

**Skagit County Planning Commission
Work Session: Stormwater Code Update
April 12, 2022**

Planning

Commissioners: Kathy Mitchell (absent)
Mark Knutzen
Vince Henley
Amy Hughes
Tim Raschko, Chair
Joe Woodmansee (absent until the last few minutes)
Tammy Candler, Vice Chair
Martha Rose
Jennifer (Jenny) Hutchison

Staff:

Hal Hart, Planning Director
Jenn Rogers, Assistant Long-Range Planner
Andy Wargo, Public Works Stormwater Review Technician

Chair Tim Raschko: Well, good evening. Welcome to the April 12th, 2022, meeting of the Skagit County Planning Commission. We'll start with a roll call, and so far I have seen Commissioner Candler –

Vice Chair Tammy Candler: Me!

Chair Raschko: – Commissioner Henley, Commissioner Hughes, Commissioner Rose. So is Commissioner Knutzen on board?

Commissioner Mark Knutzen: Yeah.

Chair Raschko: Did I hear – okay, that's good.

Commissioner Knutzen: I'm here. Mark's here.

Chair Raschko: All right. Thank you, Mark. Commissioner Mitchell, I believe, is going to be absent. And Commissioner Woodmansee?

(silence)

Chair Raschko: Okay. Before we begin, I'd just like to ask that the members of the Planning Commission use the Chat Box if you wish to be recognized. And I'd like also to let everybody know who's tuned in that use of the Chat Box is reserved for those people who are directly involved in the meeting only, and basically it is an instrument to use if you seek to be recognized and not for much else. And so I'd appreciate it then if those people not directly involved in the meeting please refrain from using the Chat Box.

So with that said, I'll ask for a motion to approve the minutes of our last meeting.

(silence)

Chair Raschko: Hearing none –

Commissioner Martha Rose: So moved.

Chair Raschko: Is there a second?

Commissioner Vince Henley: I second.

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

(silence)

Chair Raschko: Hearing none, all those in favor, please say "aye."

Multiple Commissioners: Aye.

Chair Raschko: Those opposed?

(silence)

Chair Raschko: And abstaining?

(silence)

Chair Raschko: So that carries. Oh. Now the first thing that we wish to do tonight is to introduce our new Planning Commissioner, but I don't believe that Jennifer Hutchison is tuned in.

Jennifer Hutchison: I'm here.

Chair Raschko: Oh, she's – oh, there you are! Okay. I'm sorry! Okay, I'd like to introduce our new Planning Commissioner, Jennifer Hutchison. Welcome. We look forward to getting to know you better and to working with you. Can you give us just – I don't want to put you on the spot, but could you give us just a few words about yourself?

Commissioner Hutchison: Sure. Hello, everybody. I'm Jen Hutchison. Thank you for having me. I live in Burlington. I've been a Burlington resident for just the 10-year mark now, and I absolutely love it here. Skagit County is home for me. I currently work at Friendship House as the development manager so I do a lot of outreach and fund raising with community and I just find everyone here to be so neighborly and supportive of great charities and just community and the work that happens here in Skagit County. I've had a little bit of time working with Habitat for Humanity here as well, both as a volunteer and employee. And there's just so many aspects of those different types of nonprofit work in our community that I see coming up in recent discussions through the Planning Commission, so it piques an interest of mine for density and development. So I'm really excited to be able to be of use to the County and I thank you very much for selecting me and appointing me. I know I was running against some other amazing candidates so it's good to be here.

Chair Raschko: Well, on behalf of the Planning Commission, thank you for volunteering to participate. I think it's a big step to take. It's much appreciated. Now can I be a little forward and ask my fellow Commissioners if they have any questions of you that are not burdensome?

Commissioner Hutchison: I'm happy to take questions – absolutely!

Chair Raschko: I'll just ask you: Where are you from?

Commissioner Hutchison: Originally I'm from Pennsylvania

Chair Raschko: Oh, okay. It's a long ways.

Commissioner Hutchison: Indeed.

Chair Raschko: Okay.

Commissioner Hutchison: You do things differently here!

Chair Raschko: I hope in a better way.

Commissioner Hutchison: Amazingly, yes.

Chair Raschko: Oh, okay. Okay, well, after that little bit, thank you and we'll move on to our main agenda item tonight, which is a Stormwater Code Update Work Session. So Jenn, please go ahead.

Jenn Rogers: Thank you, Chair. So we'll have Andy Wargo present the next work session on the Stormwater Code Update. So Andy, if you want to share your screen and get started, _____.

Andy Wargo: Sure, I'll go ahead and share my screen here.

Chair Raschko: Excuse me, Andy, but would you want to take questions as we go or would you like for people to wait till the end?

Mr. Wargo: I think it might be better to kind of get through – well, I have it broken into two different sections here so it might be good to maybe stop after the stormwater section and then take and clear up any questions then, and then after that continue on with the land disturbance checks. If that makes sense to you?

Chair Raschko: That's great. Thank you.

Mr. Wargo: Okay. So yeah, so tonight, following up on Peter's presentation last time, he provided a real broad brush of stormwater code updates and NPDES municipal stormwater requirements, and what I wanted to do tonight was really kind of drill down into the substantive changes of the stormwater code updates and talk about what they actually mean in terms of any actual changes, in terms of permit requirements, permit review requirements, and stormwater thresholds. So go ahead and just get right into the stormwater part here.

So the updates – so I think most of you have probably seen the change matrix that Peter sent out – or I guess Jenn sent it out last week – that kind of shows a side-by-side of the code updates. And just looking at 14.32 as a whole, most of the changes are reorganizing and rewriting for clarity, and also to provide consistency with definitions that were updated. Many of the definitions are already updated in 14.04 and the definitions have changed at the state level and the permit and the Stormwater Manual for Western Washington. We've also had some input from our

stormwater management consultant and the attorney for the Planning Department, just to clean up the language, make sure it's consistent with other parts of County Code and with state code, and just for useability and logical sequencing.

And really what I want to focus on here is the substantive changes. And these primarily address single-family residential projects outside the NPDES permit area. Everything inside the permit area is – there's no proposed changes except for clarification and updates. Those thresholds – permit thresholds and permit requirements are mandated by the permit, so this is primarily looking at single-family residential projects outside the permit area. And the intent of going through and cleaning this up is really – number one is to provide clarity both within the Department and to the applicants and to the public, and consistency between parcels of different sizes. ___ and that'll help provide more consistency in our review of the projects and more consistency in application requirements.

A big change that's proposed is to remove the split requirements for large and small parcels for a single-family residence. Right now there's a threshold for parcels one acre and smaller that's a lot more stringent than the ones that are one acre or larger, and we're seeking to balance that out. And then also another part is it's adding – we're adding in flexibility on how the minimum requirements are met. The minimum requirements for stormwater are spelled out in the Stormwater Management Manual for Western Washington, and outside the NPDES area we're not bound by the permit so we can provide a little bit more flexibility in choosing how to use the best management practices for managing stormwater. So basically for the lots less than one acre, that's going to loosen up the requirements a little bit for those small lots. And it's also going to – and for the larger lots it's going to provide some more consistency and requirements for –

Commissioner Rose: Do you know your slides are not advancing?

Mr. Wargo: Oh, are you only seeing the first one?

Commissioner Rose: That's right.

Mr. Wargo: Oh. Okay. Can you see it? It looks like I'm on the right slide now. Sorry about that! The screen I was sharing was not synced up with my actual screen. I have three different screens. So I'll just keep going this way if this works.

So yeah, we want to provide more consistent requirement for managing stormwater onsite for the lots that are one acre and larger. And then overall – we'll get into this on the next couple slides, but right now the thresholds for review are a little bit confusing for a lot of people, so we want to make them simple. We want to make them across the board. They'll be double the amount of the thresholds that are inside the NPDES area. So outside the permit area, it's going to be less stringent but it'll be *consistently* less stringent. It's a factor of 2 across the board.

So I'm going to be talking a lot about minimum requirements, and that's kind of what is required for these projects. So just to back up a little bit – I don't want to get too much background information but just so we are clear on what the minimum requirements are that come from the Stormwater Management Manual that'll be mentioned in here – these are – I just want to talk about the typical ones that are required for non-engineered projects for residential sites.

So when we say MR1, that's a stormwater site plan. And for a residential site, that's pretty much the same site plan requirements for any building permit. It's a scaled site plan with property boundaries, easement setbacks, wells, septic drain fields, buildings, roads, cleared areas,

disturbed areas. And then the stormwater parts that need to go on there are the locations of the temporary erosion and pollution control BMPs, and then also in showing where the location of the permanent stormwater control BMPs are going to be located. The permanent stormwater BMPs would be things like infiltration trenches, downspout, splashboxes, rain gardens – things for meeting onsite stormwater management.

Minimum requirement number 2 is the construction SWPPP, or Stormwater Pollution Prevention Plan. For smaller residential projects there's a model SWPPP provided by PDS that anyone can just copy. Grab a copy and fill out the first page and stick it into the permit and use that. A lot of designers are starting to add the 13 required SWPPP elements to the site plan and just put them right on there. And those need to be onsite during the construction process and the contractors need to follow the SWPPP in order to prevent erosion from leaving the site or illicit discharges from improperly washed out concrete trucks.

MR3, that's a source control of pollution. It generally does not apply to residential projects. This is for operations once a site is in operation, so commercial, industrial, and institutional sites; pretty much not applicable for residential sites.

MR4, preserving natural drainages and outfalls. If you have a stream, that's going to be protected as a critical area. Where this comes into play usually is with drainage ditches, swales, and then shallow subsurface flows. Oftentimes they're not discovered until the foundation is dug. Those just – this requirement basically says that if you have these drainage ditches going across your property you need to maintain them flowing across your property in more or less the same fashion as they were before you built your project. So you can't change where water leaves your property, you can't concentrate water leaving your property, and you can't have it polluted.

And then MR5, minimum requirement 5, onsite stormwater management. This is the last one of the non-engineered projects. There's nine minimum requirements overall. The non-engineered smaller projects are typically MR1 through 5. MR5 is the one that requires onsite management. You can't just take your stormwater from your impervious surfaces and shunt it off to the County ditch anymore; you need to manage it onsite, and that's where the rain gardens, the dispersion trenches, infiltration trench requirements come in. And there's a list approach that proscribes how these are done. Outside the NPDES area we're providing more flexibility in how to choose these BMPs. And then the other big requirement is that only feasible BMPs can be used. So if you have solid rock, you can't use an infiltration trench, or a high groundwater table. Dangerously steep slopes are all prohibitive of certain infiltration BMPs.

So just kind of looking at – just kind of want to give a little of background just to go over the current thresholds for these non-NPDES residential projects. So we're looking at less than one acre at 4,000 square feet of impervious surface or at 14,000 square feet of land disturbance, all MRs 1 through 9 are required. And I didn't mention 6, 7, 8, and 9 in the last ones. Those are – number 6 is water quality, 7 is flow control, 8 is wetlands protection, and 9 is your maintenance plan. Typically those minimum requirements, they don't have substantial requirements until you get into larger industrial, commercial, multi-family sites with engineered plans. And then if you jump up – if you're doing single-family residence on one acre or greater, the current code requires minimum requirements 1, 2, 4, 8, and 9 are required at 7,000 square feet impervious surface or 14,000 square feet of land disturbance. And then MR1 through 9 are required if you have 20,000 square feet of impervious surface, conversion of 1.5 acres native vegetation to lawn, conversion of 5 acres native vegetation to pasture.

So you can kind of see there with – this is, you know, kind of – it's not consistent and then the – you know, some of the minimum requirements are 1, 2, 4, 8, 9. It kind of jumps around a little bit in order and is very atypical from what is required within the NPDES area. And just to kind of give you an example: If you've worked through our application process, you probably have seen this table before. This is the matrix that tells you what minimum requirements are required and it's based on land use intensity, so your larger single-family residence lots are typically low use intensity; your lots under one acre are going to be medium; and if you're meeting any of those other thresholds of 20,000 square feet, 1.5 acres or 5 acres conversion, then you're in high. So then you would go back to the table on the left and determine which minimum requirements you need and then go to the Stormwater Manual and work that out.

The proposal is to get rid of this table and simplify it to this scheme here. So here's our proposed thresholds. So we want to move past the table and remove the threshold – the difference between small lots and large lots, and have it so minimum requirements 1 through 5, which is a non-engineered project typically, are required at the threshold of 4,000 square feet impervious surface or 14,000 square feet land disturbance. And those thresholds, those are – where those numbers came from is they're simply doubled what is required inside the permit area. If you're in the permit area, MR1 through 5 is required at 2,000 square feet of impervious or 7,000 square feet of land disturbance. And then when MRs 1 through 9 are required – and this is where you would need to have the engineered. Doing this report is at 10,000 square feet of impervious surface. That's double the NPDES. And then 50% greater impervious coverage of entire lot or conversion 1.5 native vegetation. That's not actually a change and it's the same as the current code and it's also double the inside the permit area. And the conversion of 5 acres of native vegetation to pasture, that's not a change. And that's also double the permit area. And the fill or excavation of 500 cubic yards or more, that threshold exists for an engineered drainage report in the current code so that part wouldn't be a change. The most significant change here would be for those parcels – the two places here that would be a significant change for a typical single-family residential project coming in would be for lots that are over an acre. That 4,000 square feet of impervious surface, they would need to be MRs 1 through 5. The way it is now, they have a 7,000-square-foot impervious surface which requires them to meet – I think it's 1, 2, 4, 8, and 9. So that would change. And then the 10,000 square feet of impervious surface would require MR1 through 9 for lots larger than one acre and they're currently at 20,000 feet. So that creates some balance between the larger lots and the smaller lots. It creates – it relaxes the requirements for the smaller lots but it does create more oversight for onsite stormwater management for the larger lots.

And then just to kind of cap off the intent, we want consistency for all parcel sizes. We want to have consistent application of standards because we want to – you know, our mandate and our goal is to mitigate the negative effects of stormwater runoff to downstream properties and all sites outside the NPDES area – the residential sites – will have the same thresholds. And then we're also – there's increased flexibility provided for selecting the methods of managing stormwater onsite, and that's primarily minimum requirement number 5. And then the thresholds across the board outside the NPDES area are going to be double those inside the NPDES areas. So basically it's a factor of 2 more flexible moving outside the NPDES area.

And then I did mention the, you know, just a little bit more detail on that flexibility for choosing BMPs. This is the table from the Stormwater Manual for how to choose BMPs to manage stormwater onsite. So if you look here in the middle, your surface type for your roofs, and then your list 1 is going to be your smaller projects. So if you notice, there's numbers – there's 1, 2, 3, and 4, and if you're inside the NPDES area you need to use the – you need to use number 1 first, unless it's infeasible and then you have to prove it's infeasible. If it's infeasible, you go to number 2. If that's infeasible, you go to number 3. If that's infeasible, you go to number 4. So you're

required to start at the top and work your way down and choose the first one that's feasible for your site. Outside the NPDES area, we're proposing to provide more flexibility, so someone is required to manage stormwater onsite to protect downstream properties, but they can choose whatever workable BMP they can fit on their site. And it has to be feasible, but they don't have to use the first one in the list. The only limitations would be the one on the bottom there, the perforated stub-out connections. That would be the last option because that often involves draining water off the site, which the whole requirement is to keep the water onsite as much as possible.

So that sums up the residential projects. I just – there's a couple more substantive changes proposed in the stormwater code. The 14.32.050, that talks about incremental changes being accounted for over a five-year period. So whether that takes care of it – you know, there's a lot of unpermitted driveways, patios, parking pads, sometimes even buildings that come in, and then someone comes in for a permit and they would need to account for those unpermitted surfaces and provide stormwater management for them. And that provides an incentive to manage your stormwater onsite in a cohesive process and to avoid uncontrolled runoff from sites due to unpermitted impervious surfaces. The 14.32.080, that's a detail and it largely applies to the industrial – sometimes commercial – sites that have pollution-generating sources. It allows the County to require structural source control BMPs that would ensure compliance with the minimum requirement number 3, which is pollution control, and other source control provisions of the NPDES permit. This is already being done. This just is specific language just to shore up the County's authority to require this. Our NPDES permit and the Stormwater Manual already requires this.

And then this 14.32.150, this is a proposed 20-year sunset date for regional facilities. So we're talking about large, typically detention ponds, flow control devices for business parks, industrial parks that were designed for a stormwater plan and then constructed, and then if 20 years go by and not all the sites are built out, what it would require. You know, during that 20-year period any site could just build accordingly and send their stormwater to the regional facility. After 20 years elapses, lots of times the facility may not be maintained properly – although it should be inspected and maintained – and the standards under which it was built are often outdated. So this is to require that a new analysis be done to ensure that those 20-year or older facilities meet current standards or are maintained or are upgraded to meet certain standards. And the reason for this is to prevent negative downstream stormwater effects that could result from outdated or unmaintained facilities.

And the last one is another – it's an update for consistency. It just adopts the 2019 Stormwater Management Manual for Western Washington. The current code adopts the 2014 manual. This is in large part a consistency and state requirement. The differences between the 2014 and the 2019 manual – I guess the 2012 manual and the 2014 manual are the same; the 2012 amended in 2014. The difference in those two stormwater manuals are largely organizational and aimed at making it more useable. So they don't create substantive changes in the thresholds or the minimum requirements that are applied to the projects.

So I think I'll stop there and see if there's any questions. Because this wraps it up for the substantive stormwater changes proposed for 14.32.

Chair Raschko: Are there any questions for Andy?

Commissioner Rose: I have one. I have some.

Chair Raschko: Please go ahead, Martha.

Commissioner Rose: So in the square footage of disturbance, I'm guessing that that includes installing a septic system. True or false?

Mr. Wargo: It would include the cleared area, yeah. So it would – yeah, so any roads that are built, the grubbing – yeah, grubbing, clearing, grading all count as disturbed instances.

Commissioner Rose: So if you have to dig a hole and put in tanks and put in a drain field, that's disturbance, right? So that is included?

Mr. Wargo: Yes, that would be land disturbance. And typically the area that is just for the drain field would be smaller than the threshold, but when it comes to – sometimes, lots of times when it comes to clearing to get to it, it would be more. But, yes, that – clearing, grubbing, grading, digging would be considered land disturbance. That would count, yes.

Commissioner Rose: Okay, so then – these two kind of go together. Driveway mandates, along with that one chart you showed in the middle column down near the bottom, the top of the list said "permeable pavement." It was either the first thing or the second thing. In the first column it said "permeable pavement or rain garden or –" and there's some third thing. In the middle column, it just said "permeable pavement." And I've had a fair amount of experience with permeable pavement installed, probably at least five different projects with permeable pavement, and have also met with planning commissions to explain that it's really important to have "or equivalent" or something that achieves the same goal, because permeable pavements are *high* maintenance and one of the goals needs to be *low* maintenance. And so – and also – well, this is a longer conversation than we have for tonight; however, King County agreed that they would have that more flexible attitude. And I'm going to use my project in Sedro-Woolley. Sedro-Woolley was very flexible about how they view this. Because I'm in favor of low impact development. I try to accomplish this in every project. And instead of permeable pavement, they allowed me to have the same infiltration basin under the roadway that a permeable pavement system would have, but I was allowed to pour regular concrete and slope it to the center and collect it in a series of trench drains and small catch basins where the silt could drop out. And it's functioning beautifully for five years now and very easy to maintain by the people who live here, and there aren't any – the permeable pavement is a lot softer and it unravels and it gets full of debris. It'll still work well but – anyway, so my point is I'm hoping that Skagit County can allow that type of flexibility under that surface type so that you don't end up with a lot of roads that are going to need replacing after a relatively short period of time. And, you know, you end up with something that functions just as well and does the job.

So at any rate, like I said, I've met with many jurisdictions and some just won't even think of it. They won't even consider it. But there are some that have opened their minds and allowed it, and it's a much better system. So at any rate, just to keep that in mind.

The other thing is, when – I'm on a project now with just two houses and, gosh, Sedro-Woolley in this one kind of made me put in more hard surface than I wanted to by not allowing a shared access point off of one road. I had to take two separate access points. And so, you know, to expand the way you look at things like that would be a good thing. I think those are the ends of my comments and questions right now.

Mr. Wargo: Yeah, just to clarify on that, the comment about permeable pavement – the list approach for non-engineered projects, the way it's written in this there's no proposed change for the – well, this is the state list so we wouldn't change it anyway, but for the non-engineered

projects there is a choice between permeable pavement, rain gardens, or bioretention. So there's some built-in flexibility for engineer projects. There's a choice between – well, oftentimes you're talking about industrial sites or higher traffic commercial areas, so permeable pavement would be infeasible on a lot of those. And even if it was feasible, there's also a choice of using the LID performance standard, which is a different hydrology modelling way of meeting this requirement, and you could use any BMP of your choice, including, as you described, like, the underdrain infiltration trenches, to meet something like that.

Commissioner Rose: Okay, so at first glance it didn't look like there was that flexibility, but you're saying there is, so that's good.

Mr. Wargo: Yes, there is. There is flexibility in that. And then the idea of things like other code elements that could create the need for more impervious surface, like the access points – that's not something we're getting directly into in this update because it's a little broader than stormwater code. But there is a permit requirement that requires all permittees to annually examine their process – and this is their entire code or in their policies for barriers to low impact development. So something, anything – you know, and that can include things like the example you mentioned with access points, and also, I think, parking space requirements that might require more parking spaces that would lead to more pervious surface. So that *is* something that the County looks at on an annual basis, but it's outside the scope of this particular update.

Chair Raschko: Anything else, Martha?

Commissioner Rose: Not at this time. I might think of something else, but right now, no. Thank you.

Chair Raschko: Okay. Are there any other questions at this point?

(silence)

Chair Raschko: Okay.

Mr. Wargo: Okay, so the second part here. I just want to provide an overview of the proposed land disturbance code. And just start off with a – just kind of review our definition of “land disturbances – right? And in 14.04, it's “Any activity resulting in a change of soil cover, vegetation or scraping, including changing the topography, flattening out a lot, terracing, activities such as that.” And they include clearing, grading, filling, and excavation and also compaction for stabilizing structures and road foundations. They do not include vegetation management such as landscaping, gardening – are *not* land disturbing activities so those would be exempt.

And then just kind of move through here and – so the purpose of this code is that it – what it is really designed to do is to harmonize existing requirements and to make them more clear. So these existing – and I think it was brought up in the last discussion about septic system installation. There's a lot of different activities and there's different codes that apply, but they all affect/regulate land disturbance. So they can be stormwater management, forest practices, septic system installation, critical areas, cultural resources, SEPA. And this code also provides a permit pathway for standalone clearing and grading activities. Often clearing and grading activities can be included in a building permit, but then sometimes for either permit threshold reasons or for sequencing reasons people need or want to do land disturbance outside of a building permit application, and this provides for a permit to do that.

So the big, important part of this story with the land disturbance code is that it's not creating any new review thresholds for these land disturbing activities. These existing thresholds and standards will remain the same. It's Appendix J of the International Building Code. There's portions of Appendix J of the building code that are incorporated into 15.04. We're proposing to move those out of 15.04 and into 14 – into the land disturbance code for ease of use. And that includes the land disturbance impervious thresholds from 14.32, which is stormwater management. And then so the land disturbance just kind of referenced the stormwater. There's no changes proposed to land disturbance thresholds. There are some changes that affect the impervious surface thresholds for the single-family residential projects outside the NPDES area. And that also includes critical areas requirements, SEPA thresholds, and Class IV forest practice thresholds. So when we mention forest practices we're only talking about Class IV conversions. Typical forest practices are not included in this. And so you can kind of see that there's a lot of different codes that affect land disturbance activities so this land disturbance code is designed to pull them all into one cohesive code section that both Department staff and the public, the regulators, such as Department of Ecology, can all see what our regulations surrounding land disturbance are and we can process it more efficiently.

So to just kind of sum of the purpose of this is that we really want to improve the clarity for applicants and staff so all the regulations are apparent, and also improve efficiency in sequencing of reviews. So this will – when you have all these together, the intent is so more knowledge is applied to the project, and then it reduces unexpected requirements when building permits are submitted. So right now it may – if there's a land disturbance, say, for a road in to drill a well or a septic system that builds a road, but then later on once the applicant comes in to build a building they might find out after the fact that they actually needed a permit to build the road that they built to build their septic, and then they have to backtrack and get that mapped out, get it covered in the permit, and potentially build stormwater management facilities to deal with the impervious surface that they installed without a permit. This gets those requirements up front so it can all be accounted for cohesively from the beginning.

The other part of that facet is to improve efficiency in overall site planning, hopefully to better address spatial limitations and requirements for septic drain fields, onsite stormwater BMPs, well protection areas, critical areas, access, and structures. So, you know, even on a one-acre or larger lot, by the time someone puts in their septic drain field and has a well protection area and then already has their driveway designed and all their buildings designed, and then they're looking at how to manage stormwater onsite after the fact and they find out they need to put in 160 feet of, say, dispersion trench or an infiltration trench or a dispersion area that needs to be vegetated and can't overlap with their septic drain field, that becomes a challenge. And the idea is to get this knowledge about these requirements to the forefront in a better package so site planning hopefully improves and these things are all – and the puzzle pieces can come together a little better earlier in the project instead of trying to fit things that are required by law but really hard to fit after other things are already built.

And then another big thing – and this especially comes with an NPDES permit area – is that this code really – it provides a clear – it clearly communicates to third parties, including our regulators, Department of Ecology, that we have the tools in place to comply with our NPDES permit. And it also hopefully reduces the amount of unpermitted clearing. And unpermitted clearing can actually compromise the County's compliance with its NPDES permit. If we're having clearing and land disturbance and installations of impervious surfaces inside our permit area that is not being covered under a permit and accounted for, then that puts us out of compliance.

And then so the practical applications – kind of like what does this actually do for someone coming in to apply for land disturbance or someone who's going to do some land disturbance on their property, is that the land disturbance permit will replace the clearing and grading permit. So all those thresholds – the way it works now is if anybody needs any threshold, whether it's clearing, grading, stormwater, SEPA, they need to get a grading permit. The grading permit will be replaced by the land disturbance permit, which it's just – it's a more – it's a permit language that more accurately addresses what's being done. And then many land disturbing activities can be included with a building permit, and in that case no separate permit's needed, so it's just the review thresholds from this chapter will apply to the building permit as well.

And that's all I have on the land disturbance code, so if there's any questions...

Commissioner Rose: I have one.

Chair Raschko: Please go ahead, Martha.

Commissioner Rose: So if the County is out of compliance with their permit, what's the consequence?

Mr. Wargo: Well, I mean, there's – from the state, from the Department of Ecology, there are financial penalties that can be applied. The County needs to do an annual report every year. Each year it's due in March for the previous year. We need to account for any violations. We need to account for any inspections that we missed. And we need to account for illicit discharges, which would be sediment runoff. So unpermitted clearing often leads to discharges of sediment to streams and to our MS4, Municipal Separate Stormwater System. We have to report those to Ecology as discharges. And if we don't and if it happens, the County can be financially penalized if they do not address it. So usually there's always a – sometimes you enter into an agreement with Ecology and then you move forward to correct the violations. Some of the violations, too, there's also a permit – you know, I think we talked about this earlier in Peter's presentation, is that the permit itself requires us to keep our codes updated and our programs in place in order to enforce the requirements of the NPDES permit. The other risk that is out there too aside from the permit is there's – since it's an NPDES permit, NPDES national permit holders are liable for lawsuits by third parties. So those lawsuits can be filed by any interested party, and usually there's a much higher financial stake for the third party lawsuits.

Commissioner Rose: Okay, thank you. I was – it's been a few years since I've sat on the national committee for environmental issues but I have a vague memory that jurisdictions that didn't comply lost their right to even do the issuing of the permits and the enforcement of the permits, that either the Army Corps of Engineers took over and did that, which became a huge nightmare for those jurisdictions, or maybe Ecology would take over. Is that – do you know about that?

Mr. Wargo: I don't – I have a sense of what you're talking about but I'm not sure if that applies to the municipal stormwater permit at the local level. I think – I have heard of some states – so Ecology has delegated authority to enforce the municipal stormwater permit at the state level from the Environmental Protection Agency. I believe that in the case that if the state agency failed to properly enforce the permit, the federal agency would take authority back from the state and enforce it directly.

Commissioner Rose: Yeah, and you don't want that to happen, right? Under any circumstance.

Mr. Wargo: Yeah. Well, and I think that we'd be a little bit out of the picture on that because the County, in this case, is the permittee, and part of being a permittee requires us to – but, yeah. But we're also a regulator. So there are certain ways when it comes to – and this is a little bit away from the development control, but when you get into illicit discharges and pollution control there are cases when Ecology can step in and take over or assist a local municipality in dealing with a pollution problem into the storm system.

Commissioner Rose: I have one final question and that is septic systems that are found to be discharging into waterways. How do you deal with that?

Mr. Wargo: It's outside the scope of this code, but there is a – there's a couple things that would be in play – are the County's Title 16.32, which addresses water pollution, would prevent discharges of pollutants to the stormwater system including natural drainages. So that would be a violation of 16.32 and then it would also be covered under the codes enforced by the Public Health Department, and I'm less familiar with those codes.

Commissioner Rose: Thank you. No more questions.

Chair Raschko: And I thank you, Martha. Were there any other questions for Andy?

Hal Hart: Chair, this is Hal Hart. I have my hand up.

Chair Raschko: Well, I can't see your picture, Hal. Go ahead.

Mr. Hart: Oh, okay. I just wanted to say that I'm reading Snohomish County's stormwater code and one of the things it does provide them is protection from third party lawsuits. If they do everything that they're saying in there, there's a better chance that we would survive a lawsuit without some heavier mandate coming down from them. And so it's directly written in to the Snohomish County code on that topic. There's a bit of a reason to do it that it gives you some inoculation from third party lawsuits.

Chair Raschko: Thank you, Hal.

Mr. Hart: You bet.

Chair Raschko: Is there anybody else with questions or comments?

(silence)

Chair Raschko: Okay. Well, thank you, Andy. Is this – are your slides available online?

Mr. Wargo: I don't have them online but Jenn can send – we have them – Jenn can send them over to you, if that works.

Ms. Rogers: Chair? This is Jenn Rogers. I'll make sure to get them posted on the website by tomorrow.

Chair Raschko: I'm sorry. Could you please say it again?

Ms. Rogers: This is Jenn Rogers. I'll make sure they're posted on the website by tomorrow.

Chair Raschko: Okay, I really appreciate that. Thank you.

Ms. Rogers: Of course.

Chair Raschko: So is there anything else on this stormwater code update?

Mr. Hart: Commissioners, this is Hal Hart again.

Chair Raschko: Yes?

Mr. Hart: If there is a better way to convey – there's a lot of information that he conveyed. I was taking notes just to pretend that this is the first time I've heard it, and there's just a lot of information. Is there another way – should we try to convey the information perhaps through a – to show here's a potential development site and these are the kinds of things that we're looking at, like, here's the road; here's the developable area. Would some sort of approach like that be helpful for you to absorb all that information? There *is* a lot here.

Commissioner Rose: Yes.

Mr. Hart: Okay.

Commissioner Rose: In other words, a sample site plan showing these things.

Mr. Hart: Andy, is that going to be – is there a possibility that we can do – we can look at one without naming who it was or something, or just kind of come up with a general one for the Planning Commission? So, "This is what we would look at," so they understand what we would go through in that analysis.

Mr. Wargo: On a site plan?

Mr. Hart: Yeah.

Mr. Wargo: Yeah, we could do something like that. Yeah, put together a sample.

Mr. Hart: Yeah. I just think that would be a little bit helpful to understand all the different factors that you just listed out there and how they all work together.

Chair Raschko: All right, that's appreciated, Hal, Andy. Vince, you have a question?

Commissioner Henley: Yes, I do. As part of the meeting handouts or the meeting material, there's a markup copy of the changes. Now is that markup what we're talking about here in its entirety, or is there more to come? Or, What should we make of the markup? is the question.

Mr. Wargo: That markup is the entirety. There might be a couple details that, you know, if anything's identified in the meantime, but that markup is the entirety and these slides are designed to highlight the substantive changes in that markup.

Commissioner Henley: Okay. So if we went through the markup, that would give us a good or an accurate feeling of all of the changes that you want to put into the Stormwater Management Plan.

Mr. Wargo: Yeah, that'd be a good point. And then I think it might be – also it might be helpful to look at the slides in tandem with the markup, because the slides are highlighting the – there's a lot of language changes that are reflected in the markup that are not necessarily – I mean, they're worth looking at but there's a lot of language and reorganization changes that are shown in the markup but many of them are not substantive to the permit process. These slides are showing the ones that actually changed the way the permit process would work – and to clarify the purpose of them.

Commissioner Henley: Okay, so as I understand it, what we have here is they use the slides as a guide to the important and substantive parts of the markup, but the markup is ultimately what rules.

Mr. Wargo: Yes, the markup has the most language in it. Yes.

Commissioner Henley: Okay. Thanks, Chair.

Chair Raschko: Thank you, Vince. Anything else?

(silence)

Chair Raschko: Okay, well, thank you very much, anybody on staff for the work they've done, and we'll move forward. So with that, we'll move to the Director's Update. Mr. Hart, please.

Mr. Hart: Okay, I'll ask Jenn to go ahead and try and share the screen and put it up there. Let's just go to the first slide after this one. Okay. So permitting is our number one daily thing that we're always trying to improve, Commissioners. And we continue to make progress on that. We've brought down – last year we had a rush at the permit counter early in the year and that led to very long lines, but we've brought those down now, way, way down, so that if you were coming in today it's quicker. During COVID, we also moved everything online and so that means people can submit 24 hour a day, 7 days a week. So what we're wrestling with right now is lots of people do stuff on the weekends and then submit it, so we get about three days' worth on Monday morning, and then Monday, Tuesday, Wednesday we're still getting stuff. So we are still receiving. We're still trying to keep up with the daily flow, but I think we're figuring it out slowly but surely, Commissioners. So I'm just kind of giving you that update. It's been a learning curve both in new technology of review, moving the permit from seat to seat usually. We had to get new software, where everybody could leave their marks and mark up the physical document and then move it along. So we have had lots of issues with revisions. That means where people make changes to their project and then that delays the project a bit as well. So we're still working that out and how to improve our timelines around divisions – revisions and communication of revisions. So that is something we're still working on.

This past month we've provided an updated portal to the community for submitting their documents. So we're also streamlining how you pay for your permitting as well. And we were doing it quite the old-fashioned way nowadays and you had to call in and really make an appointment to pay for your permit. So we're trying to leave that behind now and just do it like most other counties are doing it. We continue to work on a new permit system. We're working with our IS department, or our IT department, and other departments countywide. That includes Public Works and Health and many others, including the Assessor's office, and just coordinating which direction we're going to go. We're still probably, I would guess, about a hundred days out from making the final decision on a permit system. Our current permit system was designed in the '90s. It was implemented in the '90s and so many of the folks working in our office are younger

than the permit system they're working with. So it's just kind of interesting. It fails. It freezes a lot, especially in this new digital environment that we find ourselves in, and it just takes a lot of time. It's harder – again, it's difficult to combine that old technology with new technology as well.

Anyway, let's move on to the next one, Jenn. Current Growth Update. I think I've mentioned this before. Most of the larger, interesting kind of growth – that would be jobs and things – is aimed at around the airport. That is kind of our industrial area under our County Plan for our future, and we have a forecast for future growth there as well. So currently we have a new boat building operation. I was out there last week and I was watching them survey for that additional warehousing that's coming. There's a huge need across the nation for logistics centers and warehousing. We identified a new need for that even this last week. People are very, very concerned right now about food security – right? – with the things going on both internationally and across the world, food security is ratcheting up. And so having supplies and cold storage and things like that is becoming increasingly important to our economy and to everybody. Glitches in our system have meant that *everybody* wants to build a lot more logistical centers than previously anticipated, and that changes the – you know, in Frederickson in the Tacoma area, there's millions of square feet going on; in Snohomish County, millions of square feet going on. I expect that we'll see some of those requests in this area in the future. We also have mini storage capacity going on. You *always*, almost *always* see mini storage capacity – as cities move and get people into smaller and smaller units they need a place to store their stuff, so one of the things I always tell city planners is make room within your building for people to store their stuff. So we're going to see expansion in the county of more mini storage, just because people have less space for their stuff now.

Platting of property up at the Port is – we're already coordinating on that, so expect more lots to be created. Several additional hangars are in process. Road and utility work to support all that is underway now. We continue to monitor other potential projects including business expansion that were talked about. Just to give you one idea, a Kaiser Permanente down in Everett, back in 2018 or 19 they announced they were going to build a large development. It was put on hold but today it's under construction. Right off the I-5 freeway corridor you can see that. That firm has dedicated a billion dollars to expansion there. There's a lot of other firms that are doing similar things, and some of which are here, like PACCAR. They originally in 2018 had a five-stage development. We haven't heard much from them. I will be reaching out to them later this year. So I'll keep you in the loop on that kind of stuff. Next.

Sorry that took a long time. I'll go through this. So the other thing is kind of behind the scenes now, but you'll hear more from me as we move forward: the Comprehensive Plan update for the county. Right now our deadline is June 2024. Now the legislature could change that, but in order to do that ____ backwards from that date, we would look at our Comprehensive Plan and say, Okay, what's in there that needs to be updated? What new information do we have, and where do we want to take that? So I am putting together kind of a work program for that that the County Commissioners will look at first, and I am working with each of the department heads in the County. I've reached out to Grace, our Public Works director first, to talk about transportation needs. And one of the things that came up is when Amazon came into the County they made some improvements but the County also had to make some improvements and use County dollars in that process as well. So is there a way to find other ways to finance future growth in an Urban Growth Area or a city or in an Urban Growth Area like the one we have up at the Port? That will be a policy issue for you all to wrestle and discuss about a few years from now under Capital Facilities. So we're just at the very front end of this and that's putting the work program together over the next 30 months or so. Let's go to the next one.

Long range planning efforts, as you know, continue. We are working with the Commissioners' office on Shorelines. We are working on coordinating a meeting between the two governments, the ___ and the County, as well as the staff including DOE. Agricultural tourism continues. There's a newspaper article that I'm sure that you have seen as well. I also attended and participated in the City of La Conner's discussion of housing and growth. And so one of the key things about La Conner is that they're constrained by the County on all sides pretty much. So we have agricultural lands and some wet areas around them and shoreline area constraints and floodplain constraints and they're behind a dike, so really they're going to be looking at their – and there's a house here from La Conner; I've been putting pictures in here from my trip to La Conner last week. So it was a week ago Thursday I talked to La Conner, and really it's – or maybe two weeks ago now – really it's all about constraints and how would they go up and find new housing in unique places within that city. That's going to be their issue for the future, Commissioners.

I think that's it. Let's just hit that one more time, Jenn. Is there anything else?

Ms. Rogers: That's it.

Mr. Hart: Okay, great. If you have any questions, Commissioners, I'm here to answer them.

Chair Raschko: Has anybody any questions, please?

Mr. Hart: Mark has his hand up.

Commissioner Knutzen: Yeah. This is Mark Knutzen. I have a question for Hal. One slide you had it said "Current growth update" slide, and the platting of property at Port of Skagit you reference that a little bit. You said you'd be creating more lots.

Mr. Hart: Yeah.

Commissioner Knutzen: Now I know there's other property that would be south and east of where Amazon is building.

Mr. Hart: That's correct.

Commissioner Knutzen: Is that – is there other areas up there or is that the area you're thinking, or what?

Mr. Hart: Yeah. No, that's the prime area. It's all around the fire department and over to Amazon through that area would be the area.

Commissioner Knutzen: There's considerable earth. It must be 80 or 100 or 120 acres or something there?

Mr. Hart: Yes.

Commissioner Knutzen: It's a lot.

Mr. Hart: It's a lot, and so you have to look at: What are future market conditions going to be? What kinds of issues do we have? One of the big issues up there is going to be, What happens to stormwater? So they're undertaking that issue right now. They're studying the stormwater issue very closely and they'll keep us in the loop as to what they find. They are looking at – there's a

distillery up there which, I believe, is doing site injection down – they're taking their stormwater and they're putting it into, like, a hundred feet down where it goes into a more permeable layer and then distributes there. And so the idea was they didn't want to overwhelm the natural drainages and create more runoff for farmers in the area to deal with.

Commissioner Knutzen: So now the property north of Peterson is not owned by the Port. That's a private-owned industrial property. And I know some of that's split up into 5-acre lots where Alf Christianson Seed is at.

Mr. Hart: Yeah.

Commissioner Knutzen: So how does the Port or how does the County go about deciding how to cut up or create more lots? Do you want 1-acre lots, 5-acre lots, 10-acre lots? Does the County do that? Does the Port do that? I mean –

Mr. Hart: Yeah. No, that's completely the Port trying to read the market for future tenants up there. And I really think that's what their job is, is to position the County for, you know, putting the right kinds of development in place that, you know, maybe it would further our agricultural industry or, you know, grow it into the 21st century by having some sort of mix of agricultural research or seed research or, you know, things like that. But I believe they're looking in kind of the bigger than 5 acres, probably less than 15 acres size of lots. But they also have to design the roads, the trails, the other amenity features that a modern industrial area has today.

Commissioner Knutzen: The Port would instigate that and then apply to the County for – just like a normal private developer would.

Mr. Hart: That's correct. And then we also have lots of neighbors up there too. So one of the concerns that the Port already has and we hear about for sure are the neighboring landowners. Some are just residential homeowners in that area. So how do you buffer anything for the future? A big issue the Commissioners already brought up to me this last week was concerns about traffic. So we want to make sure that traffic is directed down back through the entrance. We condition each of the permits to do that. But they asked me, Well, how do we ensure that they're actually doing that? That's something we're going to have to study to see how we would better ensure that each of those new tenants uses the – you know, for sure we can take truck traffic and say the truck route is over this way. You have to go back down to the highway where the main entrance to the airport is. That's your truck route. So we'll find that truck route and then condition each project to use those, but what about the employees that have to come and go? And so that's a little bit trickier and I don't have a great answer for that one, Commissioner.

Commissioner Knutzen: Okay. Thank you, Hal.

Mr. Hart: Yes, sir.

Chair Raschko: Anything else for the staff?

(silence)

Chair Raschko: Okay. Well, thank you, Hal. I also want to thank Jenn for all her work she did on this meeting, and, of course, especially Andy for his presentation. And with that, we will move to Planning Commissioner Comments and Announcements. And before we start, I'd just like to remind everybody the plan for our next meeting to be held in the County building in person. But

of course, there would be an option for anybody who feels uncomfortable going there to Zoom in. And I still think we'd be open to – if it was the wish of most of the Planning Commissioners – to continue to do it Zoom alone, so if you feel that you would like to do that, you might want to bring it up when you make your comments at this time.

So we'll start out with Commissioner Rose. Martha?

Commissioner Rose: Well, I don't have anything to report except on that note I prefer the Zoom right now. I've gotten – it works better with my work schedule because some days I work till 5, 5:30. But if everybody else wants to go the other direction, of course, I'll make it work.

Chair Raschko: Okay, thank you. Mark?

Commissioner Knutzen: I do like the Zoom meetings because I'm able to understand the people better and I can read lips better, but I'm certainly not opposed to trying to meet together, as long as we don't have to wear masks. Because I assume the majority of people would probably prefer in-person meetings. And I've done that with some other groups that I'm on and I make do. So either way's fine.

Chair Raschko: Okay. Speaking of masks, Hal, can you tell us what is the County's stance on that inside the building?

Mr. Hart: Yep. Currently it's *your* choice if you wish to wear a mask. We encourage hand washing, distancing if you feel so the need, and we are doing meetings that include people in the room that are socially distanced and the Commissioners, and that happened the day before yesterday so that's typical. And some people are masked and some are not. We've had meeting groups in large squares where people can distance but are talking, and it's *really* nice to, you know, be in there. But we're open to whatever you folks would like to do, so either way.

Chair Raschko: Okay. Thank you. Amy?

Commissioner Amy Hughes: Hi. I'd like to start by welcoming Jen Hutchison. It's nice to have a full Planning Commission group at this point. And as far as meeting, I want to be respectful to others' wishes, but it is nice to be able to get together. We're still trying to get together with Mark and Vince and now Jen, and so a third of us we really don't know on a personal level. And so as soon as we can do it safely, that's my vote.

Chair Raschko: Thank you, Amy. Vince?

Commissioner Henley: Yeah, I have a strong preference for the Zoom meetings just from a travel and logistical perspective. For me it's pretty inconvenient at the meeting time so I find the Zoom can solve that problem, so I have a strong preference for the Zoom. I mean, I would still meet in person if we really had to, as long as we could do it without a mask. I have other activities where masks are optional and I would prefer that we make them obsolete, quite frankly. And welcome to Jen Hutchison as the new Commissioner on the block! I'm no longer the newbie! You have saved my soul here.

Chair Raschko: Thank you, Vince. Tammy?

Vice Chair Candler: Welcome to Jen Hutchison, and I – as far as weighing in on the Zoom meeting, I don't have a strong preference. I kind of have to agree with the others who don't want

to – you know, as long as we don't wear masks. It's apparently hard for at least some of us to hear and if we can't see lips, and so that doesn't sound very functional to me. So that's it.

Chair Raschko: Thank you, Tammy. And Jen, have you anything? Jennifer – I'm sorry.

Commissioner Hutchison: Thanks, Tim. Well, thank you for the warm welcomes. I appreciate that. I don't know if it's inappropriate to thank Andy for that very well-presented summary of the benefits of repackaging these requirements for codes. I think upfront in the planning I think that's smart. As far as being in person, I'm a hugger. I love seeing people and just sharing your energy in a room. But I absolutely hear everybody in their enjoyment in the simplicity of via Zoom because it does make it a lot easier for us to have the high attendance that you can all say you're proud of. I know that it's a lot more flexible. You can be on Zoom in your car. I know that's probably not the best way to be on camera, but there's so many advantages to that that I certainly wouldn't shoot it down. I'm in close proximity to Mount Vernon so I'm happy to join in person. I'm also like Mark. I'm hearing impaired in both ears so – and wearing masks is very difficult for me to decipher the low tones in people's speech, so I appreciate the audibility of Zoom. But in person I'm like Mark: I can read lips and I lean in a lot, as long as that doesn't make anyone uncomfortable. I'm happy to meet in person, so (I'm) very flexible!

Chair Raschko: Thank you. Do you prefer Jennifer or Jen?

Commissioner Hutchison: I like Jen but I hate to confuse things with Jenn Rogers, so...

Chair Raschko: You can be Jenny!

Commissioner Hutchison: I can be Jenny with a "y." I'm perfectly comfortable with the Jenny!

Chair Raschko: All right. Well, thank you and welcome. I'm really debating whether to say this. I prefer to meet in person without a mask, although I don't want to be on top of each other. But the thing I'm going to risk everybody's wrath for saying is that when we signed on to this job the expectations would be that we would be at the meetings. And so I respect everybody's, you know, schedules and everything else, and if it's you just can't just help but be on Zoom because of other obligations and time requirements, fine. But I'd really appreciate it if everybody made an effort to be there. Anybody can make a comment after that, if they want to. Throw pies at me! So if nobody has anything else –

Commissioner Henley: Well, I see Joe is online here but I haven't heard his comments.

Chair Raschko: Is Joe online?

Commissioner Henley: Well, I can see him. He's muted. There he is!

Commissioner Joe Woodmansee: Yeah, I'm online. I had a little of an emergency this week and I got delayed tonight so I apologize for that. So it sounds like we're talking about in-person meetings, and I have no problem with doing in-person meetings. I do like the ability to Zoom in if there's a conflict from being able to attend the meeting, but I would agree with the Chair that it's something that I expected when I signed on for this that we'd be meeting in person and I think that it would be a good thing if we could do that.

Chair Raschko: Well, thank you, Joe. Have you been with us for quite a while?

Commissioner Woodmansee: No, no. I just got here a few minutes ago.

Chair Raschko: All right. Well, welcome and we stand adjourned!

(laughter)

Commissioner Woodmansee: I'm good with that!

Chair Raschko: Thank you, everybody, and have a good night.