

**Skagit County Planning Commission
Update: Agritourism Study
February 7, 2023**

Planning

Commissioners: Kathy Mitchell
Mark Knutzen
Vince Henley
Amy Hughes
Tim Raschko, Chair
Joe Woodmansee
Tammy Candler, Vice Chair
Martha Rose
Jen Hutchison (absent)

Staff: Jack Moore, Assistant Planning Director
Sarah Ruether, Long Range Planning Manager
Will Honea, Senior Prosecuting Attorney

Public Remarks

Commenters: Michael Trafton
Ellen Bynum, Friends of Skagit County
Randy Good, Friends of Skagit County
Eileen Good
Andrea Xaver

Chair Tim Raschko: (gavel) Good evening and welcome to the February 7th, 2023, meeting of the Skagit County Planning Commission. I believe we have everybody.

Commissioner Kathy Mitchell: Jen.

Chair Raschko: Excuse me. Jen Hutchison is going to come in online Have you heard from Jen?

Sarah Ruether: She sent an email saying that she would try to come in via Zoom.

Chair Raschko: Okay.

Ms. Ruether: I think Brian will try to, like, make – when you guys are commenting, he can bring her up.

Chair Raschko: Right. So for now she's absent and if she comes in we'll change the record. Okay.

Ms. Ruether: Okay.

Chair Raschko: Thank you. I'd like to ask for a motion to amend the agenda. We usually every other meeting provide for public comment. It's omitted. I'd like to add that, if there are no objections.

Commissioner Mitchell: I'd like to make a motion then.

Vice Chair Tammy Candler: I'll second.

Commissioner Mitchell: I move that we add Public Remarks for this evening.

Vice Chair Candler: Second.

Chair Raschko: It's moved and seconded to amend the agenda. Is there any comment or discussion?

(silence)

Chair Raschko: All those in favor, say "aye."

Multiple Commissioners: Aye.

Chair Raschko: Aye. Okay, opposed?

(silence)

Chair Raschko: So we'll have Public Comment. Is there a motion to approve the minutes of the last meeting?

Commissioner Vince Henley: I move that we approve the minutes.

Commissioner Mitchell: Second.

Chair Raschko: It's been moved and seconded to approve the minutes. Is there discussion of the minutes?

(silence)

Chair Raschko: All those in favor, say "aye."

Multiple Commissioners: Aye.

Chair Raschko: Opposed?

(silence)

Chair Raschko: Okay, that carries. So we're going to have Public Comment. Does anybody care to speak? And if there is anybody, would you please state your name and address and please keep your comments to three minutes?

Unidentified voice: (unintelligible)

Chair Raschko: I believe you're fine just where you are.

Michael Trafton: Thank you. My name is Michael Trafton. I reside at 13999 Trafton Road in Anacortes. I'm an architect and a designer by vocation but, more importantly, I am passionately restoring a hundred-year-old family farm on the south end of Fidalgo Island.

Agritourism, for a lack of a better word, is not such a bad thing. There may lie within an agritourism business model where a new or an existing farmer or rancher could possibly augment their current agricultural income. It's not a bad thing. But an agritourism policy that is ill-defined, ill-administered, and ill-regulated will have significant impacts directly and indirectly in the areas in which it may be implemented.

You have in front of you a survey. That survey produced a lot of valuable data, it asked a lot of relevant questions, and it provided a cross-section of conclusions. If you look closely, you'll see that 2/3rds of the respondents have no affiliation with the agricultural community. They were merely asked if they liked this or they disliked that. Nowhere in the current survey will you find reference or explanation to what the potential implementation of an agritourism policy will have on the existing agricultural community in which it's located, and this is very important.

The farmers and the ranchers in these areas will be left to deal with the consequences on a daily basis. Current business models will need to be adapted, adjusted, and possibly changed. We only need to look to the north and to the south of Skagit County to see how examples of an agritourism policy or a lack of has altered the agricultural landscape. Is that the vision that we see for Skagit County? It's imperative that we continue to work hard to preserve, protect, and promote the agricultural community in Skagit Valley. Does a policy for agritourism that is potentially ill-defined, ill-administered, and ill-regulated accomplish that? The impacts of an agritourism policy in Skagit Valley will last forever. What that looks like and how that is managed starts here. Please recommend to continue to preserve, protect, and promote Skagit Valley in a manner in which we can be proud of and one we won't look back on with regret. Thank you.

Chair Raschko: Thank you.

Ellen Bynum: Thank you, Commissioners. Ellen Bynum, Friends of Skagit County, 419 South Main, Suite 207, Mount Vernon.

The primary business of agriculture is food, seed, fiber, and livestock production, not tourism. Agritourism activities on farms are presented in the agritourism study as permitted agricultural accessory uses. They are not, except as permitted in the Skagit County Code. An agricultural accessory use *shall* predominantly serve the principal use of the farm. Agricultural uses on Ag-NRL says, at (7), "activities associated with tourism which promote local agriculture. Accessory uses include farm tours and festivals; farm-to-table dinners; u-pick berry farms; farmstands; open houses with direct sales to consumers; workshops on food production; educational classes on livestock management or crop production; value-added packaging and sales; storage and distribution of the resulting products. Farm stays with activities linked to aspects of farming *may* qualify. Simply paying to stay in a farmer's home is not an ag accessory activity. Weddings cannot be accessory uses because they do not contribute to commercial production and do not have long term commercial significance for farming. Neither do concerts, tasting rooms, and restaurants. An agricultural accessory use shall predominantly serve the principal farm use. It must be located on the same lot as the principal use and must not convert farmland and must be limited in scale and size. Tourism activities which promote local agriculture must also predominantly serve the principal use, which is farming. An agritourism zone or an overlay is not necessary.

The Comprehensive Plan policies and codes are written to comply with GMA. The Planning staff are responsible for working with owners and operators to see that they come into and stay in compliance with the code. Staff must work with owners to either change illegal activities to a permitted accessory use to be in compliance, stop the activity, or relocate the operations off of farmland. Permit and Planning staff should not advocate for activities on farmland that are not permitted. Landowners must fully understand the intent of the regulation to protect agriculture production. It is not the job of Planning staff to help applicants figure out ways to circumvent the rules. Proposed activities should not violate codes. The County should enforce ag accessory uses as they would any other code violation, including these agritourism activities. The public may think that the activities listed in the agritourism study are allowed. As Planning Commissioners, *you* should be able to tell which are not permitted and why. The rules are clear. So please recommend that the County Commissioners enforce them and remain in compliance with the GMA.

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Ms. Bynum: And if you want something to do, you can read *Friends of Sammamish Valley*. You can google it. They have a website. You can see what happened in Sammamish with wine tasting rooms.

Chair Raschko: Thank you.

Randy Good: Randy Good, 25 – I'm sorry – 35482 State Route 20, Sedro-Woolley. I'm president of the Friends of Skagit County. Thank you for the opportunity to provide input here.

In 1974 my wife and I purchased a dairy farm east of Sedro-Woolley. We devoted all our time and energy into operating the dairy farm relying on our County Commissioners and the Planning Department to protect Skagit County's agricultural's best interest. In 1993, I became informed and vocal on County actions and issues on County Comp Plan policies and codes that relate to agriculture. I was appointed to the Skagit County Farmland Legacy Board in 1996 as one of the founding members protecting farmland in perpetuity. I was also appointed to serve on the County's Ag Advisory Board, advising the Commissioners on all policies and codes related to agriculture. At that time, the Planning staff worked with the citizens, including the farmers and the Ag Advisory, to clarify County codes to comply with the GMA. The Ag Advisory has been involved in advising the Commissioners on agritourism issues and Comp Plan policy since 2008, helping develop the code presently in place. The May 14th, 2010, administrative interpretation memorandum points out the Ag Advisory Board had correctly pointed out that as long as the present County Code is in effect the ordinance must be implemented and enforced in accordance with its terms dealing with non-ag activities on farmland. Any proposed Comp Plan or policy changes will only result in damaging the viability of agriculture industry and take away valuable farmland in Skagit County. I see no need to make any changes. Thank you.

Chair Raschko: Thank you.

Eileen Good: Eileen Good, 35482 State Route 20, Sedro-Woolley. I would like to thank the Planning Commission for having written transcripts of these meetings. The written transcripts are a quick and accurate useful source for the use. And I'd also like to point out we people with hard of hearing, we need to have these transcripts so we can get a good, accurate meaning from these papers.

I also feel the code on ag tourism should not be changed. Right now the County does not have the resources or the staff to solve traffic problems that are created at the Tulip Festival. Allowing

more non-agriculture activity on working farms will create more safety issues, more food security issues, more traffic issues, along with taking more agricultural land out of production. A solution: Create a(n) ag center at the Port of Skagit County where local food can be produced to be sold and bought at this place. There would be more room for the needed infrastructure for such activities. Thank you.

Chair Raschko: Thank you.

Andrea Xaver: Andrea Xaver, 19814 State Route 9, Mount Vernon. I'm a member of the Farmland Legacy Program committee but I'm – tonight I'm just speaking for myself.

My family has farmed here for 122 years, so I'm sharing some history and concerns regarding Skagit farmland loss. How many consultants have been hired here to study the loss of farmland in Skagit County, covering many damaging effects including an overpopulation of elk, some with contagious, deadly hoof rot, plus invasive reed canary grass, which is toxic and absorbs oxygen from water? Are public concerns noted in any hired studies? Since 1940 we've lost over half of Skagit's great farmland due to conversions to other uses, and since 1940 our population in Skagit has gone from over 35,000 to over 132,000. The world's population has gone from over 200 million to 8 billion. By 1969, about 5,000 acres of Skagit farmland were paved over with the completion of Interstate 5. Around 1980 – give or take – Mount Vernon wanted to incorporate land around Big Lake. My farms would have been included. Luckily this incorporation failed. In 1989, Trillium Corporation wanted to buy 400 acres west of I-5 to build a farmers' market, several shops, and a restaurant. Thankfully, that didn't happen. Washington state has lost 100,000 of acres of farmland to development between 2001 and 2016. Farmers have always had to deal with the consequences of drought, wildfire, and smoke, flooding, and governmental influences. More threats continue, many poorly managed: Leapfrog development; proposals like fully contained communities; a recent look for a possible new regional airport; some fish habitat that seems experimental; huge streamside buffers through various farmlands. These are serious problems. If some farmers give up, will developers and/or foreign businesses buy these farmlands? Extensive agritourism scattered all over the county could be very damaging. The Growth Management Act and various codes must be reviewed for this proposal in Skagit County to ensure appropriate language regarding zoning and use here. If appropriate codes aren't enacted, would adjacent farmers have to increase insurance policies? Would property taxes go up for adjacent farmers? What's the plan for excessive traffic, more noise, more lights at night possibly, and pollution? Will some wildlife suffer various negative impacts? Do farmers have to hire guards to prevent theft or stop visitors from getting in the way of active machinery or entering properties not in agritourism? Accidents happen, even under regular circumstances. A two-year-old girl in Whatcom County quickly ran away into her grandparents' barn, climbed up on heavy, unstable machinery, which tipped over and killed her. What about enforcement of any –

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Ms. Xaver: – agritourism codes? I'll wind up here. I've just got one little thing, if that's okay. I fear the agritourism survey and the meetings appear to be biased toward agritourism, that a code change was a given and questions were asked to ensure tourism with little concern for those providing food security for here and the world.

Chair Raschko: Okay, thank you. Are there any others?

(silence)

Chair Raschko: Okay, I've been advised to advise that you need to be between the two mics for the system to properly pick you up.

Terry Sapp: How am I looking?

Chair Raschko: You're looking really good.

Mr. Sapp: Good.

Chair Raschko: All right. Thank you.

Mr. Sapp: My name is Terry Sapp. I reside at 804 Ferry Street in Sedro-Woolley with my favorite wife –

(laughter)

Mr. Sapp: – my partner and favorite person, and she's favorite for a reason. She farms with me on our two farms east of Sedro-Woolley seven minutes from our house, and I'm delighted by that. Before we bought one of those farms in 2008 she'd barely been on a farm. I was raised on one that began in our family in 1910.

I'm here to make a presentation on two points. I want to present to you some old and something new – and no, it's not a wedding. I, in respect to the old, encourage you to consider – again, I speak of it often. I'm glad you're here to listen because others have stopped. My issue is King County. King County is a hot mess under GMA. A study was done on their wineries, breweries, and distilleries. Legislation was written to try to incorporate those into legislation, into the code. The Growth Management Hearings Board *invalidated* – their strongest action – in their final decision and order, they *invalidated* the King County ordinance. King County came back with yet another attempt to include wineries, breweries, and distilleries, and tasting rooms in their legislation, and very recently that too was struck down by the Central Puget Sound Growth Management Hearings Board. The County presented a notion that if they established a moratorium on – or moratoria of a few sorts on wineries, breweries, and distilleries, that they would comply with Growth Management. They did not. The Growth Management Hearings Board struck it down again. They are wrestling now with how to write another piece of legislation. Here are 44 pages that have been circulated around, not filed for consideration by the council. But I'm not sure they've done anything. I read these. I'm not sure they've done anything that is going to change it very much.

My point here is you can write and the Commissioners can write and the County Planning Department can write any manner of code but you have higher authority to which you must pass muster. You must same the same muster as every other county regarding Growth Management. Seven failures were found in the Hearings Board – Central Puget Sound Growth Management Hearings Board case regarding Growth Management. Seven –

(sound of timer)

Mr. Sapp: – were found for SEPA. My new thing: City of Sedro-Woolley tomorrow night will receive the City Council a proposal for wineries, breweries, and distilleries in Sedro-Woolley, and that's the right place for them. They should be in cities. They have lighting, sewers, blah blah blah. That's the right place. And the City of Sedro-Woolley is ahead of us all. Thank you.

Chair Raschko: Thank you. Would anybody else like to address the Commission?

(silence)

Chair Raschko: Okay, I want to thank everybody that did. Your input is very much appreciated. So at this point we will turn to an Agritourism Study Update. So, Sarah, please go ahead.

Ms. Ruether: Oh, Will's going first.

Will Honea: I'll just go over here. Good evening, Commissioners. Will Honea, Senior Deputy, Skagit County Prosecuting Attorney's office. Am I speaking in the right microphone here? Okay, good.

Chair Raschko: Just between the two.

Mr. Honea: Okay.

Chair Raschko: I've been told.

Mr. Honea: I guess I'm not experienced enough. Well, I'm not *entirely* sure what I'm talking about, but I thought I'd offer some – I was just asked to come answer questions generally, but as I understood it you're interested in learning about how we established what's an accessory use for the purposes of single-family residential under 14.16.400. You know, I think the starting point with 14.16.400, our Ag-NRL zoning, is under subsection (1). It's, quote, "Non-agricultural uses are allowed only as accessory uses to the primary use of the land for agricultural purposes." Now that sounds crystal clear, but the devil's in the details. And so that's what I want to talk about, is some of these details.

So 14.16.400(2) subsection (O) deals with single-family residential and it's only allowed as an accessory to agricultural use and it can't convert new land. So we had to – and that ordinance has been around since the early '90s in the early days of the Growth Management Act. But it left us to put some meat on the bones of that with an administrative interpretation. Now an administrative interpretation is, you know, an official, published interpretation of a code section. We do this sometimes when we need detailed explanation of what a code section means. I was involved in this. I was here. I helped review this. I think Gary Christensen signed the administrative interpretation that came out of it. But what it, you know, obviously required us to do is to think about the same thing you're thinking about right now, which is, What does that mean to be an accessory use to agriculture?

Now certainly the Planning Commission could recommend and the Board could just fundamentally change any of these ordinances within the limits of the Growth Management Act and some of the constraints around that. So all of this is a creature of an ordinance to begin with. And so, you know, what we wanted to do is look around for what other places has – within the system have we had to look and decide when is it someone actually doing something that is subsidiary to, that is actually an accessory to farming, to agricultural activity, and what are the objective metrics we might be able to apply. Because, you know, just for example, saying you've got two grapes over here and you're farming while you open up your restaurant. Is that accessory to agriculture? Well, the person applying for the permit sure thinks it is and would argue for that. So we had to come up with some sort of objective – again, an objective metric that applies to everybody. That's what the law's about. We have to have rules that are broadly applicable – rules of general applicability, as they say.

So what we looked at was RCW 84.34.020 and that's the definition of farm and agricultural land for the purposes of tax classification as agricultural land, because as you're no doubt aware, if one is maintaining their land in agricultural use there's a tax break, as compared to what the land might be taxed at if it were just available for development. So what that looks like is – it's not entirely clean. What it is is any parcels – so what RCW 84.34.020 says is any parcels over 20 acres that are used for farming, you know, that counts as agricultural land. And then parcels that are between five and 20 acres, they have a financial threshold. So for activities prior to January 1st, 1993, it was \$100 an acre; for activities after January 1st, 1993, it was \$200 an acre. And so the idea here is to look at this and say, Are you really farming? Are you making – this is gross – \$200 an acre off of this land from agricultural activities? Now this is highly verifiable because we can look at – what is it? – Schedule F – you know, Profit and Loss from Agriculture, if there's ever a question and a need to audit this. And, of course, the Assessor does go around and audit these things from time to time. So what we have is, you know, very objective metrics to look at. Someone's profit and loss from farming and, you know, how much you're grossing off of the land. Now that's not very much – \$100 an acre. You know, that's, you know, ten acres, that's a thousand bucks. You know, so more appropriate would be probably \$200 an acre because, you know, that's the post-1993 number. Now when we put this administrative interpretation together we did go in front of the Ag Advisory Board and discussed this, and what the Ag Advisory Board recommended was just a flat \$10,000. You have to show that you're making \$10,000 from farming. Well, that gets tricky because well, you know, what if you've got bees on one acre – what if – there's all kinds of situations that - \$10,000 – you've got a whole bunch of land, that's not very much. You've got a whole bunch of parcels – so it really did come back to let's tie it to a per-acre formula.

And so that's what – you know, after a lot of discussion about this, we landed on the hundred dollars an acre out of an abundance of caution, you know. And again, if it's a 10-acre parcel, it's a thousand bucks. Twenty acres is 2,000, and so forth. You know, a lot of time has passed and there's been a bit of inflation since then so it would seem to me that, you know, some higher end of that reach would probably be appropriate.

But now what I want to underscore here is this is just reasoning by analogy. There's no law that made us do that, right? We just looked around: Where have people before us had to look around and see if someone's actually engaged in agriculture with some objective metric instead of just *saying* they are and doing something else, right? And so we reached for that tax classification. We pulled it in in a sort of modified form into this administrative interpretation. Said leasing land doesn't count as an activity. You know, these are just sort of judgment calls that have to be made. So in other words, if you've, you know, inherited, you know, 50 years ago in your family some piece of farmland and you lease it out, that doesn't make you a farmer for the purposes of building a house on the land, is what that means.

So I guess the point I'm trying to make with that is you can come up with and recommend whatever you want; however, I think in the context where others, including us, have spent time thinking about this, it does seem important to come up with something that's objective and verifiable. Otherwise, it just becomes sort of whatever the applicant characterizes it as when they come in for a permit. That's a tough place to be as a government regulator

So with that, I'd open it up for questions.

Chair Raschko: Go ahead, please.

Commissioner Martha Rose: So a few meetings ago or maybe a few months ago, the question came up about housing for farm workers. How does that fit into the scheme?

Mr. Honea: Well, it's regulated and it's pre-empted by state law, so the state has sort of occupied the field of farmworker housing. You know, if you look around the valley there's some problematic situations that, you know, when they were built were a good idea because they were farmworker housing. And then they've turned into, you know, nuisance encampments that we've had to bring lawsuits against. And so, you know, that was a unique experience to the Skagit so the state occupied the field of farmworker housing. So that's entirely, you know, state-regulated. So I guess I'd just leave it at that. You know, it's not – and it's certainly not something that has bearing on this land use discussion and the thresholds of money and so forth.

Commissioner Rose: No, it wouldn't, but it would have bearing on what's considered accessory use.

Mr. Honea: Well, right, so the state has taken that over essentially. It's not a function of our code more or less. There's some pieces of that that aren't quite true, but it's mostly true.

Commissioner Rose: Okay. Thank you.

Mr. Honea: Sorry. I didn't come prepared to answer that –

Commissioner Rose: That's okay. That's okay.

Mr. Honea: – in any more detail.

Chair Raschko: Mark?

Commissioner Mark Knutzen: Earlier you addressed the section 14.16.400, which is the Ag-NRL regarding ADUs – the farm use, accessory use.

Mr. Honea: Well, not ADUs. Two different things. An ADU is an accessory dwelling unit, so this is the mother-in-law unit. It's its own rules. What the idea here is under our code you can't even build a house on farmland unless you are an income-producing farmer.

Commissioner Knutzen: Correct.

Mr. Honea: Accessory to.

Commissioner Knutzen: Right.

Mr. Honea: So what's the threshold financially.

Commissioner Knutzen: Right. Yeah, I understand that part, and we addressed ADUs – this body did and the County Commissioners approved LR2-07 ADU code amendment that we did several months ago. That's in code section 14.16.710. Not ag use. Just ADUs.

Mr. Honea: Right. Right. That's just the mother-in-laws. It's a different situation.

Commissioner Knutzen: Well, when Hal Hart was here or when Peter Gill was here he explained that we have two different provisions: mother-in-law – this is not mother-in-law?

Mr. Honea: No, no. Okay, what we're talking about here is you've got a piece of land and somebody claims to be farming but they also want to open up, you know, some other activity – a

restaurant, a tasting room, whatever it might be. You know, an event center. We have to ensure that they're actually farming as their principal activity. So how do we do that?

Commissioner Knutzen: Right.

Mr. Honea: And that's these financial thresholds. Now they're pretty low. You know, two grand for, you know, a 20-acre parcel is – that's not very much money. But the ADUs, put those in a box and put them on a shelf and set them aside. It just has nothing to do with what we're doing here basically.

Commissioner Knutzen: Right. I'm trying to get my head around how current use valuation, which is what you're talking about, and that is assessing this land under the current use for agriculture as opposed to the market value, which is if you can't show current use and you can't show this income you talked about you're taxed at market value. And I'm trying to see how that correlates to what we're trying to do here with ag tourism.

Mr. Honea: It's just a financial threshold to make sure you're actually farming and not just saying you are. So it's just the numbers essentially that are relevant, you know. So my place up in Rockport, I've got pasture, I've got nuts, and then I decide I'm going to set up a wedding venue and, you know, the farming kind of falls to the side. Now all of a sudden I'm running a wedding venue. Somebody could come back along and say, Look, well, you're not farming at all anymore and we can prove it by looking at your tax returns. And what's the level of that? That's what we're talking about.

Commissioner Knutzen: And the reason we need to address this is because under the options that we're going to look at – not under current code per se but under options we may be looking at, you will be required to show farm income and farm use –

Mr. Honea: That's up to you.

Commissioner Knutzen: – depending on what we decide to do.

Mr. Honea: Yeah.

Commissioner Knutzen: So you cannot – by definition, you will not be able to have a standalone wedding venue period.

Mr. Honea: Right. Well, that's up to you. You know, I'm giving you options essentially about how to structure it.

Commissioner Knutzen: Looking at the different options we have, I think the third option is where we – if we rezone to Small Scale Recreation and Tourism, it wouldn't have to tie to agriculture. But what you're saying is if it's an ag zone it will have to have farm income, that the tourism element will supplement farm income.

Mr. Honea: Right.

Commissioner Knutzen: Essentially big A, little t. Agriculture is the big – you need a little more income –

Mr. Honea: Right, but see, now you've got to get down to, you know, how do you ensure in a verifiable way that the A stays big and the t stays little?

Commissioner Knutzen: Right.

Mr. Honea: Right. And so you have to be able to go back and look. Jeez, are you still farming? And, you know, the metric that we all use to measure things in our society is money.

Commissioner Knutzen: Right.

Mr. Honea: And so that's what we're talking about, is establishing a metric to _____.

Commissioner Knutzen: And as you mentioned, the bar is really low. _____ \$1500 a year so you can gross 100,000 a year on a wedding venue and you're supplementing \$1500 a year on your farm. It's not big A, little t.

Mr. Honea: Well, this is just – okay, this is just one way that we handled it, right? You could – I mean, this is the model of setting a threshold, a minimum threshold, for agriculture. You could certainly say, you know, we're going to look at your tax returns and see if you're making more on this than that. It gets into kind of a sticky wicket, though, because you've got County officials going back and looking at people's tax returns and chasing folks around. I mean, realistically this needs to happen at the level of an affidavit signed at the permit application time, you know, and then we assume people aren't going to lie and there's problems if they do. So that's why this threshold here and that's why the attractiveness of tying it to the tax category or tax classification because there's a whole system there for verification of this. We're not inventing the wheel.

Commissioner Knutzen: Okay. Thank you.

Mr. Honea: Yeah.

Chair Raschko: Joe?

Commissioner Joe Woodmansee: I have a couple questions. My first one is: What happens if you can't have the – if the only way to keep the agricultural going is to have a bigger t than an A?

Mr. Honea: Well, that's – I mean, that's an economics question. I mean, is that true?

Commissioner Woodmansee: Well, let's assume it is for the purpose of the discussion.

Mr. Honea: Sure.

Commissioner Woodmansee: So what does the code say about that – actually say?

Mr. Honea: Well, what the code says is – again, the guiding principle is what I read: non-agriculture uses are allowed only as accessory uses to the primary use of the land for agriculture.

Commissioner Woodmansee: So is there a financial test to the accessory method?

Mr. Honea: Well, and that's what we came up with in the context of single-family residential. And it's, like you say, it's a pretty low bar.

Commissioner Woodmansee: Yeah. So now we're back to talking about single-family housing. So the whole purpose of this test that we're talking about is related to housing right now?

Mr. Honea: Well, that's – I'm describing how we dealt with it in 2010 when it came up, and now it's coming up in a – you know, this is similar but not the same. Right?

Commissioner Woodmansee: Right. Okay. So the intent – I read these administrative memorandums and I think we're all clear that the intent is to keep – is to allow the agricultural activities to continue. Correct? And so what would we do with a farmer who wasn't able to farm anymore but he could lease his land to somebody to farm it? And so the intent of the code is met because the land's being farmed, but he's not capable of farming anymore physically, let's say. Would we say that he's not in compliance?

Mr. Honea: You know, there's some differences here and I think this is, you know, the task ahead of you. You know, in a single-family residential context it's, Who should be able to build a house on farmland? Well, farmers, right? So that's why that test was set up. And what we're talking about here is, you know, an ancillary business activity of some sort going on on agricultural land. And, you know, it's kind of things are going to evolve in their own way. You know, are we going to pass laws saying that you can't be really successful at that business and make lots of money and it gets big? And, you know, are we going to control the market forces that push the agriculture down? No, of course not. We can't get into that stuff. So, you know, I think, you know, I think what this describes is there's got to be some very clear, easily verifiable sort of affidavit type test at the time of permit issuance. It's the only way realistically to control this. I mean, from the standpoint – everybody says, Well, what about code enforcement? Well, we have two folks and there's all kinds of nuisance properties and we can barely keep ahead of them.

Commissioner Woodmansee: Sure.

Mr. Honea: You know, this is not high on the list, is what I'm saying.

Commissioner Woodmansee: Right. So the purpose of these memorandums was to primarily to discuss about housing, right?

Mr. Honea: The administrative interpretation in 2010 was about single-family residential, subsection 2(O) on 14.16. Yeah.

Commissioner Woodmansee: And so when this subject was brought up at one of our previous meetings, I asked the question: What happens when the farming ceases but the house has been built previously? What happens then?

Mr. Honea: Well, I mean, there really isn't a ton of remedy to that. I mean, it's in each instance. I mean, there's also the question of conversion that's wrapped up in all of this too. So, you know, if you're keeping it on the – whatever's happening on the converted footprint of the homestead where it's already gravel or it's a concrete pad from an old barn or whatever, that's one thing. So, you know, as far as – you know, there really isn't a ton of remedy to it. It really is a question of, again, demonstrating the pattern of that at the time of permit issuance. I mean, that's really where the County as an entity – you know, it has to express its authority – is at the permit counter.

Commissioner Woodmansee: Yeah, so this only relates to *new* construction then?

Mr. Honea: Well, the AOI relates to new construction, yeah. Right. We're not going around banging on doors and asking people –

Commissioner Woodmansee: Yeah. No, and I'm not assuming that we are. I'm diving deeper into it from a bigger picture, you know, because things change and some properties are viable for a period of time and some are not. Situations change. And so, you know, if we're going to have the income test and somebody loses the ability to farm for whatever reason and they can't meet the income test in the future because they can't lease their land, I think that that's not a positive for the farming.

Commissioner Amy Hughes: If I may interject, because living in the farmland I've seen this happen like what you're talking about. I think the enforcement – now I'm not – with open space taxation and everything I'm not the expert. I've just seen it in working. I think that happens when the assessor comes around.

Mr. Honea: Right.

Commissioner Hughes: In establishing who's farming and who's not, you lose the open space taxation benefit. And with that, that also needs a better clarification because what that means is that you're taxed as an agriculture use. You're not taxed as the use if it was on the open market. It's not necessarily – I don't see it as a tax break. To clarify that thought process too is that you get taxed on that land for being used as agriculture, not for developing into a restaurant. If you change that use, then you are taxed at that use. And so that's the little – from 2010 to now – the little dance the assessors have been doing. Our farmhouse that was in the family, when it went to a family member that was not in agriculture it got taxed at regular value. Regular value would be how we get taxed out in the open market.

Commissioner Knutzen: It's called market value.

Commissioner Hughes: Thank you.

Commissioner Knutzen: Market value versus current use value.

Commissioner Hughes: There you go. He's got it.

Commissioner Knutzen: Those are the terms.

Mr. Honea: Now there's two different things going on here. You're talking about the AOI and the single-family residential. We use the tax classification as the metric for that. There is enforcement on the tax classification and, you know, if you game that system and you're not really farming you can end up paying back seven years of back taxes at the market value rate, which is unpleasant obviously for folks. So there is – and the assessor does follow up and audit that stuff.

Commissioner Woodmansee: Sure.

Mr. Honea: Yeah.

Commissioner Woodmansee: I'm very familiar with all of those terms. But I don't think that – what I'm talking about is, okay, what do we do when – because in reading this, it brought more questions to my mind than just – I think that the test for if you're farming or not is completely reasonable and definitely it's on the low side. I don't necessarily think that that's negative.

Because you're either farming or you're not, in all honesty, or using it for agricultural purposes or not. But in reading this, it made me dive into the whole subject more about, okay, and I'll go back to my point of if somebody lives in their house, had a farm, farmed it for years, now they can't – maybe they're disabled now. I'm getting a little bit older and I definitely can't do what I could do five years ago. Why wouldn't they be able to lease that land to a –

Mr. Honea: They can. They just can't build a new house on that basis – another house.

Commissioner Woodmansee: Well, you can't build another house anyways, right?

Mr. Honea: Well, maybe, if it's 40-acre minimums. You know, there's a whole bunch of maybes and what-ifs embedded in your question, you know, so it depends. A classic lawyer answer for you!

Commissioner Woodmansee: Yeah!

Mr. Honea: Yeah, it depends. It really does. But I mean, all of this is ultimately about something different. I mean, we don't want to get hung up on the single-family residential because this is about when somebody wants to do a business activity that's tangentially related to agriculture, and when do you allow that and when do you not allow it, you know? And there's a very good question embedded in this. If you're making most of your money off what amounts to a restaurant or a tourism of some sort, should you be getting a tax break designed to, you know, incentivize food production? Right? That's what that tax break's about. It's the cultural way, social way to incentivize people to keep _____.

Commissioner Woodmansee: Well, *this* discussion's not about taxes. *This* discussion is not about taxes at all. This discussion is about whether you're even allowed to do it, the way I understand it.

Commissioner Hughes: Yeah, it just gets caught up in the tax. Yeah, and so can we bring it back into this purview or do we keep depending on the assessor, would be what's in front of us kind of.

Mr. Honea: Well, you would have to create this situation where, you know, so the code could be – you know, this is an idea, so I'm not – it's a suggestion to think about – but if it were tied to the criteria, you know, for the tax classification, like I say, it automatically kind of sets up an enforcement milieu. It could be a situation where, you know, you have to show that, you know – the problem with showing relative income, though, is – you know, what if you have a thousand acres of farm ground and you have this restaurant. So in the balance you've got lots of income from farming and you've got this great big restaurant, and the guy right down the road, he only has 10 acres and he has the same size restaurant. Sort of an equal protection problem here, right? It's not really a, you know, a rational basis essentially for separating the wheat from the chaff, as it were. So it's a very difficult challenge here, you know, and I think it's why it's been so controversial – is that once the camel's nose is under the tent, where do you say "stop"? And it's very difficult to articulate that point as a permit matter, which is where we have to engage with the public is at the level of the permit.

Commissioner Mitchell: When you were telling us about the stuff, you mentioned "leasing land" and I believe you said does it count for something for us to think about. And I read what you had in there on how it didn't in one of the footnotes. One of the examples that Hal gave me last year when this first came up – I asked him, Well, what are you hearing and what are you seeing, and he was talking to different people at the time. And he said he had been talking to somebody that

was interested in wedding venues or was doing it. I'm not sure which. And they had a really good argument for having wedding venues because it was – but he said it sounded like most everything went aesthetics for it. They used to farm themselves but they don't. But they're there still on what was the farm but they're leasing land all around it and therefore they should have a wedding venue because the aesthetics are such that it's still a farm and they used to be involved with it and that kind of thing. In my mind I was thinking, No, no, and no. Because they used to be a farm themselves but they're not. They were leasing it out and somebody else was doing the farm work and all the benefit goes with it, and they were trying to latch on to that other thing. And it didn't make any sense to me on then why they should be allowed to have their wedding venue and do that. And we could substitute a wedding venue with a whole lot of other things. And so when you said the leasing thing, I'm just putting a great big question mark out there myself. It doesn't seem to make sense.

Mr. Honea: Well, again this is a different context that I'm bringing that up. What I was talking about is in the *residential* context. So do you get to build a house? Yes, if you show a track record of being a farmer at a certain level. And should you be able to count lease income, and the decision was no. This is a whole new, you know, ball of wax that you're dealing with. There's just a bunch of different things going on. It's an ongoing business operation. You know, you build a house, you're in the house – you're done. You don't have to prove anything. You're sitting in your house. You're watching TV. You're happy. There's no, you know, contention that you are going to have more impact in your single-family house than you did ten years ago – all of this, right? You know, but I do think there's a real philosophical juncture in all this and it really came up in this offsite compensatory mitigation we talked about a few months ago. You know, and it ultimately comes down to a couple of things. One is if we, you know, give over the fate of our agricultural land base to kind of the decisions of capital, capital will take it in some direction other than food production, right? We discovered that long ago with development. But there's all these other sort of lesser, less threatening kind of forms of conversion. Large scale habitat plans, for example, or accessory uses that aren't agricultural at all but we're going to sort of do them along with it.

The other, I think, really important philosophical point in this I think that helps to think about is the idea that we're used to conceptualizing: Well, this landowner has gotten old and can't farm anymore, and now they need to make money off this land at something else. And in a sense the whole setup here we can't go there because this is about intergenerationally keeping this land in production. And if somebody can no longer physically farm then the answer is they need to transition to somebody that can. Right? That's what's available on this land, right? There's other lands for other things. And I think, you know, that's the point that one of the commenters raised, that – it was Terry Sapp, actually – about, you know, there are places where jurisdictions are inviting these things and it certainly may well be cheaper to do it on ag land. I mean, it's a part of why people want to do these things. It's the same reason for the habitat play that Seattle City Light has been pursuing: it's cheaper. That's why they're doing it.

And so, you know, the task here is to use local land use authority to put reasonable constraints on that – you know, respecting people's property rights but also over the long term protecting our critical mass of farmland. So, you know, those are a couple of, I think, conceptual ideas that have to be brought into this – that it's not about individuals, which is a – you know, we're used to thinking about individuals and their property rights but in this case to protect the natural resources land base over the long term we have to think about it in terms of the land base itself.

Commissioner Mitchell: One of the other things that you guys had done back then for this other situation, was that you had tied it to – I think it was a three-year thing, because if there were bad years then it –

Mr. Honea: Right, averaging over three years. Yeah.

Commissioner Mitchell: Right. So have staff or people looked into doing that for the – I realize we're not seeing the proposal until the end of the month, right? But is that being factored into it for a window or something?

Mr. Honea: Well, I mean, it's less relevant because what you're concerned about is the impacts of the ongoing activity, right? With a house, with the impact to the public, if you will, or to the larger effort is there's, you know, one more house in the valley. Right? And so only someone engaged in agriculture should be able to build that. So a rearward-looking three-year averaging of income is a good test. But there's kind of quite a lot going on here differently in the context of we're opening a restaurant or a wedding venue or whatever. This is – it could grow. It could become all sorts of things and the agriculture could just sort of fall away, and there's no real way to go in now and say, Well, we're shutting you down. It doesn't look like you're farming. I mean, let's just be practical. If there's a very successful and popular business, the idea that we're going to go and shut it down because they're not putting out enough hay over here in the field, it's not going to happen. We don't want to set up our laws in a way that they're not practically enforceable, right? That's a principle in all this too, I think.

Commissioner Mitchell: Yep. Thank you.

Chair Raschko: Anybody else?

Commissioner Knutzen: Tim? I do have a point of clarification, I think, that may help when we're talking about existing farms and houses and even just farms. This is from the Skagit County Assessor's office regarding income verification that we've been talking about and farm rental, if it is or not allowed. The three- or the five-year.

Income Verification. You must submit documentation. This is on parcels not – it doesn't even have to be houses. It can be just Rural Reserve, a 10-acre piece that you – instead of being taxed at market value, it's being taxed at current use, which is a lot lower rate. You need to show income verification. You must submit documentation that verify your farm and agricultural income. Please submit documents verifying the farm and agricultural income. Requirements must be met for at least three out of the last five years. Acceptable documentation includes IRS Schedule F, rental or lease agreements and receipts, governments payments, subsidies. So for existing parcels that are already in current use designation, you don't have to prove again that you're going to get more income. You just have to prove that you've been getting the income. And you don't even need to have a house on that. But you need to show that you've been getting farm income, and if not, they will revert you back to market value. And you can look at parcels around the valley that are beside each other that look the same from the road. One is being assessed at current use and one is being assessed to market value, because the person that is being assessed at current use has provided documentation. The new house on new land, that's a higher bar. You have to show you're going to be a farm. You can't just say you're going to rent it out. And that was put in there because so many people were building houses, saying they were going to farm it. They'd farm it for three years, couldn't make income on it, and then just rent it out. And I base this information that I presented here – I'm on this open space committee that was set up by the County Assessor's office in 1992, and I've been on that since its inception. We meet once a year and we discuss land rental values and current use and the County assessor takes it from there.

Mr. Honea. Yeah. Part of why – I mean, the explanation tonight – I want to make clear that I'm not coming here offering you answers. There's a lot of limitations and problems and concerns just

to carry this over. I mean, consider if you've got something that generates – a business activity that's non-agricultural that generates sufficient amount of money – let's say a wedding venue and it's, you know, \$8,000 a pop every time they roll folks through there. You know, that can end up being quite a bit of gross income. And if this is on 20 acres and all you have to show is, let's say, \$2,000 in annual gross farm income – right? – you could give your friend cash to buy something from you and satisfy this. I mean, you could easily work your way around this, so there's some limitations to it. You know, you could show \$2,000 – if you're making \$300,000 off the business activity, it's probably not going to be very hard to sort of gin up some appearance of farming – right? – for the purposes of this threshold test.

So I don't want to hold it out as the answer necessarily, at least not without some additional discussion. Again, it's much different than a single-family house. Nobody's running a business. Nobody's bringing in guests. There's not, you know, hundreds of cars potentially showing up – whatever the problems might be associated with one of these things.

Commissioner Knutzen: A question as far as why we're talking about current use valuation regarding ag tourism. And if I may speculate, it's so you can show us a way that we may be able to tie in if an activity is related to agriculture based on what activity a given parcel has had with agriculture? They're going to need to show some verification?

Mr. Honea: Well, no, I think the broad idea is this: The guiding thing in our code is – and I think a very, you know, frequent theme in this discussion about ag tourism is the idea that the activity has to be accessory/secondary/subsidiary to agriculture. Right? That's a big theme in this thing. And, you know, that's easy to say but how do you get to some sort of objective thing other than just, you know, I'm a farmer because I grow ____ out here. Who are you to say I'm not a farmer, right? You know, what we rely on generally in our society to determine these things is income/money, right?

Commissioner Knutzen: Right.

Mr. Honea: Are you a farmer? Well, do you make money as a farmer? And some form of that, but, you know, it gets into a lot of complications when you're stacking, you know, a significant ongoing business activity in here as an accessory thing as opposed to just the house. Right? So it creates a whole suite of different problems in ensuring that that continues on. And, you know, I personally haven't come up in my mind with a way to do that at the level of permits. I'm sure there's all kinds of ways and we could theoretically follow up on people, but I would submit that's pretty problematic. I mean, you know, the code enforcement, the, you know, the investigation – frankly, intrusion it would require to be demanding people's taxes all the time, for one thing. So, you know, I don't have an answer but I'm telling you in the context of single-family houses this is how we dealt with it. But there's – like I say, there's more complications you're dealing with here.

But that's the only way we – okay, to put this a little more succinctly, this threshold per acre is the only way we've come up with to tell whether something's actually accessory to agriculture or the main event. And I think in this context it's sort of even more imperfect than the thing we came up with in the house situation.

Chair Raschko: Anybody else have any questions?

Commissioner Woodmansee: So are there instances where we've had to – as a County, we've had to measure the non-residential situation where we've measured the amount of income from a farm versus the accessory use?

Mr. Honea: Well, yes, at the level of permitting. So when folks come to the permit counter and they want to – and I'd probably defer to Jack a bit here as to, you know – so when folks come into the permit counter and they want a single-family house on ag land, we're requiring them to sign an affidavit to – and provide evidence of three years of farm income. But this – again, see, this is a point in time. I want a permit. Well, show me you're making money as a farmer. Oh, okay, there's the evidence. _____ your permit. But what do you do where this thing is, Well, I'm going to open up a restaurant. It's going to be accessory to the farming. And all of a sudden it's a giant restaurant and the farming's gone away. And this is a problem that we haven't really contended with – sort of the "future operations" problem.

Commissioner Woodmansee: Yeah.

Mr. Honea: We don't have an answer.

Commissioner Woodmansee: So my question was: Has there been a non-residential application to this that we've had to deal with?

Mr. Honea: No. No, we've not. It's not come up, or at least to my immediate knowledge. I imagine it may have at some point, but....

Commissioner Woodmansee: It's gotten a little confusing to me because it's kind of conflated from residential to restaurants and whatever.

Mr. Honea: Right.

Commissioner Woodmansee: And I thought the discussion was about housing on this topic.

Mr. Honea: (incomprehensible)

Commissioner Woodmansee: But which, obviously, a bunch of it has been. So I think I have a much better understanding of, obviously, that subject – the housing side of it. And the real deal is – is the big question is still, What do you do about other uses? And how do you quantify whether it's accessory or not? And what kind of a test is applied to see how to do that?

Mr. Honea: If you look at Skagit County Code 14.16.400 – I'll pull it up here – if you look at ____ Purpose – and this is the overall statement, Subsection (1) – Subsection (1), this is where, you know, this is the broad intent, that non-agricultural uses are allowed only as accessory uses to the primary use of the land for agriculture. And if you look at Permitted Uses – you go down in Subsection (2) – I think that gives you some understanding – you know, it gives one some understanding of what that means. These permitted uses, the things that are presumptively allowed on ag land, they're all ag-related things, right? Processing facilities for agriculture. Commercial greenhouse operations. Composting. Farm-based businesses carried on by the farming family. Historic sites. Manure lagoons. Those always bring in the tourists.

(laughter)

Mr. Honea: Cultivation and harvest of forest products. Onsite _____. So these are all – it's not like, you know, it's hotels and whatever. These are things inherently that are part and parcel of agriculture. So what we're talking about new is – or what we're talking about now is something new. It's allowing things that have nothing to do with agriculture really, or at least they're

tangentially related and how do we make sure those are related? It's almost kind of a question that defeats itself a little bit.

Commissioner Woodmansee: Sure.

Commissioner Mitchell: I think so.

Chair Raschko: Other questions or comments?

Commissioner Hughes: I'd like to do a comment back to how did we get here. And we've made it really complicated! But philosophically I think this whole system was built originally to try to keep agriculture viable in the United States of America. And then we've brought it really to the local level. So how I like to simplify it is how do we keep the land so there's an opportunity for the next farmer up, whether that next farmer up is generational or a brand new farmer? How do we keep it there so they'll step in? So it's a little bit how our system works informally – is if you have an offspring who wants to carry it forward, it's a lot easier for them to step into it. But our farm – and lots of farms – the first generational farms, it's because somebody else walked away from the land. That land didn't just grow. It was a farmer that turned it over for that operation. And that's how our business started. Both with the grandfather and with my husband. A farmer said, Done with it? Here you can buy it as an agriculture price. You don't have to pay development prices on it. And carry on. And that's how the system works, and so I think what we're talking about is how do we have a conversation of opening the system to other uses but not curtail what we're trying to save. So that would be my comment of why it's gotten so complicated.

Commissioner Woodmansee: It makes sense to me.

Mr. Honea: Yeah. I mean, that's why this is so contentious, is it *is* a deviation from our long-standing code. Our code is you can only do farming stuff on this land. I mean, that's basically our code. And we're talking about changing that to allow other stuff, and so it is – it's a big deal. You know, it's not just about tourism.

Chair Raschko: Kathy?

Commissioner Mitchell: So can you tell us why this is being pushed so hard and where it's coming from?

Mr. Honea: I have no earthly idea. I don't know. I imagine there's people that want to do agritourism activities.

Commissioner Mitchell: Well, there are.

Mr. Honea: Well, with respect to the – it seems like the wedding venue is the – kind of the meme that everybody keeps coming back to, if you will. But, you know, events are allowed, is my understanding, up to – what is it? – 20 a year?

Jack Moore: Twenty-four per year.

Mr. Honea: Yeah, with a special use permit. So people can do it now. Like at my farm I could have 24 events, which is way more than I would ever want to have.

Commissioner Knutzen: Can you run that by me again? It is legal to hold a wedding venue in Skagit County with a temporary use permit today?

Mr. Moore: Yes. At the risk of speculating what the community or the Commissioners want, there are activities that are occurring under special use permits that may be more appropriately regulated by a different kind of code, whether it be agritourism or something else. But right now, yes. There is some income requirements that Will was referring to that we use to measure to ensure there's agriculture occurring on the parcel or the property, and that is part of the meeting the criteria for a special use permit.

Commissioner Knutzen: So all wedding venues have to show accessory use to agriculture to be given this permit?

Mr. Moore: Yes. Those that have applied, yes.

Commissioner Knutzen: Those that have applied. Thank you for that –

Mr. Moore: Yes.

Commissioner Knutzen: – detail.

Chair Raschko: I have one more question on that. Are we referring to weddings that are put on to produce a profit or just any wedding?

Mr. Moore: The code differentiates. If you're doing an ongoing operation, then that would require – under our current code you would have to demonstrate that meeting the criteria of a special use permit and being secondary to agriculture. One thing that the Commissioners have acknowledged and I've heard them talk about is that they acknowledge that there are uses out there that are unpermitted. And as there are no avenues for measurement on those, they did wish for us to consider what type of uses should or shouldn't be allowed and at least have the public process go through and determine what the community interest is.

Commissioner Mitchell: Okay, I'm confused. I know that we've heard about some of this before. We do know that there're some other uses going on. I was reading the – I think it was March 22 Ag Advisory Board minutes. And Hal was there with Peter Gill and some staff and they had been talking about some of these things, and there was a chart that they put in there – and I apologize. I should have printed that puppy off. I didn't think I was going to need that tonight. But if you guys can look and find that, because Hal and Peter had given them – and it's in their minutes, a chart that says under the first column what is allowed and isn't allowed in Ag-NRL and it says right there wedding venues not allowed. And then there's some other things where something *could* be done. So I keep getting really confused. If it says it's *not* allowed and yet the stuff is still going on given x, y, z, then why the disparity? And you may not be able to answer until you go look at that yourself and see. I understand that. But if you could, because I was thinking right there, All right, well, then that means that there are some things going on that aren't allowed.

Mr. Honea: Well, so what's allowed? I just have it in front of me. It's not to jump in front of you, Jack.

Mr. Moore: Thank you. Thank you.

Mr. Honea: First of all, what's allowed by way of ag tourism? There *is* some stuff already allowed. An administrative special use under Section (3)(b) allows for bed and breakfasts. You can do that right now. Administrative special use doesn't require a hearing. It's just an administratively issued permit by the Planning Department. There's some discretion in its issuance. And then Subsection (k), Temporary events related to agricultural production provided no ag land is converted and permanent structures are constructed. That's the section in which we allow temporary events.

Mr. Moore: Yes.

Mr. Honea: And so notice how constrained that is. You can't go build new structures for this. You can't convert any land. You can have an event on your farm. And it should, you know, ideally be related to what you're producing there at some level. Roasting a pig you raised for your guests, let's say. I don't know. But generally speaking, I don't think we get into that too deeply. We do allow temporary events but what we don't allow is new construction and new conversion of land for this wedding venue activity. So it is fairly constrained; however, it's perfectly fine to have a big wedding on one's farm. In fact, you can have up to 24 of them under this section. So it's just you wouldn't be in the position – you know, doing it 265 days a year, at which point it would start to look a lot more like the predominant activity. So there is a balance already struck within our code between this idea of agricultural tourism and the idea of the predominance of agriculture production on the land. Whether that needs to be changed, I don't know, but that's what the existing code provides.

Commissioner Mitchell: Well, thank you. What you just said, it makes a difference because then what you just said, then why are we even doing this?

Mr. Honea: I don't know.

Commissioner Mitchell: Yeah! And that's to allow more stuff. I don't know. But I can tell you I did some research and this is being pushed nationally. It's also being pushed internationally. Anybody can find that in 15 minutes. And so I still don't understand. If our code can handle most of these things as they are, what are we doing? And I know – I'm not expecting an answer from you.

Mr. Honea: No, the question is whether this is inadequately permissive and needs to be broadened to allow other specific activities. But I think – you know, I'm here to give legal advice, not policy advice, so I'll leave it at that. But, you know, just from the legal side of this, if you're going to talk about activities that are allowed on farmland you need to get specific – right? – not just general tourism *things*. You know, it's got to get very specific because we have to be in a position of the folks at the front counter being able to treat everybody equally based on what they come in with written on a piece of paper. And that's how we do that.

Chair Raschko: Any more questions?

Commissioner Woodmansee: I've got one. Just a quick follow-up. So if I have a – if I want to have a special event, do I have to go through the – I don't want to have a special event, just for the record! But do I have to go through the income test to get – for the ag income – to get that approved?

Mr. Moore: Yes.

Commissioner Woodmansee: That part of the approval?

Mr. Moore: Yes, it is.

Commissioner Woodmansee: So if I have a piece of ag land and I'm not producing any income I can't get that temporary event permit.

Mr. Moore: Correct. You wouldn't meet the threshold for that.

Mr. Honea: That's explicitly related to agricultural use.

Commissioner Woodmansee: Yeah, I just wanted to make sure I understood that right.

Mr. Honea: And you don't get to be ag land for tax purposes if you're meeting it, so it all ropes together.

Commissioner Woodmansee: Yeah, you could get yourself in trouble there accidentally. So, yeah, okay.

Mr. Honea: So if you're not making any money off of agriculture production for the public – public service – don't come and ask for one of these permits.

Commissioner Woodmansee: Exactly!

Chair Raschko: Anything else?

Commissioner Woodmansee: I was just going to say thanks to Will for indulging my questions because –

Mr. Honea: Not a problem. That's what I'm here for.

Commissioner Woodmansee: Diving in maybe got me off on a little bit of a tangent there, but I'm getting a good education.

Chair Raschko: Okay, so _____. I do want to say I really appreciate your being here.

Mr. Honea: Thank you.

Chair Raschko: And I have found the information we've gotten both from the people in the audience and from yourself to be more helpful than anything I've found so far. I really appreciate it.

Mr. Honea: My pleasure.

Chair Raschko: That's not to downgrade the other information!

(laughter)

Chair Raschko: So anyway, thank you very much.

Mr. Honea: Thank you.

Commissioner Knutzen: Thank you.

Chair Raschko: So we're going to turn to the Director's Update. Mr. Moore, please.

Ms. Ruether: I'm going to give a short presentation.

Chair Raschko: Oh!

Ms. Ruether: It's a tough act to follow Will so you'll have to forgive me that way. We had Will just to clarify. We had Will come to – it was an already existing mechanism of how to verify income. Keeping agritourism as accessory, this was a mechanism we have. Everything right now is just a discussion. We're all having discussion of, like, this is a policy mechanism written by somebody we know. How does it work? Just as a consideration as we go through, you know, possible policy options. So just to keep an open mind that way.

I guess I should introduce myself. I'm Sarah Ruether, the long range planning manager. I am going to quickly kind of – I'm trying to give a nod to Amy's history, even though it's more history of where we've been from Skagit County.

Okay, so just to do a brief review where we've been. We've done outreach events, a survey or town hall, and now we had Will graciously discuss income verification as a possible mechanism to make sure that if you had an activity permitted that it was kept accessory. It's not – you know, just an option. And we're hoping that if there are things we want to do, we'll take it forward in the spring. So that's the process.

This is – probably you've already seen it. I think it was in the report by BERK. They looked at all the sites where there is agritourism. This is why we're here basically. This is the why. And, you know, not necessarily all permitted but it's going on so it is here. That's just kind of our current agritourism. And when you look at a – Skagit County's not alone. Over half of U.S. states have a state level statute explicitly addressing agritourism. We're not the only state or county that is dealing with this. I just want to put that out there that, you know, this is happening everywhere, of trying to balance these new demands for agritourism. And I also got this from the BERK report. I just thought it was an interesting way to look at it. You know, people want to connect not only – they want to connect with nature, they want to connect with farms, and so there's all this, like – you know, when we did outreach people are, like, we don't – it's like when you want to start a business you don't even know exactly what your use is. So there's just this myriad of very vastly different uses, and it does make it hard from a permitting standpoint when somebody comes in. You're, like, Oh, is this agritourism? Like, does it connect? So just to relate that back to Will, I was, like, we're trying to put a box around something that's hard to put a box around. So making sure that people are growing things and they have income is something, you know, kind of like he said. Money is our way to show that you are still getting production from the land.

And then this is actually a little bit outdated – it was also in the BERK report – of all the different counties that these activities are already going on. So I think that's just is another way to show that we're not the only ones dealing with this.

And Washington state is among, you know, those states – over half in the nation – that have created state statutes specifically about agritourism. There's an actual definition of agritourism, if I can find it here, and there's actual definition of agritourism professional. I think here's the definition: Agritourism activity means any activity carried out on farm or ranch whose primary business activity is agriculture or ranching that allows members of the general public for recreational, entertainment, or educational purposes to view or enjoy rural activities, including but not limited to farming; ranching; historic, cultural and onsite educational programs. Recreational

farming programs may include onsite hospitality services, guided and self-guided tours, petting zoos, farm festivals, corn mazes, harvest-your-own operations, hayrides, barn parties, horseback riding, fishing, camping. So it's a pretty broad definition.

Unidentified voice: Do you have a citation for that?

Ms. Ruether: I think it's RCW 4.24.830. I think that's it, or that's where the definition comes from. And they also define "agritourism professional." I think the RCW on the PowerPoint are also the RCWs where that comes from.

So just to – where that puts us is that we have this broad definition and it gives a lot of local control. I mean, we may not want all of these extra activities, right? These are a lot of activities. It's up to local control to modify the definition to what we want locally. The state isn't saying you should or shouldn't have these activities. It just – the state itself has defined it pretty broadly.

And just to give some examples. Like Marion County, Oregon, specifically excludes weddings from their definition. Thurston County has a pretty broad definition, and Snohomish County Code doesn't even define "agritourism." It puts its uses specifically. So there's not one way to do it. I'm just putting that out there that there are different ways to make whatever policy that we want. And the GMA framework for this – it says "To protect agriculture of long term significance for principally agricultural use and allows for some accessory use that supports the agricultural activity and does not convert more than one acre to non-agricultural uses."

You know, the reason we had Will come tonight was to talk about, like, How do we make sure that, you know, the ag is primary? I mean, when we look at policy to hopefully make our job easier, when we see the spectrum of uses and whether or not to allow it, is how do you ensure that it doesn't overtake it? And lot of the uses, like when we did – you know, people were more supportive of temporary uses which, when you talked about, like, for the house, you don't have any kind of way to, like, leverage that. But if it's a temporary activity, you know, if you haven't shown income on your property, your permit doesn't get reviewed (renewed?). I think this is a little bit of a different animal in that – I guess if you're not allowing an outright permitted use, you're allowing, like, a permit that needs renewal every two or three years, there would be some way to have teeth. And we kind of talked about that. There are programmatic permits and there's kind of certification programs, you know. As Will said, we have two code enforcement officers so that's why we'd like a mechanism that kind of already has those teeth built in, and that was why we were looking at it. So it does permit non-agricultural accessory uses and activities as long as they are consistent with the size, scale, and intensity of the existing agricultural use of the property and existing buildings onsite. So that's the size scale _____ this.

And then I was just going to end with, you know, when I said we're in the same boat as a lot of other states and counties: Snohomish County has had over a decade of planning for this food and farming center. They started their planning in, like, 2009 and they are now just getting the funding for it. They're building a food and farming enter that will support small and medium-size farms. Farmers can bring their farm and they'll have access to equipment for value added products and sales and commercial kitchen, an indoors farmers' market. And so I thought this was a nice way to end because I feel like, you know, when you do planning you don't see the results for a long time. You know, when I was a transportation planner in Woodinville and I have gone back ten years now and I see the grid roads that we planned. It happens a long way forward. But we're at that moment. We get to choose. You know, you get to choose the path forward and you might not see the results for a while. I only say that that it's, I think – you know, planning allows you to put those boundaries on things. Like, that was the whole reason we made the 40-

acre minimum. And if you looked at the map, look at all those agritourism out there. The purpose of this is to have that wide range of uses, is that when staff comes in that we can answer someone and give, you know, yes/no answers to things. We don't have a code that's super clear on some of this stuff. And I haven't worked the code. This is what I hear from, you know, other people. So that's just – it's a pep talk for why we're here.

Chair Raschko: Okay.

Vice Chair Candler: This **McCallum** Park: Is this something that is, you know, cooperative between the farmers? Is this a County-run and funded program? What is this?

Ms. Ruether: The County is building it. I don't know exactly – like, right now they're getting their funding. I don't think that it's 100% funded. They have a space right now and they are trying to hire someone to run it. I think they're going to get a contractor to run it. But they have the money, they have a location, and they're just in the, like – just starting to put the pieces together to build it.

Chair Raschko: Okay?

Vice Chair Candler: Yes, thank you.

Chair Raschko: Kathy?

Commissioner Mitchell: Big question for you and you probably won't be able to answer it now, but when you do issue your stuff later on if you can find ways to address this, because I think it matters. It goes back to where my thought was corkscrewing around in my head saying, Why are we doing this now? Can you guys describe to us specifically *how* it's not working now? That's the think I'm puzzled at. I don't understand how this stuff is not working now.

Ms. Ruether: I think it's that we're getting a lot of applications for things that – I mean, I guess maybe Jack can answer better than I can because I haven't worked _____. So maybe I'll let Jack answer that. I'm going to defer that one.

Mr. Moore: Thank you for the question. I believe it's a bit of what I alluded to earlier in that there *are* activities occurring out there in the ag zones. There's been creep over time with not just things that have been permitted as special uses but just activities that have begun and continued on and sometimes expanded. And I think there was some thought – you know, do we just go out and say absolutely not? Stop right now and terminate all activity that isn't strictly allowed in code. Or should we consider that maybe some of those things are desired by the community or by the public? And maybe we should measure that first or take a reading on that first, before we decide to take action on – you know, ensuring that everyone is compliant with the law.

Commissioner Mitchell: Do you guys think you have that information now? Between the survey and talking to people this past year?

Mr. Moore: I think we're still in the midpoint of developing those ideas. That's where you all come in.

Commissioner Mitchell: Don't give us the hard job!

Mr. Moore: I know! It's tough! It is. We will help provide a lot of information and outline potential options, but, I mean, just look at what we've talked about just tonight. I mean, Will and Sarah have kind of touched on – you know, how do you measure what's primary versus secondary? And you've heard a bunch of examples of different ways we measure that for different other purposes. And, you know, in this instance we could say that you want to use one of those existing measurement tools for ag tourism. But maybe that's not appropriate, you've heard. Maybe that doesn't quite fit the ongoing activity, you know. Could it be that it's a minimum income standard to demonstrate ag? Could it be a relative income? Does that make sense? Maybe it doesn't because of, you know, disparity in property sizes and activities. Could it be an area restriction like we do in zoning for, you know, development within an ag zone? We limit a lot of things to no more than a one-acre footprint. There's just a lot of things to consider on this. I mean, you've all asked about leased versus self-farming. You know, what should you do there? We've talked about how we handle it in other parts of the code but maybe that's not appropriate. I've even heard talk tonight about that.

So ongoing reporting. You know, one time review, ongoing reporting. Again, that's done differently in different parts of our code for different uses, whether it's taxing or zoning restrictions. So you know, so back to your question, no, I don't think we're there yet. I think we're in the middle of just considering that. Our consultant has gathered a bunch of information, presented it to us. It may not be the whole story – I mean, it certainly isn't the whole story, but it's info we could use to help craft a policy.

Commissioner Mitchell: Because you guys work closely with the Ag Board as well, and that's obviously one of the main groups that lives this stuff and we don't, most of us. I know they always have the opportunity to do comments and write letters and things like that. Oftentimes that happens – what I'm going to say is “too late,” way too late. Have you or would you be able to build an open invitation to the Ag Board to come have a workshop and tell us what they see and find, if you think that's appropriate? I don't know. We've got two real ag people in here and the rest of us have learned a little bit here or there, but still – we're basically pretty ignorant of what life is like and what the business is like. We know just a teeny, teeny tiny bit of it. And this is huge. This is really huge. And I'm not comfortable with the process at this point of gathering information from a survey, having our own discussions, having some public comment, you know, some code developed in the usual format where stuff goes out, things come back, we've got a couple weeks or maybe a month to go through the comments and then try to come up with deliberations/decisions. I'm not comfortable with that. This is too big and I think we need a lot more help from the Ag Board. So I don't know if you guys would think _____.

Mr. Moore: For what it's worth, I agree with you. This is a very big issue, and as Will had mentioned earlier, it could be seen as quite a shift from at least written policy and written law. And so yes, to answer your question, absolutely. I'm sure the Ag Board would be more than happy to interact with the Planning Commission and give some additional insight into the real world of farming and give their thoughts and comments to help you form your recommendation to the Board.

Commissioner Mitchell: Thank you.

Vice Chair Candler: I agree with that comment as well. But I'm – without asking you to rat out any particular, you know, situation, I'm just – well, I want to get beyond wedding venues. Like, can you – and if you can't, that's okay – but can you give an idea of what type of – other types of non-conforming uses that you guys are seeing a lot, or special use permits you're getting a lot of? Something that would be the impetus for this. Can you give some more examples?

Mr. Moore: Non-conforming uses, I heard you ask about, so you're thinking, like, examples?

Vice Chair Candler: I was just thinking you mentioned just a minute ago that there're some things that are out of compliance. But, yeah, just kind of general examples. What are you seeing?

Mr. Moore: Sure. There are wedding events that are happening out there in barns and on properties that don't have special use permits. You could drive around during Tulip Festival and you could see quite a lot of activity out in the farmland that isn't tilling soil. And a good portion of that has not gone through the special use process. So there are things that are, you know, a key identifier for Skagit Valley and things that maybe a lot of people are in favor of, but as it's not been clear what is and isn't allowed, again it's just sort of progressed over time, a lot of these uses. And some people are a fan of them. They do bring a lot of economic income to the county. It's quite a large, you know, community event, the Tulip Festival. But, really, if you went down tick by tick, road by road, and looked to see if they've all been 100% approved through the existing process, I think you'll find a lot of those aren't.

Vice Chair Candler: Okay, so weddings and tulips. But more broad than that, or do you know any more examples?

Mr. Moore: I'm not sure anymore come to mind at the moment. Sorry. I can pull together some more examples.

Vice Chair Candler: That'd be great.

Mr. Moore: I'm sure I can, and bring that back to you.

Vice Chair Candler: Thank you.

Chair Raschko: How about Mark and then Martha?

Commissioner Rose: I have sort of a comment/slash/question. This last slide that you showed, in all of these conversations it's come up that Snohomish County has blown it with their ag land policies. And so this – as cool as this commercial kitchen and indoor farmers market sounds and the sharing of equipment and stuff, it sounds like it's mitigating mistakes that they made and they're trying to atone for, you know, for poor planning. You know what I'm saying? Like I said, it might be a cool thing, but that was my reaction to it is that we don't necessarily want to find ourselves in the same boat as Snohomish County. You know?

Chair Raschko: Mark?

Commissioner Knutzen: In relationship to what Commissioner Candler questioned about the other events? One of our public commenters earlier this evening mentioned wineries, breweries, and distilleries and tasting rooms. And to me that is a huge issue. They kind of go hand-in-hand – it's almost wedding venues – but to me that might even be a bigger issue with wedding venues. They're scattered all over the valley now. So that would be something that I would think would be.

Vice Chair Candler: As non-conforming uses?

Commissioner Knutzen: I don't know. I don't know code.

Vice Chair Candler: Well, I mean that's –

Commissioner Knutzen: Remember, I know English; I don't know code language. And I don't know if they are or not.

Ms. Ruether: I don't think we have any provision for tasting rooms that are permitted now, so if there's tasting rooms out there then they are –

Commissioner Rose: If they're on ag land.

Ms. Ruether: Yeah, if they're on ag land.

(several Commissioners speaking inaudibly)

Commissioner Knutzen: Just, you know, google it and look around here. Just they're everywhere. Some of them are on – like the speaker mentioned, the Sedro-Woolley council tomorrow night's going to address that – in the city limits. There're some breweries that are in the Mount Vernon city limits. There's some up at the Port. There is some on land outside of west Mount Vernon. But there are some Tulip wineries that are on ag land and I don't know if they're code or not.

Chair Raschko: Okay, anybody else?

(silence)

Unidentified voice: Mr. Chairman, I have a factual statement about these questions.

Chair Raschko: I'm sorry. This – I appreciate that, but this is a meeting of the Board – unless anybody here feels otherwise?

(silence)

Chair Raschko: All right. Okay, anything else?

Ms. Ruether: Nope. Does anybody have a Director's Update or –

Chair Raschko: We'll move to the Director's Update. Mr. Moore?

Mr. Moore: Okay. Thank you, Chair. Actually I do not have a prepared Director's Update this evening, but if there's anything that I can share that – goes on in the Planning Department – I am happy to do so, or any other information you'd like me to research and bring back to you that would help.

Chair Raschko: Okay, go ahead, Mark.

Commissioner Knutzen: I just have a question regarding – our former Planning director would sometimes comment on the level of current – and building permits – a trend. Do you have any general comments about – I know the interest rates going higher and the builders are maybe having to scale back. Do you have any general comments about the level of building in Skagit County?

Mr. Moore: Sure. Yeah. So we have weekly reports on that that we use internally to measure these things. Last year the end of the year summary was very solid and comparable to previous years when things have been humming along pretty regularly in the building end of things. So

we're seeing just as many houses, accessory dwelling units, commercial buildings as we have been. I will say that on a more short term history level this fall and winter has slowed down just a little bit. Now we've seen that in the past. In some years past we will get a little dip in the winter and then it picks back up in the spring. But for quite a few years now we've not seen it really slow much in the winter. So, you know, speculating that the interest rates have had some effect on that, people are regrouping and rethinking how they want to proceed. But the actual number of applications we're seeing submitted to our department has decreased in the last three months or so – three or four months.

Commissioner Knutzen: Okay, thank you.

Chair Raschko: Kathy?

Commissioner Mitchell: Housekeeping item? There have been staff changes and we appreciate you guys are still doing what you needed to get settled. Has there been a new organizational chart done where we can have one of those? We get asked by the public, too, who to see what about what. And that would be helpful if we can have that.

Mr. Moore: Yes.

Commissioner Mitchell: Thank you.

Mr. Moore: We'll get that to you.

Commissioner Mitchell: Thank you.

Chair Raschko: Anything else for staff?

(silence)

Chair Raschko: Okay, thank you. We'll go to Commissioner Comments and Announcements. Joe, do you have any announcements?

Commissioner Woodmansee: No.

Chair Raschko: Okay. Kathy?

Commissioner Woodmansee: Oh, I do have one.

Chair Raschko: Okay.

Commissioner Woodmansee: I will not be at the next meeting. I will be trying to come into it – no, I will not be at the next meeting. That's the end of a statement.

Chair Raschko: All right. So noted.

Commissioner Mitchell: Two. Just because we had to adjust the agenda today, several years ago we had implemented – I don't know if you saw this, Jack – Public Remarks versus Public Comments. And Public Remarks were instituted for situations like tonight where people could come and tell us all kinds of things that were not really items on the bottom. And Public Comments were used in those terms to differentiate the two so people wouldn't get confused, and comments

referred to comments on an agenda item, like a docketed item, so those kinds of things where it was on the record. So Public Remarks, they can come and talk to us and tell us about anything. It's technically not on the record, and Public Comments would be. So the main request I have is I realize that sometimes our agendas get really packed. If we could always allow to have Public Remarks on there as often as possible. And just a simple example: Several years ago, 80-something-year-olds came all the way from Marblemount thinking they could come down and tell us something and they got here and it wasn't on the agenda. You know. And we like to be able to hear people if we could.

Mr. Moore: Certainly. That is something that the Planning Commission can choose to have and, if you wish, we could add a space for that on your agenda.

Chair Raschko: Okay.

Vice Chair Candler: Me? Can I address that? My recollection of what was decided on that was that on nights when we have a large crowd for a public hearing – and those would be the public comments – we would not necessarily have Public Remarks on just those meetings. That's only a few times a year that we do that. But I think there's a couple reasons for that. One is that Public Remarks are not allowed to be made about things that are in front of us for the public hearing, and so it got confusing to people. So that's one reason we did it. The other reason is sometimes we can't accommodate all the people who want to speak at the public hearing. So my request would specifically be that we maintain what we've had before, which is that Public Remarks have been on an agenda when we don't have a public hearing only. And for those meetings that have a public hearing I would not support that – Public Remarks on those nights, which are very rare. A couple times – a few times a year. Anyway, I don't have anything further.

Chair Raschko: Thank you.

Commissioner Henley: I have nothing tonight.

Chair Raschko: Okay. Martha?

Commissioner Rose: I don't have anything.

Chair Raschko: Mark?

Commissioner Knutzen: You don't like it when I don't say anything so I will say thank you for all the information that was presented to us tonight. It was all very helpful, very useful for our discussion on ag tourism, not only from the staff and the other Commissioners – also from the public. It's all very helpful. I have no idea where I sit on a lot of this stuff, and the more information I learn about situations that I'm not aware of, the better job I can do and I think the better job we can do as commissioners to advise our Board of Commissioners to come up with something – whatever that is. That's all.

Chair Raschko: Thank you, Mark. So I have nothing further so with that, I thank everybody for coming and we'll stand adjourned. (gavel)