

**Skagit County Planning Commission
Workshop: Shoreline Master Program Update
March 1, 2016**

Commissioners: **Josh Axthelm, Chair**
 Annie Lohman, Vice Chair
 Martha Rose
 Tammy Candler
 Kathy Mitchell
 Tim Raschko
 Amy Hughes (absent)
 Hollie Del Vecchio (absent)

Staff: **Dale Pernula, Planning Director**
 Ryan Walters, Assistant Planning Director
 Betsy Stevenson, Senior Planner/Project Manager

Audience
Members: **Brian Lipscomb, Shoreline Advisory Committee**
 Jim Axthelm
 Nancy Fox, GIPAC
 Michael Brown, GIPAC
 Hal Rooks, GIPAC
 Allen Bush, GIPAC
 Roger Knutzen, Drainage District 14
 Ed Stauffer
 Ellen Bynum, Friends of Skagit County
 Randy Good
 Aileen Good

Chair Josh Axthelm: Welcome to our Planning Commission tonight. It's more of an open house. It's Tuesday, March 1st, and we don't really have any comments beforehand. We'll just turn the time right over to the Planning Department.

Betsy Stevenson: So I'd like to welcome all of you here tonight and go around really quickly with introductions, if that's okay. We have a small enough group – maybe we can get away with that tonight just to try to keep it slightly less formal. And I know I apologized to the Planning Commission. You're not used to having your back to the crowds and if you're more comfortable flipping around to the other side you can do that and I won't take it personally if you're not looking at me. So if you'd rather do that, that's okay with me. Turn around somehow – whatever you want to do.

But my name is Betsy Stevenson. I'm the Project Manager for the Shoreline Master Program Update. It's a project we've been working on for a while now and I'm glad to be here tonight and I'm glad some of you came. I'm looking forward to a good discussion and hopefully giving you some information that's going to help you get through that document, get your arms around it, and figure out what's important to you and be able to give us some good feedback and comments so we can make it a better document. And I think there's a lot of room for improvement still, so we're looking forward to those comments.

You guys want to introduce yourselves, please?

Martha Rose: Are these on?

Chair Axthelm: Yeah, they're on.

Ms. Rose: Oh, now they're on. Okay. Martha Rose, Martha Rose Construction – small builder/developer mostly working on infill projects.

Unidentified male voice: What area – three, two, one?

Ms. Rose: What area? Actually I live in Sedro-Woolley and I just moved here last September from the Seattle area so I'm currently working right across from City Hall in Sedro-Woolley.

Tammy Candler: You may have turned your mic off instead of on.

Ms. Rose: Oh, I turned it off? Okay.

Chair Axthelm: No, it works either way. You just have to get closer to the microphone and speak directly into it.

Ms. Rose: Is it on now?

Dale Pernula: It's on.

Ms. Candler: Tammy Candler.

(mostly unintelligible discussion among several people about where to stand/sit)

Ms. Candler: I think after the introductions we'll turn around and we'll be facing that way. Anyway, Tammy Candler. Thank you.

Same unidentified male voice: And your district – one, two, three?

Ms. Candler: I'm from Sedro-Woolley, born and raised, and lived elsewhere for a little while, but mostly Sedro-Woolley.

Chair Axthelm: I'm Josh Axthelm, District 2, Planning Commission Chair.

Annie Lohman: I'm Annie Lohman, District 1, and I'm a farmer from the Edison-Bow area.

Kathy Mitchell: I'm Kathy Mitchell, District 1, small forest owner, north end of the county.

Tim Raschko: Tim Raschko. I'm a retired timberlands manager and I believe I'm in District 2. I live in Mount Vernon.

Mr. Pernula: Dale Pernula. I'm the Skagit County Planning Director.

Ms. Stevenson: We're not going to be able to hear you guys but I wouldn't mind hearing who you are, as well. I know most of you, but that would be okay with me. I think actually I know all of you.

Carol Ehlers: Okay, I'm Carol Ehlers. I live on west Fidalgo Island.

Brian Lipscomb: I'm Brian Lipscomb. _____. I'm very interested in the inaccuracies of the floodway maps.

Ms. Stevenson: He was also one of our Shoreline Advisory Board members, too.

Mr. Lipscomb: That's true.

Jim Axthelm: Jim Axthelm, and I live south of Mount Vernon.

Nancy Fox: I'm Nancy Fox. I'm Chair of the Guemes Island Planning Advisory Committee.

Michael Brown: I'm Michael Brown and I live on Guemes and I'm also on GIPAC.

Hal Rooks: Hal Rooks. I live in Anacortes but have a house on Guemes and I'm a member of the same committee.

Allen Bush: Allen Bush, Guemes Island.

Roger Knutzen: Roger Knutzen, Drainage District 14.

Ed Stauffer: Ed Stauffer, moved here in 1972. Helped write the Comprehensive Plan for Skagit County that started in 1968 and was commissioned on the Rural Element Committee – Citizens Committee – to write the Rural Element for a present master plan under the Growth Management Act.

Ellen Bynum: Ellen Bynum, Friends of Skagit County.

Randy Good: Randy Good, and we live on a farm just east of Hamilton.

Aileen Good: Aileen Good.

Ms. Stevenson: Great. Thank you, guys. I appreciate it. So I'm going to start out by sharing information both with the Planning Commission and with all of you. It's my intention hopefully to answer questions for you to make your review a little bit easier. It's a big document. It's brand new. You can't really go page-by-page with the old one and figure out what's going on because it's very different – and just kind of give you a sense of where you can find the information that you may be looking for. Hopefully you got a chance to talk to Leah out front, if you wanted to, to find out what your existing shoreline designation is and what your proposed designation is, and start moving your way through the process. But we can help you with that, as well, if that's what you're interested in, just to see how the changes may impact you as a property owner on your specific property. If it's more general, then we can do that too. But I'm just going to dig into it. I've got quite a bit of information to go over. If I'm talking too fast, if I'm not projecting into the microphone enough just give me the heads-up and let me know. If you guys want to move, if you're going to be more comfortable turning around it won't bother me. It's perfectly okay. So I'll

leave that up to you. I'm going to start. If you want to move while I'm speaking I'm okay with that. That works for me.

We're going to do a little bit of background on the Shoreline Management Act. Most of you guys have a fairly good idea of what's going on, but for the people maybe who watch this later or who couldn't come tonight I'd like to just go ahead and go through that, if that's all right.

The Shoreline Management Act is the law that requires us – the cities and the county – to establish shoreline master programs. It was approved by the legislature in 1971, approved by the people of the state of Washington in an initiative in 1972. All 39 counties and any cities with shoreline jurisdictional areas within their boundaries have to do shoreline master programs and have also been required to do updates under the 2003 guidelines, so all the counties and the cities with shoreline areas are doing updates as we are.

The shoreline laws are a little bit different in that the state put into the RCW and the Shoreline Management Act a process by which the state and the local governments work cooperatively and as a partnership to manage and regulate our shoreline areas. So that's something that hadn't really been done before and I'm not sure since. So the Department of Ecology is the governing body for the state and then it's the Counties and the Cities who are doing it. So we develop a master program and it goes through the state for their approval, and once it is approved it's their document as well, so we co-regulate, co-enforce – all that sort of thing.

So the process that we're going into, or that we've been in now, started back in 2003 when the legislature was producing their new guidelines. That was about the time that all the settlements and lawsuits were over and that's what we came up with, was the guidelines that we have now from 2003. They do set a slightly higher level of environmental protection for our shoreline resources and they have a new goal of no net loss of shoreline ecological functions. So we've spent a whole lot of time trying to figure out what that means, how we're supposed to do that, and all that sort of thing. I think I have a little better idea but still not really sure, and I'm not sure we're really going to know until we get through the process and start doing some of this, and as we track and monitor some of that work.

There're several studies and reports that are part of this process that aren't necessarily getting as much focus or attention. The Analysis Report that was done initially in 2011, which has been online for quite a while, it's kind of the foundation for our document. It's where our methodologies for determining what the shoreline designation should be and what kind of recommendations on different parcels of property in the county are. And the consultants that did the work have made presentations here before but it's been quite a long time ago, so I just go over it very briefly. They divided the county into 11 management units of shoreline areas and went through all kinds of different parameters to take a look at what's going on there, and then made their recommendations of kind of the things that they thought were appropriate in those areas and what would make sense, and then looked at the criteria for designating shoreline areas and tried to make a map of that. So they made some recommendations in that report.

The Shoreline Restoration Plan again uses a lot of the information out of the Analysis Report – just areas that may either be in the process of getting some restoration happening on them or would be good candidates for successful restoration work. That document we've had for quite a while. It isn't online but we can get it online.

The Cumulative Impacts Analysis is something that we just got back from the consultants and I know our website does say that it would be available on the 26th. It was back to us by the 26th of

February. I haven't had a chance to review it yet. It's about a little over 100 pages or so. But it is the document that looks at everything that we've done and assumes that all of our things are going to be put into play and would make sure that what we've done would pass the test for the cumulative impacts requirements so that we would still be at no net loss. So it's fairly detailed. It finds certain sections in our code that we do try to do some of that work. But I will review it as soon as I can and get that online as well so you guys have a chance to look at it.

The No Net Loss Report should be up probably tomorrow and there were copies back in the back of the room of that, and if you didn't get one and you would like one let me know. I can get that to you pretty easily.

Again, all these documents help us show our work of what we've done, what our program is, how we thought it through, why we think that we *can* meet the no net loss test and standard because it gives us the baseline of where we are when we adopt our program and to make sure that whatever development that we allow within the shoreline area that there's enough mitigation and some restoration activity going on so that we never get below that spot.

I guess I'm going a little bit out of order but I do have a couple things that I want to put up on the document. Some of you have probably seen this before, but it just gives you kind of an idea. That black line across the center is the baseline. It came out of our shoreline analysis work. We assume and know that there will be development, which is some of the stuff that is happening there in the reddish-pink color. We also know there's going to be some mitigation and restoration work on the other side so we just need to make sure that it all balances. That's a pretty optimistic one. There's a whole lot of green over there. But that's one of the things that we're trying to do and that kind of just gives you sort of a picture of what that looks like.

Mr. Lipscomb: Can I ask you a question? So the net loss that you have or your current baseline – that was the study that was kind of put together by the SRSC, Skagit River Systems Cooperative, that the Watershed Company kind of put together a little package. It was, like, 100-and-something pages and they went through and they rated each stream that fed into the Skagit and a whole bunch of others in the county. And they give them a number from 1, I think was the lowest and 5 was the best, and that was green in there. At the time I think we all said – and everybody kind of knew particular streams, and we all said, You know, this really isn't accurate – the report of the current conditions. And I think we all agreed that yeah, it wasn't, but it was the best data we had. And so at the time we didn't really want to do much because actually they said things were in worse condition than they were. So it seems to me like we could – you know, when we say “no net loss,” I mean, here was your baseline. If I plant a tree that's a gain. How do we get credit for things like this, you know? And if it's actually – if that's your current baseline, wouldn't we come back and say, Hey, look. I planted two trees now. We've gone from 4.3 to 4.4 now.

Ms. Stevenson: That's going to be part of the tracking and monitoring that we need to do. It will be hard if you just go out and do that all on your own without any kind of a permit attached to it. We won't necessarily know that.

Mr. Lipscomb: And that's one of the problems. People won't just plant a tree on purpose. I mean, now you have to have a reason.

Ms. Stevenson: If we're going to start doing this I'm going to have to ask you to come to the microphone. It's fine. I want your comments, but it's just – their methodology is described in the

plan so I'm sure there are a lot of people that won't agree with how they did it, but hopefully at least it's clear how it was put together.

Mr. Lipscomb: Well, I would agree with that. I just want to get credit for the improvement and I don't really see a mechanism for that.

Ms. Stevenson: Okay. Okay. Well, that's part of what we may need to figure out as part of our tracking and monitoring. It may have to go beyond just people who are actually coming in to get permits. If there are restoration projects that are happening, we would like people to report those to us as well because we *can* get credit for that. So that makes good sense, so thank you.

Ms. Ehlers: Betsy?

Ms. Stevenson: Okay, I would really like to finish, if that's okay. I would love to hear your comments and we will have time, and we do have some people that are going to try to catch a ferry. Because I'm going to lose my train of thought, so I will do the best that I can to get through it. Can you write it down so you remember it, Carol, please? Is that okay?

Ms. Ehlers: I've been thinking of it for four years.

Ms. Stevenson: Okay. So we kind of started our process in 2011. We developed a public participation plan. Several of you came to the visioning meetings that we had. The County Commissioners appointed a 17-person Shoreline Advisory Committee. They were our first guinea pigs for the visioning meetings that we did do. We held those here, in Concrete, in Lyman, and in Anacortes in the summer of 2011 and we accepted comments on the first working draft in May and June of 2012. We had open houses in May and June of 2013 to kind of go over and receive comments on the additional draft. The Planning Commission has been very busy and very dedicated over the several years since that time looking at different variations of the same plan, and I have to say it's been a much better document and I think it's a lot better than it was when we started, and I'm hoping that it just keeps getting better and better as we keep going.

The next thing, I guess, that was kind of on the agenda of what we would try to do for you is figure out how the document is organized. This may or may not be all that useful to you but I thought it might help a little bit just as we go through it. So this is just the Table of Contents, basically. The first section in the Table of Contents is the ReadMe. There's a lot of really good information and I did make some copies that I think are on the back table, but it's the first section that talks about a lot of excellent information that I will come back to. It kind of talks about what's in there, how it's all organized, how to apply it to your property, how to figure out how to find what your designation is and then go into the different kinds of permits that you might need, and then there's a list of acronyms and abbreviations at the end of that. But that's at the very beginning.

Then the next section is the policies. Those are in the section 6 which, I think, is – what? – 6A through 6K. Those are all the policies that will become chapter 6 of the Comprehensive Plan. And then the rest of it is the development regulations. And I'm going to go through each of those parts because it helps to answer a lot of the other questions in terms of what's new and what we're working on and what's happening in the plan.

So the first part is the Authority, Purpose, and Jurisdiction. That basically talks about what the purpose of the program is, what the policies and what the goals are in what we're trying to do.

And then it gets into the jurisdiction: What actually is a shoreline area under the jurisdictional definitions? So it's basically all marine waters, rivers, and streams that have mean annual flow of 20 cubic feet per second or greater; lakes and reservoirs 20 acres or greater in size; any associated wetlands; shorelands adjacent to these water bodies and typically within 200 feet of the ordinary high water mark; also floodways and contiguous floodplain areas extending 200 feet from a floodway. So that's all in the first part.

Shoreline jurisdiction also includes the buffer areas that are necessary to protect the critical areas and shoreline areas and those critical areas that are wholly within shoreline jurisdiction. The ordinary high water mark kind of plays a big role in the shoreline program and a lot of things are measured from there, so basically that definition – there's a method used by Ecology that they teach classes and you can take training on how to determine what the ordinary high water mark is. So if you can't find it by just looking, there are some soils work that you can do. Check the vegetation. Lots of different things, but basically the definition kind of says the "place where the presence and actions of water is so common and usual that it marks on the soil a distinct character different from the abutting upland." So it also includes guidance on different types of waters. And the Department of Ecology is great. If you have a tough site that's either been disturbed or it's just a really hard site to actually find that line, they will come out and help do that work as well.

So Part II is the Shoreline Environment Designations. A lot of that methodology and that information is actually in the Comprehensive Plan. So the designation criteria and the purpose statement, it's all under chapter 6B of that first portion of the Shoreline Program.

The designations have changed just a little bit, and we were talking about this out in the front area earlier. The Aquatic stayed the same. It's still Aquatic. The Conservancy or the Natural mostly is still Natural. What was the old Conservancy designation now has been sort of split or has come into Natural, Rural Conservancy, and then Rural Conservancy-Skagit Floodway for areas that are in the floodway that are Rural Conservancy. Our existing Rural designation would either become Rural Conservancy or Residential. The Rural Residential pretty much went to Residential. The Urban to Urban Conservancy or High Intensity. And then any missed or unmapped areas would default to Rural Conservancy.

The Rural Conservancy-Skagit Floodway is something that we came up with and talked about during our Shoreline Advisory Committee meetings. It was just a way, without having some sort of indication that somebody's property was in the floodway, if all they looked at was their Shoreline Program and they just were a Rural Conservancy area, they would probably assume that they would be able to develop and build like anybody else. So we just came up with that as a mapping tool to show people that, Yeah, you're Rural Conservancy but you also have a floodway overlay so you need to look a little deeper to find that information and make sure that you're still complying with our requirements.

A lot of this section has reserved information in there. We left it that way in case there were specific things that we needed to add under any of those designations later that we could just put there.

And moving on to Part III, those are the General Regulations. This is the area where we kind of talk about the kinds of uses and activities that would be allowed across all the environment designations for the most part. We found a lot of things that were true of just about all of the different uses and modifications that we talk about in Part IV, so we put those into this section and basically said under section 320 that those are the areas that all the regulations and uses

within shoreline jurisdiction that are upland of the ordinary high water mark. So it has a lot of the regulations that would apply to anything that's waterward of the ordinary high water mark. And then section 330 describes regulations for any uses that would be *waterward* of the ordinary high water mark. So that was easier than repeating those everywhere in the document.

305 talks about no net loss a little bit more and just what our standards are and what we're trying to do there. The dimensional standards – which there was a board out in the other room. That's kind of important to a lot of people. It talks about buffer widths, height limits, impervious surface limits for development – that sort of thing for each of the different shoreline environment designations. Outdoor advertising and signs is in this section. Public access – there's a pretty big public access section now which is a little bit new from our old program as well.

And then moving into Part IV, the Shoreline Uses and Modifications. This is pretty close to what was in our chapter 7 in the old program, but there are some different designations and different uses that we talk about now. One of the important things to look at again would be the Uses and Modifications Matrix, which is at the beginning, and I did have a blowup of that out in the other room as well. It kind of gives you a sense of what uses are allowed in shoreline jurisdiction and what level – what type of permit you might need or what level of review there is, depending on what you're proposing to do and what your shoreline designation is. We went around and around, but we finally kind of hit on something that seemed to work and flow fairly well in these sections where we start with a bit of a pattern when it applies, so the applicability; when something is allowed, which you can check kind of generally in the matrix; the application requirements, which you can find generally in Part VII; and then the development standards for each of the uses. So we tried to make it consistent for each of the different uses and modifications in Part IV. We talked a little bit about exempt activities under the Existing Agricultural Activities and also under the Forest Practices in that section. I did make copies of the Ag section and put a bigger copy of a flow chart out there as well, if you didn't get a chance to look at that.

Part V is Critical Areas. It's very short. Basically we're going to be bringing whatever critical areas ordinance is in place at the time this gets adopted as an appendix into this document, so they are kind of required to integrate to a certain standard. There may be some differences between critical areas within shoreline areas and just our standard critical areas ordinance still. We'll have to wait and see how that plays out, but I think it will be helpful for people who are trying to develop because right now you have critical areas regulations *and* shoreline regulations. You have to meet both of those. So even though you're only building one house, you still if you are within your buffer area would have to get both variances if you needed them, and this would at least make that only one. I think that would be a positive.

There are some changes that I would suggest that you go ahead and look at your property. If you were one of those parcels that was Rural or Rural Residential and you were changing to a Rural Conservancy, the way that our code is written you could actually go from a 100-foot buffer in the critical areas ordinance to 150-foot buffer, and I think if you're on a marine or a lake shoreline area. So that would be something to check if you have those properties, or I would be glad to do it for you. There are some of those. So that's the only place, I think, that would change actually your buffer. And it's an existing – the way the critical areas ordinance lays it out, it is by shoreline designation, so that would actually be a change. It's not just something that's in the critical areas ordinance now that would change. It would actually go from 100 to 150 in those cases. So I would recommend that you take a look at the maps, which are online or they're here, or we can look it up for you if you give me a parcel number and send me an e-

mail. I can let you know what it is now, what it would become, and what your buffers would be and what they're proposed to be.

So Part VI is the Legally Established Pre-Existing Uses. We worked pretty hard on that as well, trying to make it understandable. It's kind of a stinker and it always has been. It's one of the planners' nightmares because it's just not easy. We try to figure out how to do that. Luckily a lot of people were concerned when the shoreline laws changed with existing residents. Now all of a sudden (with) these new buffers and everything, they've got something built within that buffer area that was never that way before. But the legislature did come back and say, Nope, we still consider that conforming for a single-family residence so you're still good. If you decide you want to make some changes, then – or modify or remodel, do some of that, you will need to go in and talk to people. But I think that what we attempted here, at least in Part VI, will help clarify and provide at least some flexibility. There's some information there on docks, the single-family residences that I mentioned, and also, I think, some shoreline stabilization features and things with existing bulkheads and riprap and things like that. It's also located in there now.

Part VII is Administration, and that's where it talks about all the different permits and reviews that we do. It's changed a bit as well. A substantial development permit currently requires a public hearing before the Hearing Examiner. That would go to a Level 1 permit, which is our application process that we have in the existing code, which would be an administrative process. So people within 300 feet of the property in question would be notified, be given an opportunity to comment, but it would not necessarily go to – it wouldn't go to a public hearing. And that would be an administrative decision made by the Planning Department, which could be appealed, then to the Hearing Examiner and then on to the County Commissioners. There's a letter of exemption for substantial development. That also is a Level 1 and something that we can do fairly easily. You just need to make sure that whatever the development is still compliant with the Shoreline Program, but you don't necessarily need to have a permit.

A conditional use permit would be a Level 2. There are a lot of things that are specifically noted in the matrix that would require a conditional use permit. They can also be required for things that weren't anticipated or things that we don't necessarily know what they would be but that may have some impacts that we needed to kind of take a look at. So those would be handled as a Level 2, which would go to the Hearing Examiner for a public hearing. He would make the final decision; it could be appealed to the County Commissioners. That would have to go to the Department of Ecology and they would actually have to approve that as well. Variance would stay the same. We would have – hopefully you got a chance to look at one of the visuals in terms of how our critical areas ordinance works, and maybe some of you have firsthand knowledge of this. We do allow for buffer modifications so that you can decrease your buffer up to 50% as an administrative process. We are proposing that with our Shoreline Program as well so that they can remain consistent. We've had some initial feedback from the Department of Ecology and they're saying, Well, maybe a 25% decrease in your buffer. We'd still allow you to do an administrative process. We think 50% might be a little bit too high. Because normally the state also has to approve a variance. So we are still proposing it as a 50% buffer reduction being an administrative process, as it is in our critical areas ordinance. Anything beyond a 50% decrease would have to go to the Hearing Examiner and then would have to be approved by the state Department of Ecology. And a permit revision, which we get sometimes but not too often, those are Level 1s where we still notify the adjacent property owners but it doesn't go to a public hearing necessarily.

Part VIII is the Definitions. We started out with all the definitions in our old program, most of the things that we could think of that we needed to define out of this one, some other things that

were just available to us under the state definitions – went back and did a search and found a lot of definitions that were never even mentioned in there so we took those out. There are probably still some things that we should probably define a little better. Under Part IV, a lot of the different uses are defined in those sections. You may not necessarily find a definition, or it'll just cross-reference it back and forth from Part VIII in the Definitions section. So if you find that to be problematic and you'd rather see them back there, we can probably add them. Our code is going to be the way our existing code is. If you're looking at it online – and those things will be underlined – you can click on it and it'll pop up the definition for you right there. So I think that's helpful.

The next section was kind of what's new and different in this. I've kind of explained some of that as we went through all the different parts of the Master Program. Basically we're doing more work with public access. People are required to kind of evaluate that with their proposals in a lot of scenarios. If it's not feasible it's not feasible, but we need to at least kind of consider it as a possibility and something that you need to look at for your project. You can find that information in Part III. Vegetation conservation – that's something kind of new as well – where we're trying to protect some of the native vegetation on the property. If there's trees and different kinds of shrubbery within those buffer areas, we'd like to see that protected as best we can. And there're some standards in there for the kinds of things that they're trying to protect, and if you can't necessarily protect it and there are some impacts we would want to see the mitigation and trying to replant and reduce some things in those buffer areas.

I talked about integrating the critical areas regulations and the administrative process for the shoreline substantial development, the new shoreline designations, Part VI. We are going to be required to track and monitor development in shoreline areas so that in the next few years and then as we come up to the time when we have to amend our Program again seven or eight years down the road, we will be able to show that here's all the permits that we issued; here's all the mitigation that was done; here are all the restoration programs that have been put into place so we're still meeting that baseline. Or maybe hopefully ____, a little bit above that line.

I think the information out of the ReadMe is really excellent. I would rather listen to you guys than me talk too much more, but it does help break down what you kind of need to look at. First you figure out what your existing – where your property is; kind of what the shoreline designation is; whether or not you're even in a shoreline area, I guess, would be the first thing; and then what is it that you think you want to do with your property. You can start generally going through Part III and seeing if any of those jump out at you as things that are applicable to you. And then if you know something that is specific, if it shows up in Part IV you can go directly to that as well. Some of the things in Part III apply to everybody for every project. If you're wanting to expand an existing use, I think a lot of times Part VI is the best place to start as well because that's the legally established pre-existing things. And then Part VII talks about just how you get your approval to go ahead and do the project. But there's good information there. The staff report that we prepared – there were copies of that back there. That gives you a lot of really good information as well.

With that, like I said, I think I'd like to stop talking, if that works for you guys, and open it up to at least to the Planning Commission to start with for questions. And then I think it's going to be easier, if you guys have comments and questions to come up to the podium and the microphone so that it can at least get captured and people at home will be able to hear as well.

Chair Axthelm: Planning Commission, I'd like to have Guemes Island because they have a time limit on when they can leave, or when they can – how long they can be here. We let them go ahead and speak first.

Ms. Ehlers: Josh, we can't hear you.

Ms. Mitchell: That's fine with me.

Chair Axthelm: We're going to let Guemes Island talk first. If you just approach the microphone up here.

Ms. Fox: We're here to learn and ask questions tonight. And, you know, we're not prepared to testify. So I would just toss out a couple questions, Betsy. One is I'd be interested to have you clarify: What has changed about the extent to which – how is the administrative discretion on setbacks changing from what's in the current plan? And how is the calculation of setbacks changing from what's in the current plan? And I think that – you know, I've talked about that a little bit but I think that would be useful to cover.

And then on a completely different topic: One of the concerns in the Guemes Island Plan, one of the things that people were really concerned about when looking at the shoreline was both protecting and then enhancing native vegetation in the shoreline. And Guemes has a, you know, tremendous, tremendous resource value for wildlife habitat and there is a strong concern for preserving that, and when people build to make sure that important vegetation was either kept or added. And I wonder if you could just take a minute to describe how the current proposal addresses that? I know that there are some provisions for that and I'd be interested to hear a little bit more about what they are.

Do others have questions they want to get in the hopper right now? Okay.

Mr. Rooks: Just questions – not answers?

Chair Axthelm: And if we just keep it to Guemes Island for a little bit because they have to leave.

Ms. Stevenson: I'm going to try to answer that, because you asked them and they aren't going to ask questions right now, right?

Ms. Lohman: Betsy, maybe if you could tell us what page you are on in there too?

Ms. Stevenson: Okay, I am looking in Part III, the Vegetation Conservation, on page 75. I think that's where I'm going to start because I don't know the answer necessarily right off the top of my head. But this does kind of talk about when you're coming in to do some sort of development on your property to do a bit of an assessment of what's there. And it talks about what's important, in the order of priority. Native significant trees are the most important. There are some standards in terms of what needs to be retained on the property. On page 76 there's a little table that talks about significant trees and that they should be kept if at all possible and at what percentage. In the Natural area, the retention rate is 90%; in Rural Conservancy, it's 65%. That information is there. Replacement trees – there's a standard for that as well, so if it's just right in the middle of where the developable area is on the property you would have to have a plan put together for replacing those trees and they should be to a certain size as well. That

may not answer your question as well as you want me to, but that's pretty much where those answers are in that section, if that helps at all.

Ms. Fox: What happens if somebody clears their property before they apply for a permit?

Ms. Stevenson: Yeah, unfortunately it happens. There isn't a whole lot that we can do about that except create –

Ms. Fox: There's no required replacement of –

Ms. Stevenson: Well, I mean we start an enforcement process but it doesn't bring the trees back right away. So, you know, they'd have to replant and do all of that sort of thing, but it can be a problem.

Chair Axthelm: Unless you go to the microphone it won't be recorded and then we won't know what the question is.

Ms. Stevenson: Okay. So the question was, What if people clear their property completely before they even come in and apply for a permit? So that is a problem. It's a problem both in this program. It's a problem in our Stormwater Program. It's a problem that we run into all the time. Now they aren't supposed to do it in accordance with our critical areas requirements, but without any kind of a trigger in terms of some type of permit a lot of people do, in fact, do that.

Your other question, which I didn't think to mention, but you're right in terms of determining what your setback requirement is. In our present code, at least for residential development, what we do is your setback is whatever is required under the dimensional standards, or the average setbacks of any residences within 300 feet of your side property lines, whichever is greater. So you would measure from your side property line 300 feet up this way, 300 feet at the shoreline. That way, take the average of any residential development that's on those properties from the ordinary high water mark. If it's more than what you're required, the setback would be based on the shoreline designation (and) you would have to stay that additional distance. If it was less, then you'd have to stay at the required shoreline distance. That isn't in the proposed code this time around so your setback requirement or your buffer requirement would just be whatever is required. We didn't do the averaging this time. It's gotten to be problematic. It makes perfect sense to do it in case somebody has stayed quite a ways back. It helps to protect their view. It's very problematic either for us as County employees or as the private consultants who go out and do the Fish and Wildlife habitat conservation area surveys to get access and get permission to be on other people's properties to make those measurements. And they do kind of need to be on-the-ground measurements to be very accurate. You can use an aerial and try to ballpark it but we've had some concerns with that. So if that's something that you guys feel strongly about, you need to let us know that because it has gone away.

Ms. Rose: I have a question. It's on that last – so my question has to do with the question about the trees. What if somebody cuts all the trees down? So just because I'm new here. What tools are used to track that? Do you use, like, Google Earth or do you – and is there a requirement for people to get permits to, say, clear a whole tract or a property? Are they expected to get a permit for that now if it's not in the critical area? Or if it is, you know, when?

Ms. Stevenson: We don't have a clearing ordinance in place at this time. Depending on what's being done, it may fall under the forest practice requirements through DNR. If it's being done for a conversion, we may have some look-see at it. If it's a smaller lot, then chances are we won't.

We're still working on that. There are some things both now proposed in our Shoreline Program (and) some language existing in our critical areas ordinance that you have a critical areas buffer there whether you are developing anything or not. If you go in and clear the vegetation, you're in violation of our critical areas ordinance. So if we hear from somebody or we see it, we do have aerial photography and different things that we can use. We have people that are out and about. If they're cutting down trees, we will try to contact those landowners and get some trees replanted or find out what their long-term plan is, if they're proposing to do a development, and then try to work with them so they don't cut anything more down yet. And we can kind of try to identify those trees that are significant and things that ___ hopefully be worked around, if we can.

Ms. Rose: Thank you.

Mr. Brown: Michael Brown, Guemes Island: This sort of follows up this question. I'm wondering if somebody comes in and logs or cuts down all their trees and then – Oops, I'll plant some new trees. Those might take 60 years to create any significant environmental mitigation, so I'm wondering if it's possible that the permit's denied: I'm sorry. You lost your opportunity to build a house. I mean, it sounds pretty radical but it seems awfully ridiculous that somebody can do that and there's no – there's no recourse by the County or, you know, the people to mitigate that. And it – I don't know – it just seems like that we see this a lot and it's upsetting that somebody can do that and then there's no real penalty on their part. So that's just an observation.

Ms. Stevenson: Thank you. There isn't anything in our code that's proposing that at this point. And, like I said, it's kind of a matter of scale whether somebody developing their lot is going to reach the threshold of needing a forest practice permit. But if they do, if they are taking enough trees that are merchantable, that would require a forest practice permit and it would be a conversion. At that point we can put a moratorium on their property for six years. But a lot of single-family lots are not that big and they wouldn't get enough timber off of it to reach that threshold. But there are some things, but – you're right – it is a problem. And if we have enough people that are interested then we can probably start working again a little bit more on a clearing ordinance. Then people would actually need to come in to get a permit to do that. So we haven't done that to this point.

Mr. Raschko: Say, Betsy, if it could help: The forest practice rules and regs allow you to take 5000 board feet a year off your property without a permit.

Mr. Brown: Right, but not if it's in a critical area next to a shoreline.

Mr. Raschko: Exactly.

Mr. Brown: So that's what I'm talking about.

Mr. Raschko: But if you don't have a permit you're in violation of the Act then. You can be prosecuted.

Mr. Brown: Yeah, but they don't pay a fine or some sort of a thing, then you plant trees this tall and then you still have your view and then – that's the observation. It's not that we're against logging. We're against logging that denigrates the shoreline.

Ms. Stevenson: Yeah. So hopefully we can get the word out better that, Hey, you've got a critical area, you've got a shoreline area, if you've got large trees or even just native vegetation, you know, on a real, workable buffer there. We would like to talk to you if you have plans to

develop your property, and maybe we can come up with something that's going to cost you a lot less in the long run if you can just protect some of those trees instead of having to do a lot of new plantings.

Mr. Brown: But in the permit process – I know I'm going to stop being recorded – but in the permit process they come out and go, Oh, by the way, it looks like you cut down some trees. It's after the fact, right?

Ms. Stevenson: A lot of times, yes.

Mr. Brown: Okay.

Chair Axthelm: Any other questions from Guemes Island?

(silence)

Chair Axthelm: Okay. Let's go ahead and open it up to the general – yeah, the general public.

Ms. Stevenson: I guess I would like to ask that this is a time for clarifying and asking questions. If you have comments that you want to make, there were some comment cards out there. We really *do* want your comments. Since there aren't too many people here we can probably do that at least for a little while, but I want to make sure everybody leaves and feels a little bit more comfortable with kind of what I went through and any questions that you have – Where the heck can I find this, or that sort of thing, if you guys are okay with that, too.

Ms. Lohman: I wanted to clarify: On that same thought, going the opposite direction you have somebody that exceeds the requirement of planting vegetation and trees and whatnot and maybe at a future date they need to thin. Are they going to be precluded from that – being able to take trees out because they overplanted?

Ms. Stevenson: Yeah, that's a hard question to answer for a lot of reasons, and one of them just being that if that's part of what was considered as our baseline when we did the survey work to start with, if they start cutting those trees down then that brings us a little bit lower.

Ms. Lohman: But even in some of the vegetation requirements you require 100% success. So if somebody maybe goes to 120%, they've vastly succeeded and they've basically gone beyond the minimum required. Is there the ability for them to ratchet it down a little bit?

Ms. Stevenson: There's always the ability. It would just be what would be required to –

Ms. Lohman: I just don't want people because they did a good deed now that they're going to be punished because they did something good.

Ms. Stevenson: Right. Yeah, I mean, it's one of those where it kind of depends on the situation. But we still would allow them to manage things because you can't just let everything just go. That doesn't work either. Sooner or later something catches up with it, whether it's the insects or the disease or the fires, so we understand that they still would need to manage the buffer to a certain extent, if that makes sense. So it's not like they wouldn't be able to thin. We're not trying to make people totally have their views completely blocked – that sort of thing – but if it's existing on your property and not something that you planted as mitigation – or even if it *is* something that you've planted as mitigation – to come back in and alter that somehow, we

would want to talk to you about it before you just assumed that it would be perfectly fine to do that, just to make sure that neither one of us got into some kind of trouble for doing it. Best to at least kind of have a sense and an understanding of, What have you got? What do you want to do? How's the best way to get you from here to there without getting sideways with our regulations?

Mr. Stauffer: Ed Stauffer, rural Skagit County – live in the Alger area. I just recently did a small forest harvest and the first regulator that came out was a representative of the Upper Skagit Indian Tribe to review what they felt the appropriate setbacks were on my property. I went back and I found out that they didn't have any authority, that the ranger from the Department of Natural Resource is the ultimate authority. He had a little bit different take on that layout. I discovered that an individual with forestland is allowed to harvest 5000 board feet, I believe, a year without filing for a Forest Practices Act permit; however, the Department of Revenue wants their money for every single stick that you sell off your property. So we are highly regulated to start with. We pay through the nose – I think 185,000 board foot harvest contributed something like \$40,000 into the local economy. So just set that aside. That was my experience. That's the way it's done. It's regulated.

Betsy, what is it now – 4½ years we've been working on this? It strikes me that's about the same amount of time we put into writing our original Growth Management Act, which replaced our old Growth Management Act. We had that Growth Manage – I mean the Shoreline Practices in place since about '73. What's that – 40, 45 years? How many problems did we have with that? How many things that you're reviewing came from Skagit County? In 2003, Betsy, I think you explained that we got guidelines from who? The Department of Ecology? Were these guidelines written by Department of Ecology staff or did they come from the Environmental Protection Agency, or do you know? I'm just curious because now you say we have a plan we're looking at that's going to have 100 pages and we're calling it an update, and it sounds to me more like it's a replacement plan, and that makes me want to know, What did we have that worked so well for so long is going away and what's it being replaced with, and who actually wrote the parts that are being replaced with? And does my Planning Commission feel that they've had an opportunity to evaluate this question to make sure we're getting a Shoreline Master Plan that's appropriate for our county and jurisdiction?

And I did find in the material you posted on the website – and thank you for doing that; it's fairly comprehensive. I want to encourage the Planning Commissioners to please review the public comments that were given on this issue 3½ years ago. There were some very, very salient and important issues that were raised at that time that are still on the floor and part of this process. Betsy unfortunately had to report to us that at the rollout they sent the consultant down to tell us how we were to do this update, and a man by the name of Mr. Nickels was representing the consultant, and he introduced it with the first sentence of the goal of this exercise is no net loss of ecological function. And I asked at that time at the rollout what that definition was and he said they were still working on it. They still are. You're being asked to approve a new plan that we're going to put in place as a legal document binding on all property owners and citizens of Skagit County which has a goal which is undefined. I would think hard and long about that before going forward with it. And what happens if we tell them we like our plan the way it is? We're not going to do this. How much has it cost us so far? Thank you.

Chair Axthelm: Any answer from Betsy, or comments? Not that you have to answer all of them right now.

Ms. Stevenson: I'm not sure he's looking for answers. I will say that the guidelines that were done in 2003 are the result of settlement so they aren't what was initially crafted by the Department of Ecology. So it was all the parties getting together. So I would answer that one at least. Beyond that, I'm not sure those were for me to answer.

Chair Axthelm: Okay.

Ms. Ehlers: Betsy gave me – this is Carol Ehlers – Betsy gave me very good advice.

Chair Axthelm: Carol, you need to pull the microphone closer.

Ms. Ehlers: Betsy gave me very good advice – is this okay now? – a couple of weeks ago. She said if I wanted a paper copy of this document I should go to Office Depot and they would look up and print off a copy in less time than it will take me now to describe the process to you, and you will then have the entire document. But you have to be able to tell them which parts of the document you're looking for. This is the page in the County Planning Department that you need. It took us ten minutes this afternoon to find the exact page but I knew what I was looking for today. And you get down here and you'll see a series of things dated February 4th and 5th and that's what the legal notice said this hearing is on. It's much easier to see in paper and to understand and say, Oh, I like this. I don't like that. What are we going to do? Or, gee, that's well done. It's much easier in paper. And if you're on the shoreline, I think it's worth every penny because it reduces the frustration considerably. And so that was a real help.

Now I went today to look for the stuff that's supposed to be on for February 26th and you've explained why it isn't. I take it from that that that is not part of the hearing on the 15th. Is it?

Ms. Stevenson: They are documents that accompany the Update process. It's not our last opportunity, obviously, because we are going to get this back from Ecology at some point.

Ms. Ehlers: Well, that means we're going to have – well, okay, another question: This guidance document that was done in 2011 by the Watershed Company, I've got it here. It's more than 100 pages. It's detailed. I've been working on it ever since 2011. I still don't understand how the color coding works because it's not described. I asked at the time how they established something called "reaches." This is Fidalgo Island. This is the west side of Fidalgo Island. According to the Watershed Company, this whole 3½ miles is one reach. And according to them, then this should be one zone, but it ranges from beach area with houses on it that's been zoned residential since this document – previous document – existed. So there's some that's no bank, some that's low bank, some that's high bank. If you look at the maps over here, it differentiates from one area to another in that 3½ miles in a way that makes a good deal of sense. But that doesn't correspond to this which is in the Watershed Company. And what bothers me is that when I asked for the computer printout for what the characteristics are for this particular reach I was told I couldn't have it. And yet I know because of listening to meetings at that time that there are those who intend to take this Watershed document and use it to enforce against those who are on the shoreline. And if that's going to be done – which I don't think it should. I think the County's the one who should do any enforcement, not anyone else. I don't want to be called no net loss without having known exactly what it was they thought they found. It's a justice issue. Now so is this Watershed Company document also part of the hearing?

Ms. Stevenson: Yes, we will accept comments on that as part of the process.

Ms. Ehlers: You will?

Ms. Stevenson: Sure.

Ms. Ehlers: Okay. Now I have one final, very practical question. This document in its various drafts has some very sensible requirements when it comes to vegetation on the top edge of a cliff to anchor it. It's very sensible. It was the advice we were given when we bought in 1963 and the developer said, Keep all those trees that are on the edge. Because he left all the saplings that were five inches in diameter. He said, Keep them. Keep them forever. They will hold your cliff. And they have. It's been wonderful. But I don't have a very good view. The Assessor insists that I could, of course, cut all those trees and have a perfect view. Now environmentally it makes no sense to cut the trees. In terms of this code it makes no sense to cut the trees. I would like to have more of a view and I would like the Assessor to recognize that a view can be partially obstructed by a thick clump of trees just as it can by a building. So I think what I'm – I'm raising a question so that anyone can back me on the idea, and when this process is done then something can be said to the Assessor about recognizing the reality of how a law affects property values. Because an unimpeded view gets far more money when you have to sell than one that is impeded, and you know that. But one of the things I don't think I've ever heard the Planning Department and Planning Commission talk about is property value, so I'm encouraging you to do so.

And now that we know that anything that's ever been done on this that's on this long list of things is what we have to comment on now for the hearing, I have accomplished one of the things that needed to be done, for myself and for everybody else. But you see, Betsy, the public doesn't know this. The public thinks that the process is only on those documents from February 4th and 5th. So at some point I think for human relations – goodness knows the United States is not happy with government right now anyway – but for human relations, tell people what it is is the subject for comments at the hearing and later so that nobody feels tricked or caught or disenfranchised. It'll make a much better document. And you've improved your document so much – enjoy the compliment! – you've improved it so much that it would be good to continue it, but the baseline data has to be accurate or else somebody's going to manipulate us. Thank you.

Ms. Mitchell: Betsy, can I ask a clarifying question?

Ms. Stevenson: Of course.

Ms. Mitchell: Thank you. So, Carol, can you go back to the microphone, please? So was I hearing you right by what you were saying that there are situations where because of the shoreline environment cliff – that kind of thing – there's better reason to keep those trees, thereby you're still partially blocking the view, yet you are being assessed or penalized with your taxes at a higher rate because you *could* cut that for the view?

Ms. Ehlers: Yes, exactly. And I – shorelines are rarely absolutely straight, so you have places on them where it kind of goes out on a small point or something like that. And I have several of those and there's trees. There's five or six of them. And if you watch in a storm, one day the wind will be blowing from the south and the south tree takes all the beating and the rest of them hold it up. And then another day it's coming from the west and the west tree catches it all and the rest of them hold it up. And sometimes it'll come from the north. Sometimes it'll come from the east. Sometimes it seems to come from every direction at once. And because they're moving, they all get bigger and stronger, but if you cut one – there was one that was rotten and dangerous on another slope and I cut it, and the next time there was a 100-mile wind they all

went down. So it was an illustration to me of the importance of allowing the clump to protect each other. Well, if you have a clump of trees – conifers – you don't look at very much through them.

Chair Axthelm: Carol, we need to move on.

Ms. Ehlers: But that's Kathy's answer.

Ms. Mitchell: Thank you. So the final question back to Betsy: Is there something built in here that I might have missed for those situations where the County should take a look at special circumstances? Because surely that happens other kinds of places. They're doing something good environmentally because the shoreline protection reasons, yet they could be penalized. And is there a mechanism for them to come forward – so maybe you could put that back in the thoughts.

Ms. Stevenson: Yeah. Okay. No, that's a good point. Have had discussions with the new Assessor and he's the first one who's ever asked about that sort of thing, so I think he's open to at least consider it. He knows that this isn't – document isn't complete yet. But that's a good point and I will write it down and I did write it down from Carol's comments, too.

Ms. Mitchell: Thank you.

Mr. (Jim) Axthelm: Yeah, I'm Jim Axthelm, 17160 Dike Road, South Mount Vernon, and my concern is on the ordinary high water mark and how that is designated. Right now, from what I understand, it's from the top of the levee and if we have a buffer from the top of the levee we're coming back into the farmland 200 feet. And I have from the top of the levee to the river I have about 600 feet so I'm not only losing the 600 feet from the river to the levee. I'm losing another 200 feet. Now I'm not able to develop that 600 feet and I know that, but that's farm ground or pasture area that we were able to run a stock on. But I think that I would propose that we have a definition of the ordinary high water mark at the riverbank rather than at the levee, and then I think it's unfair to take that much land for that setback, for that 200-foot buffer. That 200-foot buffer, if that's what it's going to be, should be from the riverbank in and not from the levee in. I had understood it as that we had a 35-foot buffer before is what the County had, and now all of a sudden we have a 200-foot setback. So my question and my proposal is to the Planning Commission to designate ordinary high water mark at being at the riverbank rather than the top of the levee.

Ms. Lohman: Mr. Axthelm, you're – to clarify for the public – you're talking about when you have property that's on the river side of the dike, so it'd be between the dike and the river where there's a significant amount of property, not on the *inside* of the dike?

Mr. Axthelm: Yeah, and I have both properties. It's on both the inside and on the river side of the dike. So the levee splits our properties.

Ms. Candler: To me it actually sounded like he was talking about a change in the inside of the dike from 35 to 200.

Ms. Stevenson: Right.

Mr. Axthelm: Okay, so right here's the river right now and the levee is way back here. It comes across way back in here. Okay? And so there's 600 feet from the levee to the river and then my

property continues then for another 400 feet beyond the dike on out to the Dike Road. So what's right now the designation is is that the ordinary high water mark is the top of the levee and it should be moved out back to the river bank back here rather than at the top of the levee.

Ms. Mitchell: Wow.

Ms. Rose: Can I ask a question? What happens on the other side of the Dike Road or the dike? Does the land go back down? Is it a lower elevation?

Mr. Axthelm: It's lower elevation, yeah.

Ms. Rose: And what is the frequency that the water breaches the levee?

Mr. Axthelm: The water comes up to, you know, within, like, two feet of the top of the levee on the river side.

Ms. Rose: Does it ever breach the levee?

Mr. Axthelm: No. No. Never has. We have some of the best levees there that are in Skagit County. So, I mean, they'll break down on Fir Island before it ever breaks there.

Ms. Rose: So if the water did make it over the top of the levee, 200 feet wouldn't do anything.

Mr. Axthelm: No, still wouldn't do any good. No. And then that's only, you know, once, maybe twice a year that the water comes in that space in between there – in this area here. So I would just propose – I'm making the proposal to designate the ordinary high water mark at the high river bank, or at the river bank, and not at the levee – move it back to the ordinary – because that is just like the beach. You don't designate the ordinary high water mark on a beach at a high storm level. You put it at the long line. And you don't designate it at the high water mark of a tsunami. You designate it at the ordinary high water line when the river is just ordinarily running. So that's my proposal to the Planning Commission. Any questions?

Chair Axthelm: I have some comments to kind of go along with that.

Ms. Lohman: Well, let's let Betsy – do you have any clarification on that? Because I know we brought it up quite a few times.

Ms. Stevenson: Yeah, I guess I don't disagree with you in that situation. The ordinary high water mark of the river is still going to be down by the river. What we're measuring 200 feet from the dike is we assume because we don't have a designated floodway that everything within the dikes below Sedro-Woolley there is floodway, so we're measuring 200 feet from the floodway line. And that is considered shoreline jurisdiction so that's why we're measuring from the dike, because we're considering that the floodway line.

Mr. Axthelm: Why?

Ms. Stevenson: Because that's how we have –

Mr. Axthelm: But we don't have to, do we?

Ms. Stevenson: That's how it's been defined – yeah, we do actually. That shoreline jurisdiction definition says it's the floodway plus 200 feet as long as that 200 feet is still within the floodplain.

Ms. Mitchell: Whose definition is that? Is that the state?

Ms. Stevenson: It's the state's, yeah. That's just shoreline jurisdiction. So you're right. The ordinary high water mark line actually is out by the edge of the river, but that dike is the floodway line. Because we don't have an actual mapped floodway, that's what it's been determined is the dikes. So everything inside the dike is floodway and everything outside the dike is then just floodplain. So we have to measure from the floodway line, which would be the dike, 200 feet, and as long as that whole 200 feet is still floodplain it's going to be –

Mr. Axthelm: That is under jurisdiction of the –

Ms. Stevenson: – it's going to be within shoreline jurisdiction. It doesn't mean you can't necessarily do anything there, but you're still in shoreline jurisdiction. So basically, yeah, that map is kind of misleading.

Mr. Axthelm: So then what do the buffers happen then? So then am I restricted on building in that 200 feet and do I have to go for a variance and if I want to come within 50 feet of the dike am I – is there no possibility of building within 50 feet of the dike?

Ms. Stevenson: Probably not anymore, because there's been language in the zoning code that hasn't allowed you to do that for a long time.

Mr. Axthelm: You could build within 50 feet – up to 50 feet.

Ms. Stevenson: Because we used to allow that and the Dike District says, We can't even get in there and maintain our dikes; we need at least 50 feet. And there's a lot of places where the dikes actually have larger right-of-ways than that but it's been 50 feet for quite a long time and I'm not sure that – I mean, you could probably apply for a variance.

Mr. Axthelm: So what about over? What about 52 feet? Am I able to build within 52 feet of the dike without any special permits? No, because I have to go to shoreline then to get, don't I?

Ms. Stevenson: You'd still be in the critical areas and shoreline buffer. Yes.

Ms. Lohman: Regardless of what side of the dike you're on?

Ms. Stevenson: Well, you have to stay on the outside of the dike.

Ms. Lohman: But if on the inside of the dike, what's ___?

Mr. Axthelm: On the dry side of the dike.

Ms. Lohman: On the dry side – the interior.

Mr. Axthelm: So what you're saying is on the dry side of the dike I have to stay 200 feet.

Ms. Stevenson: The inside of the dike – you're talking beyond? That, to me, is the outside of the dike. Okay. To me, the inside of the dike is the inside to the river.

Chair Axthelm: So currently the state says that the – it's determined by the ordinary high water mark 200 feet back; however, when they say there's a levee there, they consider the levee as the ordinary high water mark.

Ms. Stevenson: No. I'm not sure who's giving you that determination.

Chair Axthelm: So the 200 feet comes from the top of the levee.

Ms. Stevenson: Because it's a floodway.

Chair Axthelm: I understand.

Ms. Stevenson: Not because it's necessarily the ordinary high water mark.

Chair Axthelm: Is that because – you said Skagit County doesn't have the floodway mapped. Is that why?

Ms. Stevenson: Not this side of Sedro-Woolley. Downstream from Sedro-Woolley they don't have an officially mapped floodway.

Chair Axthelm: So could the County simply say that the ordinary high water mark is the floodway?

Ms. Stevenson: No. Because FEMA's already determined that within the dikes is the floodway where it's not mapped.

Chair Axthelm: So I have some more comments that go right along that same –

Ms. Stevenson: Okay.

Chair Axthelm: – just to keep it consistent.

Ms. Stevenson: If anybody needs to leave, I did make a copy of the how-to-comment stuff, which is everywhere, too, so hopefully you guys know how you can comment, when you need to comment. The public hearing is on March 15th. We're accepting written comments until April 4th at the end of the day. You can do it online. You can send them in. You can bring them to the public hearing – whatever you prefer. We love to get written comments even if you do testify. It just makes it clearer and easier for everybody. I don't speak very well in front of a group. It's much easier for me to submit something and speak off of that, so we would really appreciate it if you would be willing to do that. It just will make it better for our process. Thank you.

Chair Axthelm: Okay, I just wanted to illustrate this with these maps. This is the map that was referenced in the – what page was it? It was – I can't find the page – it was referenced in the Shoreline Plan. But it shows – it doesn't show the shoreline jurisdiction. What it's showing is this, I think, is Conservancy. And the dike is here, which is – in our case, it's 600 to 1000 feet back from the river itself, and then we have land on – or on the landward side of the dike is an additional 200 feet, which leaves about 200 feet of our properties. Now that's our properties, but if you look at other properties around this is the dike and so it's 200 feet within that is shoreline jurisdiction. Here out in farmland it doesn't seem like a big deal, but there's a few residences. But if you go to areas like on Riverbend and Avon Allen area, that's a significant impact back

from the dike in shoreline jurisdiction for houses that are built down below the dike level. Where the map isn't correct – well, it's correct in the yellow, what it shows, but it's misleading of what shoreline jurisdiction is. So I want people to understand that this isn't indicating shoreline jurisdiction. You have to read the document to show that shoreline jurisdiction is actually 200 feet back from the levee.

Ms. Mitchell: From the very top of it or the outer edge of it?

Chair Axthelm: I believe it's the waterward side –

Ms. Mitchell: Thank you.

Chair Axthelm: – of the top of the levee – of the very top of the levee, yes.

Ms. Candler: And is that a – is that a change from 35 feet where it was before?

Chair Axthelm: Yes.

Ms. Candler: It's now 200 instead?

Ms. Stevenson: No, actually that's the way it is now.

Chair Axthelm: That's the way it is now, but, I mean, it's not the way it used to be because we used to be able to build up within 50 feet of the dike which makes sense because it's on the safe side of the dike.

Ms. Candler: And this change has been in place in a different document or a different regulation?

Ms. Stevenson: That's the way the shoreline jurisdiction laws have been written, so that hasn't changed.

Ms. Candler: Okay.

Chair Axthelm: But these are the laws that come from the state and we're doing the plan for our county.

Ms. Stevenson: But it's state law. We can't do something different than what's in the state law for what the jurisdiction is.

Chair Axthelm: We can question it.

Ms. Candler: And I have one more question. The dike district itself has a 50-foot in addition? Separately, but same area covered? _____ right-of-way, you're thinking?

Ms. Stevenson: I don't know what the right-of-way is there.

Ms. Candler: I thought you said 50 feet a minute ago?

Ms. Stevenson: Sometimes they have areas that they've been able to purchase or lease that goes beyond the outside of the dike. Sometimes it's just the land under the dike. They have

tried. They did come to us a long – years ago when we allowed somebody to build kind of right up next to the dike. They said, We can't get in there and maintain our dike. You guys need to leave at least 50 feet. And that's when that went into play. That went into our code. That's been years ago.

Ms. Candler: So it *is* in the code – 50 feet?

Ms. Stevenson: Yeah, that's a requirement under the zoning code. But the shoreline jurisdictional definition for a floodway plus 200 feet as long as it's still in the floodplain has been there for quite a long time.

Ms. Rose: Josh, do you know how wide the dike is at the top? You know what I'm saying? How wide is it?

Chair Axthelm: It's about 15 feet wide.

Ms. Rose: That's all? And how about at the base?

Chair Axthelm: I don't know. It varies. It varies depending on the area. Yep. But what I'm getting at is that the plan or the map that was there showed the yellow and it's a little deceiving as far as what was actually shoreline jurisdiction, and that shoreline jurisdiction in this situation could be way out into these areas. So I think that people need to understand that that yellow in that map is not showing – even though it's referenced in the Shoreline Plan – is not showing shoreline jurisdiction. So what looks like – there're some other parts of that plan – but what looks like a small area might be very, very – or be quite a bit larger. So I just want the public to be aware of that and the Planning Department to correct the problem. I think if we have a plan that would show shoreline jurisdiction – designate that. And with that – yep. Okay.

Ms. Lohman: The guidance document that Josh is referring to is the Department of Ecology's Shoreline Handbook, chapter 5.

Chair Axthelm: And it does – that guidebook does give some different allowances, but when it comes to the levee that's where it has a line drawn. And I think that the Department of Ecology and the state need to understand the circumstances that we have here. We don't have dikes right next to the river. We have dikes that are back from the river, and mine's – ours isn't the only situation. There are several people around the county that way. So the dikes are there to protect it. Why should shoreline extend 200 feet within that? So that's a comment – you don't have to answer it!

Ms. Mitchell: That makes really good sense. Thanks for discussing that.

Mr. Lipscomb: Brian Lipscomb, Sedro-Woolley, rural Skagit County. Carol was talking about views and all that and trees, you know? Talk about a conflict. I mean, we've got to plant trees and all that kind of stuff but I can't have a garage over 15 feet tall because it's going to block somebody's view. Whose view? *My* view. I mean, it's – but you know something? So we redid the garage to lower – to change the pitch of the roof to get it at 14½ feet. And that's this property here. I don't know if you can see this but – how we got involved in this is the floodway. I don't know if you people have looked at these maps. They're incredibly inaccurate. I mean – and we have – what we do to some of the people over this is absolutely terrible. Ryan, this is probably something you could answer. We have right here a line 90 degrees – this is a floodway in this area. But now the code now says 200 feet from this floodway. Does that mean that everybody

here has to get a Fish and Wildlife conservation permit? Everybody on this side has to? Well, we have to. Here anytime the river – if you're within 200 feet of the river, why don't they need the same permit? I mean, they're just as impacting as I am. And I tell you, water doesn't do this. How does somebody correct something like this? Ryan, that was a question for you, if you could answer that. No? Can *anybody* answer it? We've got the Director of Planning and Development here. We've got the secondary one and the Prosecuting Attorney and all that. We've got Betsy. We've got everyone – we've got the whole entire Planning Commission.

Ryan Walters: Not the Prosecuting Attorney. Let me be clear. I no longer hold that title.

Mr. Lipscomb: Oh. So what are you supposed to be? County attorney?

Mr. Walters: No, no. Just Assistant Director; no longer any attorney, any attorney title. Just need to be clear on that.

Mr. Lipscomb: Well, I'm glad you have some legal background because take a look here.

Mr. Walters: But we could – so this question's not one that I can answer right now. It's probably not one that Betsy can answer. But we could probably get an answer.

Mr. Lipscomb: Well, if the answer's favorable I want to hear it. If it's not, we'll just leave it the way it is. That's kind of a joke – sorry. What we have to do – I don't know if you're familiar with these maps. The data from here is from 1960 and if you go look into it, actually during the BiOp I wrote up about four pages of exactly what paragraph, what line, where it said it was wrong and all that, where the data came from and said – you know, I mean I fully understand protecting the environment and all that but when you're talking – I mean if you can see this – an armored embankment here and all that. We're not adding any value. There's no trees here. I've planted more trees. The next thing you have – this no net loss. I notice in all the definitions that one's missing! We've got all kinds of multiple-word definitions, but no net loss is missing. I spent some time today looking up “no net loss” and to me – and we discussed this heavily on the Shoreline Advisory Committee, is – What do you mean? And I tried to say, Is one fir tree four inches in diameter equal to two alders? You know, how do you determine what a net loss is? If I dig a hole and I plant a tree is that one for one? And there's nothing in there, and so now it becomes basically the ___ wildlife biologist will come by and tell you that you have to do it this way. And if you really dig into the documentation, much of it is opinion. And you then have to go hire experts and all that. You know who needs to hire the expert? Fish and Wildlife. I mean I've got documents that show the difference between parallel and perpendicular, you know, and then they come out and say, You didn't follow the plan. Believe me, if I went perpendicular to the south face I would have blocked the stream. You know, so why didn't you tell me this? Because every time we say something, you add more and more conditions. I mean, it is just – people insist on having – or the Fish and Wildlife folks seems to insist on having a perfect world and not a good enough world. And we've got all kinds of things that are good, but they insist on perfect. And when you come with 200 feet, that's an even number. As an engineer, nothing comes out to 200. It comes out 199.6 and you round up or something like that. Where was the number? Was it a 150 and we rounded it up to 200? Was it 175? _____ these 200 foot setbacks, you know, and then we have a buffer. I've never been clear. Ryan, maybe you could answer this one. Setback and buffer: Are they or are they not the same? Do you have a setback and not a buffer from the setback?

Mr. Walters: No, you do not have a setback and then a buffer. I believe we've used the terms largely interchangeably in the –

Mr. Lipscomb: Thank you for that clarification because that's definitely been a point of confusion for several.

Mr. Walters: I think the history –

Ms. Stevenson: I could respond to that, too. The buffers come from the critical areas ordinance; the setbacks came from the shoreline ordinance. So in our new Program – and the zoning ordinance we call them setbacks there, too – in our new Shoreline Program they're going to be buffers. There won't be setbacks except side yard setbacks which are coming from zoning anyway. But the actual shoreline side would be a buffer.

Mr. Lipscomb: Okay. That's it. So I guess my comment would be, How could we have some process so when things are so obviously mistaken they can be fixed? I was reading in the new shoreline stuff that the Administrative Official could then come and make the decision that, yeah, the maps are wrong. But here the problem is: If you look at the Watershed Company, they took basically the Skagit River Systems Cooperative document – they took and collected basically everybody else's document. They didn't go out here and look at these things. They didn't walk the roads. They didn't walk up the Gilligan Creek stream. I did and that's when I discovered that – you know, what they say the condition of these isn't necessarily what the condition is. In fact, the condition's *better* than what they've claimed. And I'm thinking, Well, that's not right but I got to thinking, No, this is good because look at the improvement we've already made. We haven't done anything and we've got a huge improvement already. I mean, so how do we get credit for it? Like I say, when I plant trees along the river, when I go down and I pull out a fishing net and fishing gear and all that kind of stuff, how do I get credit for that? You know, if I get harassed by Fish and Wildlife because I took a tractor down to below the ordinary high water mark to remove a net, I mean, isn't that maintenance? I mean, at what point are you guys going to get, you know, I mean, realistic? And so and when we do regulations like this, everybody _____. Do you think people get permits in this area? No, they don't. And so when you ask them what you've done, if you just create a method of keeping people – how would you say it? – so they don't get upset at their neighbors, because once a neighbor gets upset they turn somebody into the building department and that's how I got involved in this. I kicked a kid off of my property for poaching fish, okay, and he turned me into the building department because I changed the pitch of the roof on a house – actually it was on an old milk parlor – and that's where it all started. Tim DeVries told me I had to tear it down. And I couldn't understand: Where did this come from? So he said, Well, if you do the math, if you do the modeling and all that then we'll go ahead and let you do it. So I went and I got the _____ program, I got the floodway modeling books and all that kind of stuff and I went and got the raw data set from the Michael J. Baker Company who has all the documentation and would be happy to get it from. And guess what? For \$125 they sent me a letter that said, We don't have the data. So then I go get the actual flood insurance report and all that and I see that this floodway here – excuse me if I'm getting a little fast – but this floodway was drawn at the request of Skagit County officials; therefore, no modeling was done. Okay, well, since no modeling was done I can't do the baseline – because I have to do a baseline in order to make sure that I came up with the same numbers that they did. But they didn't come up with the numbers. They just drew a line. And I've been fighting this line ever since. I mean, it's just – and there's – and the water doesn't flow that way. So but now how do I tell my neighbors? Are you or are you not going to have to get – if you do something over here you're going to have to get a permit for it. You're going to have to get a Fish and Wildlife study. You're going to have to do a bunch of vegetation planting. Any answers on that? No? And everywhere where the water is here if it's a shoreline. Anyplace the Skagit goes within 200 feet, shouldn't it be? If it is, for the people that are north or upriver of the

Highway 9 bridge, you know, should it be the same for people south? I mean, how's it the people up – haven't folks upriver paid enough for being able to buy all their goodies down here in Burlington and socks and all that? I mean it's true. _____. But at some point you've got to quit making the guys upriver pay for everybody downstream. I mean, it just – or in this case, if it's not really doing an impact, don't make people do it just because it says so. I mean, and that seems to be a lot of this. So, anyway, I would challenge anyone to come out here in the biggest flood Skagit County has and stand with me right in the middle of this floodway and I guarantee that you will not get wet. Thank you.

Mr. Walters: So I would just say as a general response to that, if you want to come in and talk to us we can examine that in more detail. We're just not going to be able to answer it right here.

Mr. Lipscomb: I've been walking it for ten years. I'm in no hurry.

Mr. Walters: Yeah.

Mr. Lipscomb: But, yeah, I actually would like to discuss it. Maybe we should all be on – I mean, we should do what's right but not because it says it but because it's right. I mean, not just because we drew a line. _____.

Ms. Bynum: Thanks for your comments. I don't think people really understand the application of the policy to an actual site, and I think more examples are needed. Ellen Bynum, Friends of Skagit County, 110 North First in Mount Vernon. I had comments that actually related to me trying to take the old document and determine if everything in the old document is actually included in the new document, and why would I want to do that? Because that's the way I analyze documents, even though I was told that was not the way to do it. So I had some concerns, and I'll just give you one example, and I'll put these in a list. One of the things that I like about the new format, of course, is that it's on the web and you can actually click on, say, the RCW that's beside a definition and then it will take you to that portion of the RCW that is included in the text of the document. But it occurred to me when I was doing this that if you are only using a paper copy of the document you don't have the ability to go to that RCW. So I was talking with Betsy a bit about the possibility of putting in an explanation of what that RCW definition is. If you put a page number, the page number could change depending on what you add to or take away from the document. This sounds like a really trivial thing but for people who don't use the web and are only going to be looking at a paper document, I would think that this would be incredibly important for them.

The second thing is is that in the interest of expediency I understand that you – the editors took out some of the definitions, and some of the definitions are certainly things that are – you would say the word and you would use that word in the plain English vernacular. But as I looked further at that, some of those things are not defined in the text, they're not discussed in the text, and the word isn't used in the text and yet we use that all the time – like "berm" was one of the words. So I think there has to be some look-through to see if there are things that people who build things use every day that is probably not clear. If you had never read any of this, you'd need to know those definitions. So I guess I would encourage you to err back on putting a bunch of the definitions back in there.

And the third thing was in the back of the older Shoreline Act there's a list of state laws that are influenced by the Shoreline Plan. And I know it isn't a comprehensive list and I understand that it's very hard to make the list but the list was incredibly helpful. It was an appendices (sic) in the old document. Because people don't understand that more than one law applies to the

Shoreline Act. You know, where did it come from and where are you going to use it and how you're going to use it. And just that one page was quite helpful to me, not knowing all the details about it, and I've been looking at this for quite a long time. I understand how this might interface with the Comprehensive Plan but I had no idea that it also interfaced with 20 other RCWs and WACs and other kinds of plans. So that is – that's pretty important.

I guess the last thing I want to say is that I know that Ryan and Betsy and others have worked on this for a long time and I do understand that the state would like us to comply with what they consider to be sort of their standard, and I guess I would urge the staff to heed what comments you receive from both the Planning Commission and from the public about things that may not really – that may be argued in Skagit County that these things might be addressed in a different manner. We tend to say yes to things because we say, Yes, it is state law or yes, it is something else. But if it's something that – even if it's state law, I do feel that the property owner that comes in and wants to have clarification and a challenge to that has the right to do that, and to some degree the staff have an obligation to carry that forward to the state and ask the hard questions. I mean, they can say no, and then the way that you might get a change in that is by proceeding to a court or a challenge of some sort about it. And I guess that's the other piece, is I wanted to make sure that in your comments to the public that they understand after this is adopted and after this becomes a plan that their ability to challenge things that are in the plan – how do they do that? And it needs to be really clearly defined. Because people get into challenging things in court, which is incredibly expensive, and they don't get an answer that's satisfactory. And we deserve clarity and developers deserve certainty and so do environmentalists and preservationists and conservationists. So if we're not clear on certain things, I would say let's err on being more clear about things.

And I have lots of other comments but I'll write them down. Thank you.

Ms. Candler: I have a question.

Ms. Bynum: Yeah?

Ms. Candler: Ellen, how many – I haven't really looked at this very closely – how many definitions do you think are removed?

Ms. Bynum: Well, I just started going through about half of them and there were, you know, a dozen. But I don't think that's such a hard thing to put back in if you were just to say, Oh, let's leave most of the definitions in. Another piece of that that was a problem is that in one definition the word – a word was changed to another word. So the word was "adjacent" and it was discussing the definition of "accessory buildings," and the word in the sentence was "adjacent." And the definition – Betsy did a really good job of putting that back into the text. The definition is in the text so you do have some idea of what it is. It doesn't say, Oh, this is a definition but it is used in the text about accessory dwellings. Okay, so "adjacent" to me means it's next to something, right? But the word was changed to "next to" –

Chair Axthelm: Or was it "near"?

Ms. Bynum: Or "near" – yeah, "near." So "near" to me is not "next to" and it's not "adjacent." So, you know, is that like a legal change? And some other very knowledgeable person told me, Well, "near" means within a quarter-of-a-mile of something.

Ms. Ehlers: No, no – adjacent.

Ms. Bynum: “Adjacent” means within a quarter-of-a-mile of something.

Ms. Ehlers: Within a half-mile.

Ms. Bynum: Within a half-mile of something. So how do I know that? I had to ask Carol. So it's not clear to me that we are being very – that we're being – doing our due diligence about what the words mean. And, you know, it's messy stuff. I realize it's messy but we need to do better.

I guess the other thing I would say is if you feel that you haven't done due diligence in review of this plan, I would urge each of you to get a couple of other people to work with you outside of the Planning Commission and go through and maybe divvy up the work and maybe you want to divvy up the work amongst the Planning Commission members and take a chapter each or something, and see if you have other input and other – you know, have them help you go through and understand what the problems are with the thing. Because it's relatively complicated, you know? It's not an easy thing to read. So I just thought you're never going to get through the whole thing with the Comprehensive Plan requirements as well. At least you'll get through it, but you may not get through it very thoroughly. It'd be nice to have it, you know, done as best as we can do it. So I was just offering to volunteer the rest of the world to help you, if you could be persuaded to do that – to use that approach. Thanks.

Chair Axthelm: Okay, so I've had a chance at one comment so if you want to – if you have comments we can – if we take one comment each and maybe we can get through most of them.

Ms. Rose: I think that this group needs to have a more in-depth conversation about this whole levee thing because I'm new here but it doesn't set right with me and I don't own land there or anything. It just doesn't seem logical the way it's laid out. And even though it might be state law, I agree with the premise that if it doesn't fit that we should challenge it and present an alternate wording that is appropriate for Skagit County, and explain why, and then see what happens.

Chair Axthelm: State your name because they may not know who you are off the microphone.

Ms. Candler: Well, it's been a lot – Tammy Candler – it's been a lot of information tonight. I would need to look – speaking to your comment – I would need to look at the state law and see what it says – you know, if we want that to be part of any discussion that we have about it. If we're going to put that on a future agenda I would like that to be something that we can have. That's why we're discussing it. But as far as the rest of it, it's just a lot of information and I don't have anything else.

Chair Axthelm: Annie, do you want to go ahead?

Ms. Mitchell: I've got two things. I'd like to request a copy of that Watershed document – the Watershed Company document – so we can read what that's all about. It's been referenced a lot. Can we get that?

Ms. Stevenson: It is online – the Analysis Report – and it has been for quite a long time.

Ms. Mitchell: Is it towards the bottom? Okay, thank you. The next thing is tying up with what this levee thing is with the shoreline jurisdiction. It sure seemed to make sense that because the way the maps were written, that map was basically environmental designation map versus what the shoreline jurisdiction really shows. And I'd like to second, third, fourth – whatever it's going

to be – taking a look at how those maps are done because that would be the more accurate map for when people come in the door and go to the desk to find out what something is or what they can or can't do. They need to be able to see something and know exactly what they're talking about, because that sure can be different from what the environmental designation they *think* they're looking at versus what the jurisdiction really would say. So I don't know what it would take to undo them – to do better on those maps – but we really need to do that.

Ms. Stevenson: I'm sorry – I missed most of what you said.

Ms. Mitchell: The short of it, Betsy, was I think the point that was brought up about the shoreline jurisdiction and the difference between the environmental designation maps. If somebody looks at those maps, we need to have something better. I was saying we need to get those maps updated or changed where people, when they come to the desk or look at something, they know exactly what they're looking at, what the jurisdiction line is instead of guessing.

Chair Axthelm: You'd like a mapping shoreline jurisdiction line?

Ms. Mitchell: Yes, sir.

Ms. Lohman: Well, and make sure that we're interpreting correctly because I'm not sure we are.

Ms. Rose: May I ask a question related to that? Are there computerized versions of all these maps and then with overlays where you can ask it to overlay the buffer? For example, here's the shoreline designation, and then you either click on another thing and say, Show the buffer. Does that exist in Skagit?

Ms. Stevenson: No, not with a buffer overlay.

Ms. Rose: Okay. Someday?

Ms. Lohman: We need a lot of money, don't we?

Ms. Rose: Well, I know that I've been spoiled, you know, having that type of information at my fingertips in the past. I don't know who has it and who doesn't, but it's really nice if you do have it.

Mr. Lipscomb: If it's accurate.

Ms. Rose: Correct.

Ms. Ehlers: That's a big if.

Ms. Rose: Good point.

Mr. Walters: Betsy, can you talk to the variability of the ordinary high water mark and how it's determined? Not the question of what jurisdiction is but the question of where you determine where the ordinary high water mark is.

Ms. Mitchell: You mean shoreline versus lake versus river?

Mr. Walters: No – how the ordinary high water mark is determined.

Ms. Stevenson: I think I kind of did that a little bit. It's defined as the area that you can pretty much visually tell where the water comes often enough to leave some sort of mark on the land, whether it's vegetation, whether it's a change in the soils, whether it becomes upland, or whether it's saturated and hydric. It's different whether it's a marine shoreline or a stream or a river or a lake. In areas where you can't tell, there's additional work and studies that you do. It's information that, like I said, I've taken some of the trainings with the Department of Ecology. They have it pretty much down to a science, so to speak, and their staff will come out and help do that work if there's an area where you simply can't find the ordinary high water mark. You can do some test soils work and determine the soils. You can double-check your vegetation, if there is some. If there isn't, you're kind of relying on the soils a lot more.

Mr. Walters: And since largely shoreline jurisdiction is determined by measuring from the ordinary high water mark, if a lot of on-the-ground work is required in order to determine where the ordinary high water mark is, how susceptible to mapping is shoreline jurisdiction? I understand that's a leading question but –

Ms. Stevenson: Right. Exactly. It's like –

Mr. Walters: It's supposed to be a leading question to get you to explain why it may not be possible to accomplish all the mapping that we might like to have on shoreline jurisdiction.

Ms. Stevenson: Well, and the maps are never going to be totally accurate because the rivers move.

Mr. Walters: Which is why the maps themselves – right.

Ms. Stevenson: So on any given day it could move.

Chair Axthelm: And yet on the plan that you gave us, you have not a mapping for the shoreline jurisdiction but you have mapping for the – what was it? The Conservancy.

Mr. Walters: The environment designations.

Chair Axthelm: Yeah, environment designation. And a good share of the county has – at least the lower portion of it has dikes and levees, so it'd be really easy, at least right now, unless that definition changes to designate or to show where the jurisdiction is.

Ms. Stevenson: And when there's a conflict or when there's a problem between what the map shows and what the definition determines is the shoreline jurisdiction, then the definition is what we'd go with rather than the map.

Chair Axthelm: Yeah, and that always happens that way, right? I mean, because the map – the definition would be more specific, but the map would at least give you a starting point to reference from.

Mr. Walters: The map is illustrative and there probably are areas where we could make the maps better, but it is the narrative in the regulatory document that controls and that's always what we would end up relying on, not the map itself. The shoreline designations on the map are easier because they run the opposite way from the ordinary high water mark. You know, they're lengths of shoreline that get environment designations versus where the shoreline itself is,

where that ordinary high water mark is, which is more subject to change. Does that make sense? The maps really cannot be – unlike a zoning map, the shoreline maps really cannot be regulatory themselves.

Ms. Ehlers: But they are zoning maps, too. There's a shoreline zone that's in addition to the Growth Management zone. That's what's on that map on the wall.

Mr. Walters: There isn't a shoreline zone I'm aware of. Betsy, are you – can –

Ms. Stevenson: We call them shoreline environment designations.

Mr. Walters: Right. They're somewhat different from zones.

Ms. Ehlers: You need to explain how. If there's a difference between a designation and you have to follow it in practice, the same way you have to follow a zone, and a zone is the code in a map, which is somewhat different except that that map shows different zones on the west side of Fidalgo Island. And that, according to what I have read over all these years, means that is how it's going to be designated, zoned, approved, go through the process, and the criteria applied. And if you're in a Residency zone you have this set of criteria and if you're in Conservancy zone you have another set of criteria, which is the only reasonable way to do it, so that looks like zoning to somebody that's trying to apply for something.

Mr. Walters: And maybe it's just a question of terminology. We don't call them zones. We don't call them –

Ms. Ehlers: That means that we have two zones in Rural Intermediate out on the west side of Fidalgo.

Mr. Walters: But we don't call them zones. We call it shoreline jurisdiction, which is where the plan applies at all, and then the environment designations, the types of environments along the shoreline.

Ms. Ehlers: We've still got two categories within one category.

Chair Axthelm: Either way, I think it would be good to look into to see if that would be – I think it would be feasible to have a map showing the shoreline jurisdiction in overlays.

Mr. Walters: We will have many mapping products and we have a lot of maps on the website now. I didn't watch all of this presentation but, Betsy, didn't you show the website and the links?

Ms. Stevenson: I didn't.

Mr. Walters: Oh.

Ms. Ehlers: But are they accurate?

Chair Axthelm: Kathy, did you have any more questions?

Ms. Mitchell: No, that's it. I've got to say if I get confused I'm sure other people will get confused. I do take what you said – I understand what you're saying, but I also understand what they're saying.

Chair Axthelm: Tim?

Mr. Raschko: I'd just like to emphasize my desire to have a clear understanding of what "ecological function" is, because to me that sounds like a really dangerous concept.

And then, second, if I understood you right, you said that this public access is a new element to this plan? And, if so, was that – did that come down from the state level or is that something the County is taking on on its own?

Ms. Stevenson: Yeah, that came from the state. They have a much larger section in the guidelines now than they've ever had before. In the past it's always been, Yeah, public access is great and if anybody's willing to do it we'd love to see that. Now it's there's more of a test and a little bit more feasibility that you kind of have to go through to determine whether it's appropriate in the location, and we wrote some things into our code this time so that it's not necessarily always required. There are certain times when the state guidelines say you should have it in these instances and so we put it in there, but we also give you a test as you go through to show why it's not feasible and maybe an alternative that it isn't necessarily on your property: Maybe you can help improve an existing public access or try to help purchase somewhere along the line further down. You have a lot more flexibility, so we're not necessarily requiring it.

Mr. Raschko: Is there a place where you can see the state mandate?

Ms. Stevenson: Sure. Yeah.

Mr. Raschko: Where?

Ms. Stevenson: I can get those for you. 173.26 – it's either .221 or .241. I'm not sure. I'd have to look real quick but I can get that for you.

Mr. Walters: Also the WAC includes the definition of "ecological function" and we incorporate the same WAC definition into this plan.

Ms. Candler: Betsy, can you say that one more time?

Ms. Stevenson: It's 173.26 – either .221 or 241.

Mr. Walters: They're all largely the same place.

Ms. Stevenson: It's either .221 or .241, but let me find it here. I think it's .221.

Mr. Raschko: Hey, Betsy, I can just get it from you later.

Ms. Stevenson: Okay. All righty. Yeah, I'll do that.

Mr. Raschko: Okay, thanks.

Ms. Stevenson: I know it's here.

Chair Axthelm: I do have some general comments and questions, if you guys are done.

Ms. Stevenson: Yeah, there it is. I found it.

Ms. Candler: I have one more thing. I just wanted to thank the people that came here.

Ms. Stevenson: It's in .221.

Chair Axthelm: Do you have one more thing beside that?

Ms. Candler: No, that's it.

Chair Axthelm: Okay. So I do have a list of some questions or comments. Let's see. So the map was misleading. That was one thing I'd just like to point out again.

On page 3, there's a comment. It says much of the shoreline and adjacent uplands are in private ownership. And then it says the unrestricted construction on privately owned and publicly owned shorelines is not in the public best interest. And the general comment is making sure that our shorelines aren't necessarily pushing everything for that. Because there's a lot of things that go on on the shoreline that aren't unrestricted construction, and I just think that everything shouldn't be based on that necessarily.

Unidentified female voice: (inaudible)

Chair Axthelm: Perfect point. Why do we protect shorelines? Oh, I'm sorry. This is your ReadMe about this document.

Mr. Walters: And all of that is straight out of the legislature's findings.

Ms. Stevenson: Yeah.

Chair Axthelm: I know. It doesn't mean we need to restate it. Okay. And then 6A-1(b): It says the purpose of this program is "To implement this program in a positive, effective, and equitable manner." And I would say we need to make sure that we aren't taking away lands that were usable when we can fight back as Skagit County, even with the Department of Ecology to say, No. You know what? We have a different situation here. We need to protect these people with shorelands. So I really think that Skagit County should go to bat for us.

And then on 6E -1.7 –

Ms. Mitchell: Can you tell us the page number too, please?

Chair Axthelm: I didn't write that one down.

Mr. Walters: Page 37.

Chair Axthelm: Page 37. There are multiple comments referencing the Urban Growth Area Open Space Concept Plan, and I've said it before and I'll say it again. The Urban Growth Area Open Space Concept Plan, although it was adopted by the Commissioners, was not regulation and *is* not regulation. It is a concept plan. It should not be referenced in code. The Comprehensive Plan, yes. That has been adopted. That is more in the lines of regulation. But the Concept Plan was a wish list that was not a regulation. It was – when it was put forward to

the people and the Planning Commission it was not stated as that. It was a concept plan. So I just want to make sure that's understood that that should not be referenced anywhere in the plan. If you want to use the text, fine, use the text.

Ms. Mitchell: I agree.

Chair Axthelm: But do not reference the Urban Growth Area Concept Plan. There's a lot of good things in it.

Mr. Walters: The idea there is that all of those parentheticals at the end of the lines, all the bracketed WAC citations, all of that will come out.

Chair Axthelm: Okay. All right. I just want to –

Mr. Walters: We just maintain it there so we know what we're talking about as we develop the document. All of that stuff, all that bracketed text at the end of all the sentences comes out.

Ms. Mitchell: I agree, but there is one place where it is actually – I think it looked like it was in the text rather than brackets. It was like on page 70.

Chair Axthelm: I've got that one, too.

Ms. Mitchell: What page is that, Josh? 74 or 78? I forgot now.

Chair Axthelm: Page 74.

Ms. Mitchell: 74 – there it is. At the bottom, (4)(a), it says "...Skagit Countywide UGA Open Space Concept Plan and the Skagit County 2012 Comprehensive Parks" Plan "and Recreation Plan..." and that's one of the instances –

Chair Axthelm: Page 74, 17.26.370.

Mr. Walters: Well, we talked about that one before when we reviewed this section before in the Planning Commission meetings on this section. And one of the requirements for our SMP Update is that we have a shoreline public access plan. We really do not have a shoreline public access plan so we have tried to – what's the word here – skate by by just using fudge, by using what we do have. It's not regulatory. It's not suggested to be regulatory. It's just to note that we have it, to try to accomplish that requirement without starting from scratch and doing a shoreline public access plan.

Ms. Ehlers: Question on that: Would a map suit for that?

Mr. Walters: I don't think so. I mean, I have heard that argument from you before. I know that you have identified many maps that are relevant but, no, I don't think a map by itself constitutes a public access plan.

Ms. Ehlers: Why not?

Mr. Walters: Because it's not a plan. It's a map. I mean, just at an elementary –

Ms. Ehlers: Well, it's more of a plan than that Open Space Plan is because it's all government-owned land, as the RCW requires.

Chair Axthelm: Regardless, the Open Space Plan, in my opinion, should not be addressed – or should not be referenced in this document nor any document. It was a good idea. There's a lot of good things in it, but there's a lot of things that are wish lists or things that have not been approved by the taxpayers and by the landowners. And that should be removed.

Ms. Ehlers: We need to follow state law, too.

Chair Axthelm: And then 14.26.140. And then there are different references in there as far as the associated wetlands and what it's referring to. And although you have to go back in the state law to determine the top of the dike is that ordinary high water mark or that – not the ordinary high water mark, but is used for the shoreline designation, it's not clear in the document in situations like this.

Ms. Lohman: Josh, we can't follow you if you don't tell us what page you're on.

Chair Axthelm: Oh, I'm sorry, page 54. Oh, I did. It was 14.26.140 – I'm sorry – and it's page 54, and it's "floodways and contiguous floodplain areas extending 200 feet from the floodway." So I just – I think that that needs to be a little clearer to help people understand that it is – or that it's at least currently being proposed as the top of the dike. I'd like to see it changed, but if it's not going to change I would like it to be clear to the public that that is what it is. There are a lot of people that affects.

Ms. Mitchell: I'll second that, please.

Mr. Walters: So none of – we're not going to make – I want to back up a little bit. We're not going to make any of these changes because we have a document out for public review so that's the document. You should be thinking about these things in terms of generating your recommendations, but we're not changing it yet. We change it *after* your recommendations.

Chair Axthelm: Then write them down and I'll say it again.

Ms. Ehlers: Is this going to be transcribed?

Ms. Mitchell: Well, isn't it helpful for bringing to light for anybody else that might be reading or listening as well? If they think similarly or differently then it helps other people know.

Mr. Walters: Yes. I just don't want to set, you know, expectations here. We're not going back and changing it now. We'll write these things down and we'll put them on the list and hopefully you'll also bring them up again at your –

Chair Axthelm: Unfortunately, Ryan, a lot of these comments were also brought up earlier and were not integrated into it, per our request.

Mr. Walters: And on some of those things – I don't know particularly this one. This one, I think, was more of a last minute item – but on some of those things, staff may disagree and the product is a staff product. You will then make your recommendation on the staff product.

Chair Axthelm: Yes, but the staff works for the public and when the public speaks, regardless –

Mr. Walters: I don't think there's any disagreement there. It's just that, you know, the process is the Department releases a product – and we went through many rounds with the Planning Commission on acquiring your comments on it, but there are some things that are maybe informed by other aspects of the document – I mean, it's a very complicated document – or other aspects of state law. So the document is our best effort based on what we had at the time. The next step is to get your recommendation, which we look forward to, and then working through that. But the process is not that the Planning Commission writes the document to begin with.

Chair Axthelm: But you asked us to comment on it several times before.

Mr. Walters: Yeah.

Chair Axthelm: And when you asked us to comment several times before we made some of these same comments. And the issue is is when we made those comments and the public had the opportunity to comment on some of that, too, is that those comments were not integrated. And regardless whether it's easier for the Planning Department to not have to fight it, if the public wishes for that to be fought I think it should be fought.

Mr. Walters: I want to make this – I want to set the expectation here very clearly. Just because someone makes a comment does not mean we integrate that into the document. There are many members of the public who don't comment. There are many members of the public who may make comments contrary to some other member of the public. So we have to make some judgment call every time as to what goes into the document or not. So there's that tension all that time, so it's difficult to know what should go in and how it should be changed. It's our best guess every time.

Ms. Candler: Can I say something, Chairman?

Chair Axthelm: Yeah.

Ms. Candler: I understand that certainly – not everything that's said in here gets integrated. I just wonder if it might save time and keep the Planning Commission from spinning their wheels if we knew that the Department was just not in agreement it so we don't say it three or four times or any one Commission member doesn't say it several times with the expectation. And I think you're doing that now – trying to set an expectation – and I appreciate that. I just – if we knew what was going to be integrated and not – or not – if you know that right now it would be helpful.

Mr. Walters: And I agree with that general sentiment. And as we went through the process the last couple of years, we did try to – I think we did not do 100% job of keeping track of every single one of the comments, but we did try to go back through and in the update – the Planning Commission update memos – address which of the comments you made that we didn't integrate, which ones that we did, which ones that we changed in some other different way after trying to work through it. I happen to agree with Commissioner Axthelm on this point of you can't tell from this language here where the top of the dike is. Now I don't know how we would address that. I don't know if it would go into the definition or it would go into a guidance document or it would go somewhere following the definition, but I happen to agree that it makes sense to more clearly articulate where the edge of the floodway is in terms of these areas that we're talking about west of Sedro-Woolley. But this definition here is very – it is essentially the

RCW and WAC definitions, so you can see where it came from. I think we have to get into specifics as to very specific comments that you have in order to tease out why something doesn't look like something else. Also I happen to know – because I worked on it at the time – that when the document went out the door there were a couple things that we realized right after it went out the door that we missed from your most recent review of it that we would have liked to have integrated but they just didn't get done. And we have that list and those things will be on our list of suggested recommendations for you to make for us to change after it leaves your hands.

Ms. Candler: So that was my other question. So have you already started our recommendations document, knowing some of the things that you're not going to integrate and just putting them on our recommendations already?

Mr. Walters: No. No. We have a list of things, for instance – I'm not sure I can think of any one off the top of my head, but some of the things in your last session we forgot – oh, one-to-one slips on docks.

Ms. Stevenson: Right – on the community dock, instead of .75 per residence.

Mr. Walters: Yeah: You recommended that, we don't have an objection to that, but we forgot.

Ms. Candler: Okay. So – okay.

Chair Axthelm: But our recommendations will then come at the end of the hearing and our deliberations to give our recommendations.

Ms. Candler: It will but if the Department already knows that they're not in agreement with something that a Commissioner brings up, whether the whole Commission has voted on it or not, I think that's the appropriate time to do that later, but it would be nice if those would go into the recommendation document so they don't get lost.

Chair Axthelm: Okay, and then on page 100 it says Max Length as measured from the ordinary high water mark for the individual docks, but 50 feet from the ordinary high water mark doesn't leave you a dock in the water. So if you're requiring floating docks, you can't get a dock in the water. Well, in some situations you can if you have a steep bank but a lot of cases 50-foot, I mean, doesn't even get you to the water from the ordinary high water mark. I can understand water's edge but that one doesn't make sense.

Ms. Lohman: Are you in the table?

Chair Axthelm: Individual docks – right there. Max Length as measured from the ordinary high water mark – from the ordinary high water mark is 50 feet. That doesn't get you into the water. So I think it just needs to be considered and wordsmithed so it's realistic. Perhaps "overwater" or something, and if you can't address it now that's fine, but add it to the comments.

I think that's it. Let me double-check, but I'm pretty sure that's the comments I had. I guess the other question is that height restriction. There's a height restriction for residential. Where is that height restriction point? From the ground, or is it from the ordinary high water mark elevation?

Mr. Walters: "Height" is –

Ms. Stevenson: The ordinary high water mark isn't necessarily an elevation so, no, it's not that. It's from existing average grade.

Mr. Walters: "Height" is defined in the zoning code.

Chair Axthelm: Yes, but here's a restriction on the shoreline for height. I think it's 25 feet and 35 feet.

Mr. Walters: Yes. I mean to say the definition of "height" in the zoning code provides a way to measure and determine height.

Ms. Stevenson: For the Shoreline Program it's the average grade to the highest point on the roof peak.

Chair Axthelm: Okay. All right. It was the previous code but there was a thing that it was from the ground, which means that your roof couldn't be seen over top of, like, the dike. So in our situation where we have 200 feet on the landward side of the dike that's protected by shoreline we're behind the dike. We've got eight feet before we can even see the river.

Mr. Walters: Let me expand on what Betsy said. Betsy mentioned the height as defined in the shoreline code. That's important. The definitions in the shoreline code are the definitions for the Shoreline Program, so the definitions in Part VIII. It says there right at the beginning: "The definitions in this part apply to terms used in this chapter." The definitions in 14.04 apply to terms used in the chapter, but in the event of a conflict the ones in this chapter control. There's a definition of "height" in the Shoreline Plan *and* there's a definition of "height" in the zoning code, so you'd have to use the one in the Shoreline Plan. And the Shoreline Plan definition is as Betsy said and it's based on the WAC definition.

Chair Axthelm: Okay.

Mr. Walters: I don't know about this "can't see it over the top of the dike" thing. I haven't heard that before and I don't think that's based on what the plan says. Do you have anything to add?

Chair Axthelm: That's why I would request something here, is if there's a restriction of, let's say, 25 feet – okay? – to the peak of the roof. And if you are behind a dike that that measurement be taken from the top of the dike, because in any other floodway it's just from the ground. But when you have a dike in front of you, you should be able to build your house up a little bit higher.

Ms. Ehlers: How high is the dike?

Chair Axthelm: Eight, ten feet, which basically means for a single-family home you couldn't go over top of the dike. I mean, you could do a single-story.

Mr. Walters: Well, if you have – if the height limit's 25 feet and you have a ten-foot dike that gives you –

Chair Axthelm: To the peak. To the peak.

Mr. Walters: Yeah, but that gives you 15 feet over a ten-foot dike.

Chair Axthelm: The principle behind it is that if I didn't have a dike beside me I could go 25 feet high. I'm just asking for that to be allowed to be higher. Just a suggestion. If you allow it to go up at the start of the top of the dike, it's no further impact to the shoreline than what it would be as if you were in a floodway area without a dike. It would be the same height impact from the shoreline to the residence. Does that make sense?

Mr. Walters: I think I follow you. Yeah, it's just there's the WAC establishing how to measure height, so I don't know what – I guess we can refer that question to our attorneys.

Chair Axthelm: That's it. That's all I have.

Ms. Mitchell: I've got one on dikes. It's just a quick question. I don't know – I don't understand this stuff real well, but on page 41 (f), this is under the Circulation, Transportation, and Parking section.

Ms. Rose: So what page are you on?

Ms. Mitchell: On page 41, go down to (f). It's about two-thirds of the way down. It says "Non-Motorized Transportation. Safe pedestrian and non-motorized vehicle paths and trail systems, along shoreline areas and along abandoned, existing, or proposed railroad, roadway" and then it says "dikes, and utility shoreline rights-of-way should be encouraged." And that's current policy. I'm a little confused why dikes are included in that. Because there might be some situations where there's public, right? But the majority that they're private or owned by dike districts and people can't access? That's just a general thing.

Ms. Stevenson: Yeah, it says "encouraged." We do have a situation where there was a partnership between a dike district and some public agencies and they were willing to put in a dike – or I mean a dike, a public access on a dike – the Dike Top Trail out at Padilla Bay. So we're encouraging it. We're not requiring it. We're not saying they have to. We had that discussion with several of our Advisory Committee members who are dike district commissioners as well and, you know, they don't necessarily own the land under the dike. That's not theirs to decide to give public access. And they've argued that in court and we respected that. We're not trying to do that. There are people who would like for us to do that but we aren't at this time.

Ms. Mitchell: I know.

Chair Axthelm: Okay, and there's one I missed actually, but it was my understanding that the diking districts did *not* want public access on the dikes.

Ms. Mitchell: That's what I had heard, too. That's why I was asking. I'm kind of confused from general things I've heard versus – I know there are exceptions. There's always exceptions.

Chair Axthelm: So, with that, there's one I missed and it was on page 71 about public access, 14.26.370. Oh, I'm sorry.

Ms. Stevenson: Did I answer your question?

Ms. Mitchell: Yeah, you did. It's just – I realize that's the push-pull between what some people want and what some people don't want. You know, "encouraged" is helpful.

Ms. Stevenson: It won't happen without the dike district being an interested and obviously very active party to it.

Ms. Mitchell: Okay. Thank you.

Chair Axthelm: It was the 14.26.370, Public Access, and it was regarding – it says “This section applies to the following shoreline uses and activities, which are required to provide shoreline public access.” And then on (b)(iii) on the next page – so on page – top of page 71, it's the wording that I wasn't sure on. It says “New public structural flood hazard reduction measures.” Does that mean if you added – if you built on to the top of the dike, so raised the dike?

Ms. Stevenson: I didn't read the WAC that way. To me it's a new construction of a new dike.

Chair Axthelm: Okay.

Mr. Walters: I'm pretty sure that is straight out of the WAC and I'm pretty sure that “new” – the word “new” – exists in the WAC.

Ms. Stevenson: It does, so I don't read it that way.

Chair Axthelm: Okay, because it says “such as new dikes and levees, where access rights can be secured.” So it's *requiring* it.

Ms. Stevenson: If somebody were to come in tomorrow and want to build a new dike somewhere that isn't there now, we would do our best to try to gain some public access for that because they would have to be gaining right-of-way anyway so we would try to work with them. But for people doing maintenance or any kind of work on their dikes, there again we would go through a process to see if it's feasible or possible, and usually the answer is no and that's about as far as it goes.

Chair Axthelm: Okay. Yeah, because I know a lot of the diking districts are owned by the landowners, not a specific section of land. And so with that situation is that it – and they're not public access.

Mr. Walters: Also recall that public access as written into this section does not have to consist of lateral access along the length of the shoreline. You just need to be able to get to the water.

Ms. Stevenson: Yeah, we did talk about it. You'd be giving people access ___ get down to the river or something.

Chair Axthelm: But diking *improvements* shouldn't require that. I could understand the new dike, but diking improvements – because that's what – the “flood hazard reduction measures” I was reading as improvements. That's why.

Ms. Stevenson: It says “new,” though, public structures.

Ms. Lohman: On this same section, I had something, and we did talk about it, and while you talk about creating public access and making sure that it's reasonably consistent – I'm reading number (2) on page 71(ii) – you talk about it has to be “reasonably consistent with nature and the type of demand created (proportionality),” but I also think it needs to be proportional to the property owner also because the property owner can get overwhelmed by public access. And if

you're going to require then that they have to have public restrooms and all the ongoing maintenance that that's going to entail, we need to make sure that there're some protections for the property owner too.

Mr. Walters: And remember this section is all about the proposed project, the impact created by the proposed project.

Ms. Lohman: However, it's events as seemingly benign as subdividing a parcel of land into more than four lots. Well, if you have a very large parcel it could be triggered by that number.

Mr. Walters: Yes.

Ms. Lohman: So that's why I keep bringing it up. Because when you look at the list it isn't talking about a giant mega-metropolis-type development. It could be something fairly subtle.

Ms. Stevenson: I think if you read that again if we're not making our point the way we need to that's exactly what it says. The proportionality means that whatever you're requiring for public access has to be proportional to whatever the demand that's created for whoever's developing along the shoreline that's limiting people's ability to enjoy that shoreline.

Ms. Lohman: Yeah, but –

Ms. Stevenson: It *is* the landowner, actually, that is the one.

Ms. Lohman: But I read it to mean that the demand by the public to get through that or to use that access point.

Ms. Stevenson: I think is – it comes from a court case and it was that they were demanding more public access than what the development was actually generating in terms of impact. So it goes directly to what you're saying.

Mr. Walters: It might be a little –

Ms. Stevenson: So maybe we need to look at rewording it a little or making it clearer.

Mr. Walters: It might be a little more readable if it said “the demand created by the proposed project,” like (a). (a) says “the proposed project will increase demand” – that's the nexus. Maybe (b) is “created by the proposed project.”

Ms. Lohman: I read the proportionality was the – you've opened the gate and now you're flooding.

Ms. Stevenson: Let's do that, just to make it consistent, and change that, okay?

Ms. Mitchell: That's helpful because I read it the same way she did.

Chair Axthelm: This is the same comment. So basically we'll still have to comment on that or make that as a recommendation.

Mr. Walters: Correct because we can't be changing what is out for public review now.

Ms. Bynum: I had a question about process. So you are going to get public comments back from the public hearing and also in writing, and then do those comments – are those comments then reviewed by the Planning Commission? And if there are things in those comments that the Planning Commission wishes to put forward as recommendations to the Board of County Commissioners they must put it in their recommendations in order for it to be included to go forward?

Mr. Walters: Well, let me make that a little bit more precise. It's the same process that we go through for all legislative proposals. People who make public comments submit them by the deadline; they all get catalogued; they all get put on the website; we issue a response to comments document; the Planning Commission reviews all of that; the Planning Commission makes recommendations. The Planning Commission should put in their recommendation anything that they want changed.

Ms. Bynum: Right, and I'm sort of saying this for the audience that's not in the room.

Mr. Walters: But the Board would not be constrained by what the Planning Commission sets forward. The Board could pick up additional public comments and make those changes, too.

Ms. Bynum: Right. Right. I'm actually saying that as a benefit to people looking, not people in the room, so that they know that there's a process and that the Planning Commission will look at what they turn in and review what they turn in.

Mr. Walters: Oh, yes. Yes. Yeah. We will all look at that and it will be on the web and there will be a response to comments document. And then the Board also will be looking at that, assumedly, when they get it after the Planning Commission recommendation.

Ms. Bynum: Right, and does the Board have the option then of also holding another public hearing if they wish?

Mr. Walters: They have several options.

Ms. Bynum: Several options. Okay.

Mr. Walters: Okay, let's cover the whole process. The Planning Commission will hold a public hearing. A written comment period is happening right now, so anybody who submits comments, preferably to pdscomments@co.skagit.wa.us by the deadline, which is on the screen – well, the deadline's not on the screen but all the other information is on the screen there. All of that gets catalogued and inventoried and a response to comments document gets created. All that gets put onto the website and sent to the Planning Commission. The Planning Commission then holds deliberations. The Planning Commission will make a recommendation in the form of a recorded motion. That recorded motion goes to the Department. The Department forwards it, along with any other recommendations, to the Board of County Commissioners. The Board will then pick it up and they will say either that they want to make some of the changes the Planning Commission recommended – all of the changes, some changes and not others, plus their own. Whatever it is the Board wants to do, they will decide at that moment. Then we will – then they will instruct the Department. We will go back and write up those changes. In this case, because it has to be approved by the Department of Ecology, we will probably send those off to the Department of Ecology for review, but the Board would also have the option of holding another public hearing or written comment period or both before doing that. Either way they would need to hold another written comment period or public hearing or both before they *finally* approve it, if

the changes that they make are outside the scope of what was originally released for public comment.

So the general rule, to boil all of that down, is that the public gets to comment on everything. They comment on the initial document. If there are changes that are outside of the scope of what was in the initial document that the Board wants to do, then they'll get a chance someday to comment on that. In this instance with the Shoreline Program, it could be 12 to 18 months before it's finally adopted because the Department of Ecology has to read the whole thing and they start from scratch and go through everything. They will send us their comments on what they think the document doesn't accomplish consistent with the guidelines, and so we might have to do quite a bit of work on tweaking that at that point. I anticipate that the Board holds their public hearing and written comment period at the end of that process, but I don't know that for sure.

Ms. Bynum: Okay, so Department of Ecology makes changes and then those full changes *probably* will go out for another public comment period?

Mr. Walters: They don't make changes. They'll send a document explaining what changes they want made.

Ms. Bynum: And then you make the changes from that document. The Planning Department makes the changes from that document that they suggest.

Mr. Walters: Well, they'll come back to us and we'll have a conversation with the Board about what it is they want to do. Because there are likely to be places where the Department of Ecology maybe has an interpretation of the guidelines that isn't consistent with our interpretation and we can have a conversation with them about that. So we will have to have a conversation with the Board also when we get that document back from Ecology as to what changes they want to make.

Ms. Bynum: Right. And at some point you have the changes in a new –

Mr. Walters: Yes.

Ms. Bynum: – different document, and does the public get to comment on that?

Mr. Walters: Yes. If it's outside the scope of what it is that is out for public comment right now, which I'm sure it will be.

Ms. Bynum: Okay. I'm just saying there's another opportunity – there's some other opportunities besides this one, as well, to make comments.

Mr. Walters: There will be. I do want to make it clear, though, that people should comment now. Don't wait till later.

Ms. Bynum: Right.

Mr. Walters: Because now's the time. Now is the formal, big comment opportunity, and the later document maybe we would ask only for comments on the changes, not the whole rest of the document that had already gone out.

Ms. Bynum: Right. And could I also comment to something that was talked about earlier which I don't think you heard? And that was that the public notice on this particular document isn't clear what portions of the documents on the webpage are eligible for comment or are included as the formal documents for comment. So maybe when we write the invitation for comment we can say "all of the documents on this page" or "only the first four" or – you know, because there's quite a bit of supporting information on the page as well.

Mr. Walters: Yeah, I think the invitation to comment/the Notice of Availability that's on there specifies that it's the plan that we're asking for comments on. I don't know that we're required to have a formal comment period on the other documents. Maybe Betsy can talk about that. But we accept comments on the other documents. But our –

Ms. Bynum: Right. But technically the invitation is only to comment on the plan.

Mr. Walters: If that's all that's in the Notice of Availability, which I think is what's in there.

Ms. Bynum: So I guess I would suggest maybe in future: People do want to comment on the other documents, especially if they've never looked at them, you know. They've not been paying attention then all of a sudden they want to come in and say some things about that, so maybe in future that could be in an invitation in the NOFA, Notice of Availability.

Mr. Walters: And I haven't noticed a lot of hesitancy on the part of the public to submit comments.

Ms. Bynum: Well, the ones you see there's no hesitancy, but it's the ones that don't know anything about it that I'm aiming to invite to comment.

Chair Axthelm: So how long after we get the –

Ms. Bynum: Thanks.

Chair Axthelm: I'm sorry. On the public comments, so we have the hearing. Are we going to get all the comments before the hearing or is there sometime after the hearing?

Ms. Stevenson: No. The hearing is on the 15th or starts, at least, on the 15th of March and we're accepting comments until the 4th of April, so we put the hearing kind of in the middle of the comment time.

Chair Axthelm: And when's our deliberations?

Ms. Stevenson: That'll have to be scheduled after we get all the comments and get that report put together. And you'll be working on the Comprehensive Plan as well, so we'll just have to see what's ready and –

Mr. Walters: I think we were thinking at least three weeks later, though.

Chair Axthelm: After all the comments are received and they're sent to us?

Mr. Walters: Well, three weeks after the end of the comment period.

Chair Axthelm: How long will the Planning Commission have to review it? I don't want to have it, you know, less than a week.

Mr. Walters: It won't be less than a week.

Chair Axthelm: Okay. Preferably two weeks would be ideal.

Ms. Stevenson: I'm not in charge of the schedule so I will give you as much time as we can.

Mr. Walters: No, I think we were thinking three weeks, because the comment period ends the first week of April and I thought we had said before May was the – I don't remember!

Chair Axthelm: If you could give us three weeks, that's great.

Mr. Walters: But, no – we took into account in trying to figure out when things were happening the expectation that you would want more than a few days to read the comments that took 60 days to submit.

Chair Axthelm: Thank you. And I know we're all passionate about what things we'd like to see, but I'm just – there're some things that I think that we need to push back to Department of Ecology on. But thank you.

Ms. Stevenson: Thank you all for your time, and I appreciate your comments. I really do. So we'll figure it out, and we'll do this again!

Ms. Mitchell: Thank you, Betsy.

Ms. Stevenson: Yeah.

Chair Axthelm: So with that, the meeting's adjourned.