dixon, PC SWM

PC Staff and Speakers

Hans Hunger, PC SWM
Melissa Paulson, PC SWM

Also Present

Approximately 30 members of the general public

Introductions and Announcements

Handouts were distributed, including notes from the last meeting, public comments received since the last meeting and a draft of the public comment FAQ (see below). A corrected information request form was also made available, as the flood info request cards from the previous meeting were outdated and included an incorrect mailing address. There has been a high volume of public inquiry over the last month, including approximately 50 requests for information about CMZ mapping for private parcels. All requests and questions sent directly to Pierce County are being answered directly. The most commonly asked questions have been compiled into a “FAQ” document, which will be posted on the website. Comments or questions directed to the CAC are being answered by PC staff as feasible (e.g., simple logistics questions), but may require action on the part of the CAC before they can be resolved (e.g., opinions or “policy calls”).

CMZ Regulation Follow-Up Issues

Two issues regarding regulation were identified for follow-up since the last meeting: 1) the Jefferson County CMZ ruling and 2) the issue of improving critical infrastructure in severe CMZs. After looking at the Jefferson County ruling, Don and PC staff agreed that the case would not directly challenge Pierce County’s ability to regulate CMZs, as was suggested at the March meeting. Because it does not apply, no further time will be spent on the topic.

With respect to critical facilities in severe CMZs, construction and improvements of such facilities are already allowable in cases where there is no alternative to build outside of the CMZ (see Title 18E.70.040 section C5). Public water systems (treatment and source) are also



allowable, provided that the facilities meet certain design requirements (see Title 18E.70.040 section C10).

This issue raised the question for some CAC members as to what the role of government should be and whether it is appropriate for Pierce County to regulate CMZs. A request was made that the next meeting be spent answering the question, “Should CMZs be regulated at all?” Several members of the CAC (including the Chair) and Pierce County staff expressed concern that such a discussion would be unnecessary, given the past three months’ discussion related to the regulatory matrix. Mike called for a vote, which resulted in an 8 to 2 (Don abstaining) vote for having the discussion. The topic will be taken up at the May meeting.

Notification of CMZ Hazard in Pierce County

The CAC considers notification of CMZ hazards to be particularly important. Suggestions about specific tools that should be used for notification included: direct mailings, television, radio, newspaper (popular papers, not only obscure papers of record), tax postcards from the PC Assessor-Treasurer and notice on title or some other means of permanent record. The CAC strongly encouraged Pierce County to find workarounds for obstacles such as high costs of implementation, citing that the public needs to know about regulatory changes have the potential to impact their property values, future ability to build, etc. They also cautioned that any mention of CMZs on a property’s permanent record (e.g., notice on title, inclusion on Assessor-Treasurer’s website) should be worded in such a way that it would not lower property values or affect an owner’s ability to sell the parcel.

Two critical questions about notification were raised but remain somewhat unresolved: 1) At what point(s) in a CMZ process should the public be notified? And 2) Whom should be notified? In general, the CAC favored more (rather than less) involvement of the public throughout the whole process and in such a manner as to be able to engage in the discussion (e.g., 90 days notice in advance of any action, release of draft studies, hearings, etc.). However, there was no clear consensus as to exactly at what point direct public notification is needed. Regarding who should be notified, there was significant disagreement as to whether notification should be sent to only those owners of property within the severe CMZ, to all Pierce County tax payers, or somewhere in between. Some members of the CAC supported a broader method that considers the moderate and low CMZs, while others advocated for a narrower approach.

These questions may be taken up further at a future meeting.

Next Steps: Final Product and Process

Don emphasized the importance of completing the three topics as assigned by Council before starting on other issues. The CAC’s final report will be completed by the August meeting. The issue of how to address unresolved and parking lot issues, as well as the specifics about the timeline for completing the final report were not discussed due to lack of time.



Public Comment

Several members of the public were interested in speaking to the group. In addition, several individuals submitted comments in writing. These comments included questions about how individual property usage and value would be impacted, suggestions for potential solutions to channel migration issues and explanations about what the root causes of the problem might be. Some people also expressed the desire to see Pierce County continue or increase their commitment to maintain the existing levee system. See page 3 of these notes for a more detailed account of the comments that were made.

Assignments

All Members: Continue to review materials and ask questions as needed

Don: Work with PC staff on development of next month's meeting agenda

PC Staff: 1) Distribute meeting materials (agendas, notes, revised recommendations, etc.) prior to the next meeting date; 2) Work with Chair to develop agenda for May; 3) Compile information on what regulatory layers could apply to properties which are located within the CMZ (requested by Jerry)

Parking Lot for Future Meetings

Should we recommend that infrastructure in a CMZ be rebuilt to account for the channel migration hazard in the design?

Next Meeting

Wednesday, May 5th, 6:30-8:30 p.m. at the Central Maintenance Facility (*Objectives: Decide whether regulation of CMZs is appropriate and establish a timeline for final recommendations.*)



CAC Discussion of Pierce County CMZ Management: Regulation and Notification

Do we really want to regulate Channel Migration Zones? Granted, a real hazard exists but is regulation the most appropriate tool (as opposed to education, etc.)?

- Back up to mapping: regulate only severe or nothing at all?
- Is it the county's responsibility (role) to tell a property owner what can/not do with private property?
- Regulation vs. "advisement"?
- Will advisement yield the outcome we were hoping for? (e.g., house wiped out, reduced property damages)
- What liability is incurred by Pierce County in areas without levees?
- Not only about legal liability, but about reasonableness and political will
- How does Channel Migration Zone affect ability to get flood insurance?
- Everyone can get it; rate may be affected, though
- Right now, rates based on: 1) in/out of 1% annual flood? 2) risk
- Can this change over time?
- Is Channel Migration Zone part of FEMA flood insurance process? – No; Pierce County is not required to do CMZs (but it does affect our CRS rating and helps us get "breaks" on the cost of flood insurance for Pierce County citizens)
- Flood insurance can be purchased in multiple ways (direct vs. thru private carrier)
- Re: Notification: Title 18E is not being fully enforced/implemented. The purpose of notification is to protect shareholders. Notification isn't happening (e.g., CMZ, flooding) which is important, but impacts ability to buy/sell
- Should we regulate? Question is key – set one meeting to decide this question
- Given choice between cheap flood insurance and more money for my property (value), I would choose higher property value over cheap flood insurance
- If we choose to make CMZs only advisory, what's the impact on permitted development? Liability?
- There's at least some perception Pierce County is responsible because allowed us to build here – this is counter to the "let us take our own risk" sentiment
- Need to consider not just CMZ property owner perspective, but also the Council and non-CMZ tax payers
- Ask the question: Is it good flood plain management?
- Focus on finishing old assignments before starting any new ones
- Table "should we regulate" Question to another full meeting? (Mike moved, Kathy 2nd, disc'n)
- Jerry: We don't really have power to regulate anything, make recommendations only
- The CAC's silence may = stricter regulations
- Either us or the next guy who'll be impacted by Channel Migration Zone
- Upper Nisqually community plan: minimize flood damage via zoning (eg. R40)
- "No regulation" recommendation would defeat the purpose of Citizen Advisory Committee by council.
- 2nd for that sentiment



- The “should we regulate?” question is really to “drive everything out into the open” (predict the answer will be yes)
- Haven’t we already one this? “Regulate active, not potential?” Is new question then, “should we regulate active area?”
- Think we need to have the discussion
- Call for vote: Aye: 8 No: 2 (called by Mike; Don did not vote)
- Next meeting: having this discussion
- Request to have clear list of what regulations already exist (more point by point with multiple regulatory levels)
- “Success” will equal balanced approach council can live with.

Regarding the Jefferson County CMZ ruling mentioned at the last meeting...

- Conclusion: only a few “wins”; does not touch the “taking issue”; Conflict between growth management act & best available science outside of severe CMZ; All full parcels must be “native vegetative state” (not partial); Not applicable to us

Regarding infrastructure in the severe CMZ...

- What about infrastructure improvements in active with no levees? - Build at own risk?
- Should we table this issue until later? After regulation discussion?
- Infrastructure: Highways, railroads, bridges, etc – replacement after damage (“as is” vs. “improved”)
- Some (critical) facilities are already protected under Title 18E (with rebuilding modification criteria and alternatives)
- Need to weigh “now” costs (rebuild) against “future” costs (damage)
- Are bridge rebuilding specs going to be what Pierce County council is looking for?
- Matrix is great as-is
- Should we add “infrastructure should be improved if possible” (yes)
- CMZ policy call: Should we spend more money to rebuild considering CMZ or not? Engineers can build either way
- For example, Skate Creek bridge under-mining
- Yes, should recreation (?) be more proactive in addressing channel migration problems
- Didn’t we agree that railroads, levees etc., were permanent? (MP: check notes)
- What about recommending to “rebuild outside CMZ”? Policy call for group
- Again, balanced approach is best
- Things we were thinking of as permanent are no longer, because of the CMZ (requires re-engineering)
- Want to require improvements to infrastructure so that they are outside of the CMZ
- May have special engineering challenges
- “Permanent” vs. Semi-permanent” and what those terms could mean
- These comments are going WAY beyond scope of CAC (2nd for that comment by Tom)

Regarding notification about the CMZ...

- Notification: should be direct by paper
- Hans: Notification at what stage? There are many parts of the process -- adoption, when it becomes effective, etc.



- Personal notification is important [crowd applause] and Pierce County should do this.
- Use television ads or radio, not some obscure and unread newspaper
- Common practice to publicize in a local newspaper of record
- Pierce County should follow notification requirements in Title 18E, should also record notice on title.
- Suggested verbage (Shelly): “in a flood zone, check with PALS about...” Would need to use language that would not lower the value of someone’s property
- Zoning changes, CMZ changes should prompt notice: Could you use the twice-yearly tax postcards to notify about CMZs?
- Recommendation: time CMZ regulation changes to coincide with regular postcards (won’t get to everyone, but is a start)
- Notice on title would be difficult because would have to change every title
- But want to have some kind of permanent record
- 2 kinds of notification: 1) Before you adopt a CMZ; and 2) When the property is purchased (inclusion on permanent record)
- Notification after adoption: need advice from attorney before adding language, so doesn’t devalue the property
- CMZ rules changes affect non-CMZ folks too...should we also notify them? If so, how?
- Need to compare apples and apples: CMZ vs. schools vs. roads – services we use vs. those we pay for. If I don’t have kids, why should I pay for schools?
- Most important to notify folks within the CMZ of changes.
- Pierce County is duty bound to notify, regardless of cost
- Challenge with press releases: can’t force news outlets to pick them up; direct mailings would be manageable for within CMZ only (but not for County-wide mailings)
- Notification re: cost; people would agree to pay fee for notification (eg., \$1 per notice) – Maybe do this by letting folks opt to add \$1 to their property tax?
- CAC: it’s our responsibility to tell Pierce County Council that the public wants to be notified. Period.
- If it’s important to notify more than just the severe CMZ but not all of Pierce County; then who should be notified? CMZ + DFF?
- What about mailing to moderate and low CMZ folks too?
- No, because there’s no impact to them (Shelly does not believe)
- Want to notify only the severe CMZ?
- No, needs to be more; severe CMZ is not the only important factor (Shelly)
- We should not be concerned now with down stream impacts
- What notification was used with the new flood mapping notification effort? 7 open houses, plus 2 times in flood bulletin (direct mail to all parcels in floodplain)
- Hans: That mailing went out too late for Planning Commission, but felt like people wanted notification earlier still... So when? At start? At planning commission? at Council? at adoption?
- Sooner than later, but could depend on the issue/changes; at the right time for public comment; at all stages of the process and at draft study
- Make public comment meaningful (i.e., don’t limit choices)
- Mapping study was not really just “pure science”
- Perception: “Pierce County acting in secret” Get folks involved early



- Going forward (e.g., Mashel), we'll do the study, mail letter to newly affected people, those regulations will be locked in so then what?
- Go back before that to beginning of CMZ study altogether and involve people then – saves time and money because responsibility is then in their court
- Be clear about full potential impact of study (e.g., could affect your property value, change zoning, affect your ability to build, etc.)
- Notification: difference between “creating new CMZ regulations in Pierce County generally” vs, “creating new CMZ regulations HERE”
- Don: notification should happen at the beginning
- Timing needs to be reasonable to allow action by public (at least 90 days notice?)
- Mashel River migrated severely in January 2009, those folks should be here now
- Can we request to change the CMZ regulations for the adopted CMZs (Puy-Car-White)?

Public Comment

- Paul Nerge: Temporary signage could be used as a notification tool (esp. for limited access areas) (Kathy: not an option because it's against the law)
- Gil Mendoza: Consider a guaranteed waiver to let people make own choice about accepting risk? What about grandfathering existing properties and applying regulations only to newcomers? Consider the scientific standard. Direct mail is good idea. Notify when taking action, not when just thinking about it, exercise due diligence and allow us to make a choice.
- Pierce County is doing a good job of protecting property value
- Want more time for public comment

