

**Skagit County Planning Commission
Work Session: 2021 CPA/Docket
Deliberations/Recorded Motion: SMP Update
November 30, 2021**

Planning

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

Staff: Hal Hart, Planning Director
Betsy Stevenson, Senior Planner
Peter Gill, Long Range Planning Manager
Jenn Rogers, Assistant Long-Range Planner

Others: Dan Nickel, Consultant (The Watershed Company)

Chair Tim Raschko: Good evening. The November 30th, 2021, special meeting of the Skagit County Planning Commission is now in session. I've seen everybody's happy faces on my computer, so we will assume that everybody is present and we'll dispense with the roll call. I see on the agenda – I only just noticed – that there's no provision for approval of minutes from the last meeting. We can amend the agenda if somebody would kindly make a motion to do so.

Peter Gill: Chair? This is Peter.

Chair Raschko: Are there no minutes?

Mr. Gill: We did not distribute minutes. We weren't able to get those done in time. There was about a day turnaround so I apologize.

Chair Raschko: Okay. I think what I recall seeing was not the minutes but the –

Commissioner Vince Henley: It was the transcript.

Chair Raschko: Transcript. So I apologize for that. Okay, we'll move on. Our first subject for tonight is the 2021 Planning Docket Work Session. Mr. Gill, please go ahead.

Mr. Gill: Good evening, Commissioners, and thank you for taking this extra bonus meeting, extra meeting here to talk about the docket and the Shoreline Program. I've got a few slides here to kick us off. Here we go. So tonight we are going to talk about the remaining items on the 2021 docket that we did not cover in previous meetings. Remember, this is part of the annual docket. And you all, the Planning Commission members, were provided a memo on each of the items we're going to discuss tonight that has quite a bit of detail in it. I'm not going to get into all that detail tonight, but it is there for you for your background information. If there's members of the

public out there that would like to look at that memo, it is available on that website that's shown on the screen there, skagitcounty.net/planningcommission under Agenda items. And this is Work Session 2 in that we had the first work session in July where we covered the first half of the petitions for the annual docket.

And just a little bit more on the process here. Starting at the top of the circle, we introduced all the applicants. There are 18 applications for the docket to the Board. In the spring those were introduced to the Board of County Commission. The Department made some recommendations on those petitions and we heard testimony from the petitioners as well. We held a public hearing, and then in May the Board established the 2021 Docket with 12 petitions on it. And now we are at the bottom of the circle here in the red box and we are with the Planning Commission work sessions.

So tonight we are looking at three public-initiated amendments to the Comprehensive Plan and the Comprehensive Plan map. The first one is the Nielsen Brothers' amendment and rezone. The second one is the clarification on the Conservation and Reserve Development land divisions and how they function. And the third one is to briefly discuss the Fully-Contained Communities proposal.

The items on the right were discussed in July. If people want to relive that work session it was on July 13th.

So we will get started right away with the Nielsen Brothers Map Amendment and Rezone. This is the only site-specific rezone on the docket this year. The proposal is to change approximately 12 acres just east of Sedro-Woolley – the zoning – from Ag-NRL, Agricultural NRL, to Natural Resource Industrial lands. And the two kind of images on the screen there: The first one just kind of shows the location. We're looking just east of Sedro-Woolley there near Hansen Creek. And on the right that image shows the zoning in there so you can see the petitioner's site is highlighted in yellow there and it is adjacent to Ag-NRL lands. Sedro-Woolley is just across the street there and that is Highway 20 running in between. Nielsen Brothers is interested in this rezone because they're currently considered a nonconforming use and they would like to expand the current shop building and create a larger work base and other improvements to the drainage and operations layout on the site, and they cannot do so under the Ag-NRL zoning that they're in.

This image is an aerial photo of the site in yellow highlighted. The existing use on the site: You can see there's some existing Industrial Forestry equipment that's stored and maintained on the site. They are looking to rezone to the Natural Resource Industrial zone. It's generally consistent with those existing uses that are happening, which is basically maintenance, storage, and repair of logging equipment on the site. The Natural Resource Industrial designation within the Comprehensive Plan is intended to support the production of agriculture, forest, and aquatic products by allowing the processing facilities, limited sales, and limited natural resources support services. Some examples of typical Natural Resource Industrial zoning uses include sawmills; agricultural or forest industry equipment and maintenance; agricultural processing plants; and seafood processing plants and onsite sales.

There is a special requirement within the Comprehensive Plan when requesting a Natural Resource Industrial zone in ag areas or Ag-NRLs. It's intended to be an agricultural industrial park, as per Policy 3C-5.5, as shown on the screen there.

So a little broader look at the Natural Resource Industrial zones that exist in the county. The map shown on the screen, all those red dots or polygons are actually NRI zones within the county.

There's roughly 20 of them – I think under 20. And you can see the approximate project location there just east of Sedro-Woolley. This change supports a different natural resource use than ag in forestry. It is generally compatible with the surrounding uses, including agriculture and salmon enhancement. The majority of NRI designations that shows in this map actually show up near or within or directly adjacent to Ag-NRL zones and they're often – the uses are often complementary, (or) at least compatible.

And so there's a lot more detail in the memo and there will be even more in the staff report. Are there any questions on this one before I move on?

(silence)

Mr. Gill: Okay. So the next one we're looking at is looking for a clarification of the CaRD Land Divisions and the "Reserve" Function. This is applied for by Friends of Skagit County. It's LR21-02. And the request is to clarify the definition and function of Conservation and Reserve Developments – that's what "CaRD" is – within the Comprehensive Plan and the code. And this kind of – there's a few places where they're asking for clarification: in the Definitions; clarification with the relationship to zoning and the land divisions; and then the redevelopment of the reserve tract of a CaRD. And I'll get into what that means as we go here.

So first we'll start with definitions. It's the first of the three. I won't read all these. I guess I'll read the Comprehensive Plan definition of a CaRD. It is a technique of land division characterized by the placement of dwellings and accessory buildings in a pattern of development which reduces impervious surface area, lowers costs of development and maintenance, and retains larger expanses of property available for agriculture, forestry, or continuity of ecological functions characteristic of the property to be developed.

And the development code has quite a bit more detail in it, as is pretty typical with the development code in that, you know, the Comprehensive Plan is a policy document and the development code gets into the details of implementing those policies. And so they don't necessarily need to be the same – and mostly aren't – as long as they're not inconsistent with one another. So that is kind of what we're looking at here.

So the second item on the list for clarification was the relationship between CaRDs and zoning. So CaRDs are land divisions and located within Skagit County Code 14.18. It's stated there that CaRDs are an overlay permit that allows for variations in the underlying zoning regulations but are not intended as and do not constitute rezone. So they're not rezoning of the land. They kind of work in conjunction with the land division.

So zoning, what it does – it does many things obviously, but just basically it establishes the allowed density within the CaRDS. It establishes what uses and accessory uses are allowed. And specific only to CaRDs, it establishes what the open space designation of the reserve tract is supposed to be – or *can* be, I should say. So just to back up a little bit, the CaRD land division is looking at clustering the development of the lots into a smaller footprint than the entire parcel. And so what you end up with is you get the houses closer together and you create then an open space tract. And that's part of the requirement of the CaRD, is to create that open space tract. And then each open space tract has a specific designation as to how it is being used. And so the zones play into that. Some examples of what types of open space designation are allowed in Rural zones includes Open Space-Rural Open; Open Space-Urban Reserve; Open Space Reserve; Open Space Recreational. Within the Natural Resource zones of the county, a different open space designation is allowed – Open Space Natural Resource Lands, right? Also Open Space

Protection Areas, Open Space Reserve. So the zoning helps establish what that reserve tract is being used for; what uses are allowed; what is the density that can be derived or how many building units can be derived from that subdivision.

So in order to kind of look deeper at this question about zoning in the open space tracts, we did some analysis, and our intern Daniel helped us do this. We were able to look at 155 of the 182 total CaRDs that have been allowed or approved since 2000. Right? So it's a huge sample of what we have. Not all of them because some of them aren't scanned and they're not available without digging pretty deep, but we got 155 of them. And we looked at what the open space designation of the reserve tract was, and that's what this table shows, right? So this analysis is useful for understanding how those open space tracts are being used. Looking at the top one, the OS-NRL, that's the Open Space-Natural Resource Lands, there's a sum of about 1357 acres that are in Open Space-Natural Resource Lands reserve of the total 59 building lots that came out of those land divisions. So that's a pretty good number protected under Natural Resource Lands, and those have covenants on them.

Open Space Protective Areas is usually reserved for critical areas – wetlands, streams, that kind of thing – wildlife habitat, as well as historical sites, I guess. So that comes in second as far as how those, you know, reserve tracts __. So 1133 acres of 116 development units that were built.

And then we can go down – you can see how these other ones – the Recreational, the Rural Open were used – 600 and 700, respectively, acres. And this is – then the next two is really where it comes down to understanding whether that reserve tract can be further developed. And so what we found with the Open Space Reserve, or OS-RSV, there's about 134 acres in that that are reserved for future development potentially. Of the Open Space Urban Reserve there's only 61 acres, so a very small part of the total 4200 acres of the reserve tracts that we're looking at here.

And so that's where I want to go from here, is to talk about the redevelopment of the reserve tract because that seems to be the main or one of the main concerns here with the petitioner. There's two Open Space designations in the code that allow for the future development of that open space lot. The Open Space Reserve, OS-RSV, and the way that one's used is if someone was to come in and they had 10 development units that they could get out of subdividing their property and they only want to create three actual development lots on their subdivision, they could put the rest of those development units in that reserve tract and hold it off for the future. It doesn't require any rezoning or anything like that. It just says, Hey, I had all these development units. I didn't want to do all that. I only wanted to create two more so each of my kids could have it or have part of the place they lived on. That's how that OS-RSV is used, and that doesn't seem to be an issue.

The second one, or the second instance when you could redevelop the open space tract is this Open Space-Urban Reserve. And this one allows for future development when an area's actually rezoned. And so this only applies within the Rural Village Residential zone, the Rural Intermediate zone, or the Rural Reserve, and *only* when those areas are located adjacent to either an Urban Growth Area or an Urban Village or LAMIRD. And so that is kind of where, I think, our review or our additional analysis is focusing on that Open Space-Urban Reserve and how that works with the goals and the policies of CaRDS.

And so a little bit more on the Open Space-Urban Reserve: This map shows where that OS-UR can be assigned to that open space tract. It is either within a quarter-mile of a Rural Village, which is shown in blue on the map. I see some here – Clear Lake, Big Lake, Cavanaugh, Edison, places like that. And then there's within a quarter-mile of an Urban Growth Area, and that's shown in green.

And so that – you know, the proximity to the Urban Growth Area makes some sense because those Urban Growth Areas do expand and they are allowed to by state law. So we're focused now on the blue areas, the areas adjacent to the Rural Villages.

And so I guess that's where we are here with this slide. We're talking about that OS-Urban Reserve designation and should it be allowed adjacent to Urban Villages. And I guess let me explain that a bit. Because in the OS-UR the ability to redevelop the reserve portion of the CaRD rests with the ability to become part of the Rural Village or the Urban Growth Area. And I think it's clear you could become – the Urban Growth Area can grow and kind of consume that parcel and then it does make sense to redevelop that reserve tract – right? – for urban densities. That's what we're supposed to be doing in the cities.

When it's adjacent to a Rural Village, it's harder to see how it makes sense because, one, you're not allowed to expand Rural Villages because they are a what's called a LAMIRD, or a Limited Area of More Intense Rural Development. And those were areas that had density that would be considered not rural in 1990 when the Growth Management Act went into effect. Right? So those aren't allowed to expand. And so I'm not sure where or how it would make sense to allow that open space tract to somehow think that in the future they will be able to get additional density on that rural tract. But that's what we need to look into deeper. And that is – that is – would require – if it was to be allowed, it would require a change to state laws as they currently exist. And I don't know if you all were part of the review, but in the case actually earlier this year, there was a petition to rezone one of these OS-URs near Clear Lake, and that one was actually denied because it would have been illegal because they would have been expanding that Rural Village Residential zoning, which isn't allowed to be expanded.

And so just to provide a little bit of context around this, our analysis showed that there's actually only three tracts in all the CaRDs that have been developed since 2000 that have this OS-UR designation. And I'm not even sure which ones are adjacent to Rural Villages versus Urban Growth Areas. So whether it's an issue that needs to be resolved or not, I'm still not quite sure.

So that is what I have on this petition on the CaRDs. If there's any questions, I'd be happy to talk you through it. There's a lot here, you know. CaRDs are in themselves pretty complicated and then when we start talking about the Open Space designation on the reserve tract it seems like, you know, it's easy to gloss over pretty quick!

Chair Raschko: I have a quick question. I'm a little bit confused in that reading the document it stipulates being within a half-a-mile, and I never saw the word "adjacent." But you're using the word "adjacent," which maybe I'm misunderstanding, but I thought "adjacent" meant touching. And the way I read this, it has to be within – well, it's a quarter-mile, I guess.

Mr. Gill: Yeah –

Chair Raschko: But I was inferring that it didn't necessarily have to be touching the Urban Growth Area or the Rural Village.

Mr. Gill: Yeah, you are – you're correct. That's probably better language. It's not – you don't have to be touching. You just need to be within that quarter-mile of that Rural Village or the Urban Growth Area. So, yeah, that's good clarification.

Chair Raschko: Okay, thank you. Any other questions?

Commissioner Joe Woodmansee: I have a question.

Chair Raschko: That's Joe. Go ahead, please.

Commissioner Woodmansee: Peter, do you know what the average lot size is of the units that were developed, the 500-and-whatever units that were developed? Did we analyze that at all?

Mr. Gill: We didn't but we might have that in our spreadsheet because we did record the acreage, I believe, of all of the land divisions and then we did the acreage of the reserve tract, so it would be just a matter of separating those out and we could probably get you pretty close anyway. I'll look at that.

Commissioner Woodmansee: Yeah, sure. Well, on the surface it looks to me like that's been a pretty successful program. That's a lot of open space compared to the number of lots, and so it seems to me like overall this program's been very successful.

Mr. Gill: Yeah, I think there's – you know, it's a bit eye-opening when you look at these all cumulatively and look at those numbers. It's pretty significant.

Okay, we'll continue on and talk about Fully Contained Communities. This is LR-20-04 proposed by Skagit Partners. And the petition would amend the Comprehensive Plan to establish criteria for consideration of a new Fully Contained Community consistent with the Growth Management Act, RCW 36.70A.350. The petitioner approval included amendments to the development regulations as well as the Countywide Planning Policies, and the Board of Commissioners did not include those amendments in the docket. So if you are out and you're looking at their application, it includes all three of those things and, yes, those three things would need to be looked at and amended in order for this to go forward, but right now we're focused on only the changes to the County Comprehensive Plan.

What is *not* proposed?

A project-specific fully contained community is not proposed by these amendments. It's looking at policies, right?

Amendments to population allocations to the cities. We're not looking at amending any changes to those. This one will look at adding additional population growth within the county and we would be looking at only the population growth outside of that 80/20 urban to rural population allocation policy that's in the Countywide Planning Policies where 20% of the growth is set up to be in unincorporated county.

We believe that more study is definitely needed to kind of look at the overall impacts of a new urban community within Skagit County. We got nearly 700 comments through the docketing process that point to, you know, looking at potential impacts to the environment, to natural resource lands, to traffic, to utilities, to everything else. So with that, we are looking at going through the environmental impact statement process with this, and that would take this petition on a different path than the other petitions in the 2021 docket. And so a Planning Commission recommendation and public comment on this petition would be sought through the environmental impacts review process and not as part of this 2021 docket review. And I think that was – that's the main thing I wanted to kind of talk through or make sure that all the Planning Commission members are understanding at this point.

We have a lot to figure out as well as how this whole process would work, and so we require a lot of good information before we can do it, and that is part of the reason for this study. How much development can we expect in unincorporated county as it currently stands? What locations would be safe from natural hazards? We're looking at all the floods that are happening right now. Are there suitable locations for a new urban development in the county? We don't – we haven't looked at that yet. Would a new area – how it'd affect salmon, clean water, hydrology, flooding we just talked about. What are the impacts as compared to the existing pattern of growth, right? That is something that could be explored through EIS. And if there was an Urban Growth Area, a new Urban Growth Area, would that do anything to slow the existing growth in the unincorporated areas? We need to get more information on that. And how would the proposal, or its alternative, impact transportation as well? So there's a lot of unknown questions out there – unknown answers, I guess – and lots of questions.

Additionally, you know, going through the EIS process would help us with the community involvement – facilitating that public outreach and that review. It will help us look at the likely impacts and it would be integrated into our Comp Plan Amendment process since we'd still be looking for feedback with the Planning Commission on a recommendation at the end of the EIS process.

We'd be looking at alternatives as well. But all this does require time, so we'd be looking at least another 12 months before we had a recommendation on this petition.

And so just to let you know where we're at right now: We are bringing a consulting firm on board that has experience with EISs. Looking at the scoping process in January, hopefully – if not January, February – to kind of look at what are all the likely impacts that we should be looking at. And it'd kind of help us design a dialog about growth and the future of growth in Skagit County.

So I didn't go into much detail there but I just wanted to mainly talk about how that review process would happen and where that would happen, and we would go through the SEPA process for impacts. So any questions?

Commissioner Mark Knutzen: Peter? This is Mark Knutzen. I have a question.

Mr. Gill: Yes?

Commissioner Knutzen: You mentioned that the proposal would *not* change the 80 to 20 urban to rural split on the goal of new growth. Is a fully contained community considered rural or urban?

Mr. Gill: It would be considered urban.

Commissioner Knutzen: Urban. So essentially it would be outside of an area that's now in a city. It's an area that now would be, by definition, rural.

Mr. Gill: Yes.

Commissioner Knutzen: So we would be converting an area somewhere from rural to urban and that would be part of the 80% future growth.

Mr. Gill: That would, yes. That's correct.

Commissioner Knutzen: Okay. Thank you.

Commissioner Kathy Mitchell: Peter? This is Commissioner Mitchell.

Mr. Gill: Yes.

Commissioner Mitchell: Would you be so kind as to post your slides on our archive page from this?

Mr. Gill: Yes, I will post slides.

Commissioner Mitchell: Thank you.

Chair Raschko: Any other questions?

(silence)

Chair Raschko: Okay.

Mr. Gill: All right, so let's get into the County-initiated proposals. I've got three more for you. These are a little less complicated, at least in my head.

So the first one to discuss is the 2020 Comprehensive Parks & Recreation Plan. On February 3rd, 2020, the Board of County Commissioners adopted the 2020 Parks & Rec Plan. The proposal here is to incorporate this 2020 plan by reference into our Comp Plan. We currently reference the 2013 Parks & Rec Plan and so this is just updating that from 2013 to 2020. This plan does not become a chapter in the Comprehensive Plan. It is separate and it is referenced in the Comp Plan as a functional plan. But consistency is required. And so also in addition to incorporating the new plan by reference is to talk about the consistency between the zoning and the park classifications.

Currently right now there's about 14 parks in zones that do not support parks. And I'm just talking about *County*-managed parks. And so looking at amending the allowed uses in the zones to allow for the parks is something that we will present. By adding the parks as a permitted use, it would allow Skagit County Parks & Rec to make upgrades, such as building safety upkeep, infrastructure expansions, and ensure that the park continues to meet the needs of the community. And this could be done in a number of different ways. A few of these are presented on the screen.

- They could be added to all zones
- It could be added only where we have existing language in the Comprehensive Plan that references parks and recreational activities, and that would include Rural Reserve, Rural Village Residential, Urban Reserve Residential, Industrial Forest, Secondary Forest
- Another option is to allow in all zones the parks that already exist pre-2020 or 2021.

So there's a number of ways to get better consistency there between what's happening on the ground and what's allowed in the zoning code.

That's all I have on this. Were there any questions on this one?

Commissioner Woodmansee: I have a question.

Mr. Gill: Yes?

Commissioner Woodmansee: The way it's set up right now, what stops us from doing upgrades and maintenance related to upkeep and safety and stuff?

Mr. Gill: Yeah, so it would be considered nonconforming, and so we could do some upgrades and repairs. What we couldn't do is we couldn't expand, we couldn't create a new shelter – that kind of thing – put in a new dock.

Commissioner Woodmansee: So it's not that we can't maintain what's there, it's really more related to growth – you know, park expansion and growth.

Mr. Gill: Yes, yes.

Commissioner Woodmansee: Does it affect the ability to get grants if it's a nonconforming use?

Mr. Gill: That's a good question. I think part of the grant process – I don't know that much about parks, but part of the grant process is related to the type of park it is and who accesses it. Is it a regional park? Is it a local park? That kind of thing. But that is something I can follow up with Brian Adams on, whether that's an issue.

Commissioner Woodmansee: Yeah, it seems like you wouldn't want to have an impediment to being able to get funds that were available because of a, you know, basically a clerical issue on zoning.

Mr. Gill: That's right. I'll have more information at the next meeting.

Okay. The next one is talking about Reduced Front Setbacks to Include the Class 19 Roads only within the Bayview Ridge Residential zone. And that Bayview Ridge Residential zone is shown on the screen there. That's just off of Highway 20. This is – the airport is just off to the left of the screen, for those that are not familiar. It's a fairly small area. It has a mix of different Class 9 and Class 19 roads in it. They're all considered local access and only the local access roads would be allowed this to have a smaller setback. Currently the setback on the Class 19 roads is 35 feet, but if it's a private road or if it's a Class 9 road it's only 20 feet. And so there's kind of a mixed match of setbacks within the area and this would help provide some consistency within just this zone for that.

Are there any questions on this one?

Commissioner Martha Rose: I have a comment. And that has to do with – well, I guess it's kind of surprising that the setback is 35 feet to begin with. Is there a reason?

Mr. Gill: I don't know the entire reason. I know that there have been a number of – I wouldn't say "variances" because they're not variances but exceptions to that 35 feet. When a CaRD is done – and I don't know that there's a CaRD that 20 feet is allowed, and so that has come up as that sometimes has been done. But I can get more information on why it originally was. It may have something to do with where Class 19 is in other places. And so in some places it may make more sense.

Commissioner Rose: Okay, thank you.

Mr. Gill: Okay. And then we've got one more, and this one has to do with Pre-Development Meetings. We have two different meeting options with project applicants here at the County.

People can come into the County to get feedback on their, you know, feasibility of their projects. And this change, what it would do is it would allow – there's two types of meetings. Sorry. Let me back up. There's a pre-application meeting and there's a pre-development meeting. And the pre-application meeting is intended to be far more detailed and it actually has a cost associated with it that can be recouped if somebody does turn in a permit. The pre-development meeting does not have a cost associated with it but it is a little bit less formal. And so this proposal would amend Section 14.06.080 to make a pre-application meeting *optional* – right now it's required – and the pre-development meeting required. Currently most applicants take advantage of the free pre-development meeting with staff and then they forego the pre-application meeting, and then would get a waiver to that pre-application meeting. And we feel that it would make more sense to make the pre-development meeting required. It's free. That's what most people want to do anyway. And then they could opt for a pre-application meeting to get more details, more solid plans, solid feedback, custom recommendations from staff on how to proceed with their project. And just also you should know that neither of these are required for administrative interpretations, administrative decisions, variances, or anything that doesn't require SEPA review, like a single-family residential home. So they're not required in those cases. Many people still opt to do them so they can understand what's in front of them.

Are there any questions on this one?

(silence)

Mr. Gill: Okay. We've got two more slides to wrap this up. So back to the spinning wheel here, here we are at the bottom with the Planning Commission Work Sessions. We'd like to have another work session with you December 14th and then go right into a hearing on January 11th. And that would be consistent with the environmental review and the public notice and everything else – to allow for deliberations then in February over the different proposals. And just so everyone knows – you all probably know, but the public's out there – there are many other things available to look at these different petitions. There's the petitioner applications. There's our memos to the Board of County Commissioners and recommendations. There's all the public comments that came in through the docketing process. And then there's also the Planning Commission memo back in July and work sessions that we had in May and then July again. And those are all available at that URL on the bottom, skagitcounty.net/2021cpa.

And that's all I have. Thank you.

Chair Raschko: Thank you, Peter. Are there any last questions involving the docket?

(silence)

Chair Raschko: Well, okay. Hearing none, we'll move on. We'll turn to the Shoreline Master Program Deliberations. I believe we still have left on our plate a list of Department recommendations that are based on public comments, and then we have – we're to complete our actual recorded motion. I suggest we start with the Department recommendations, discuss them, and see if any of those are wished to be included in our recorded motion. Are there any other thoughts?

(silence)

Chair Raschko: Okay. So is it possible to bring that up on the screen, Peter?

Mr. Gill: You bet.

Chair Raschko: Thank you. Okay, thank you, and I'd appreciate it if we'd use the Chat Box if somebody wishes to speak. There's four items. The first one is on Lighting, and this was talking about directional sign lighting. And the recommendation is that directional sign lighting must be directed away from critical areas unless necessary for public health and safety. Outdoor advertising may not move or fluctuate in lighting or position in any manner.

Is there any discussion on that recommendation? Commissioner Mitchell?

Commissioner Mitchell: Yeah, I thought I'd make a motion to get the discussion going. I move that we accept the language as written to add the following sentence through to the final – without reading the whole thing.

Commissioner Rose: I'll second that.

Chair Raschko: It's been moved and seconded to accept item number 1 on Lighting. Is there a discussion?

(silence)

Chair Raschko: Okay, no discussion. We'll move to a vote. All those in favor of the motion, please say "aye."

Multiple Commissioners: Aye.

Chair Raschko: Against, you'd say "nay."

(silence)

Chair Raschko: And is anybody abstaining?

(silence)

Chair Raschko: Okay, so that passes unanimously. Wow. Okay. The second item is on Critical Saltwater Habitat, and the recommendation is add the definition from WAC 173-26-221(2)(c) for inclusion in 14.26.820. Definition: Critical saltwater habitats include all kelp beds, eelgrass beds, spawning and holding areas for forage fish, such as herring, smelt and sandlance; subsistence, commercial and recreational shellfish beds; mudflats, intertidal habitats with vascular plants, and areas with which priority species have a primary association.

Is there any discussion on number 2?

(silence)

Chair Raschko: I might be misinterpreting the Chat Box, but Commissioner Mitchell, did you wish to speak?

Commissioner Mitchell: Yes, thank you. No, you're interpreting it right.

Chair Raschko: Okay.

Commissioner Mitchell: I move that we accept the language as written to add the following definition – through to the end.

Commissioner Henley: I second.

Chair Raschko: It's been moved and seconded to accept number 2 on the Department recommendations list, the Critical Shellfish Habitat definition. Is there further discussion on this item?

(silence)

Chair Raschko: Does anybody feel it's too all-encompassing?

(silence)

Chair Raschko: Okay.

Commissioner Mitchell: Hold it, I've got a question for Betsy.

Chair Raschko: Go ahead, please.

Commissioner Mitchell: Betsy, this – it says it is the definition from the WAC, and is that already included in the critical area habitats?

Betsy Stevenson: It's not anything that we brought over from the critical areas ordinance, if that's what you're asking.

Commissioner Mitchell: Yeah. So it's solely from the definition from –

Ms. Stevenson: Yeah, 173-26 is part of the Shoreline Management Act guidelines.

Commissioner Mitchell: And can you tell me what year that was?

Ms. Stevenson: When it was put in there?

Commissioner Mitchell: Yes, ma'am.

Ms. Stevenson: I don't know off the top of my head.

Commissioner Mitchell: Ballpark maybe?

Ms. Stevenson: Nope. Not on the record. Thank you very much!

Commissioner Mitchell: All right, thank you.

Chair Raschko: Is there further discussion to be had?

(silence)

Chair Raschko: Okay, then. All in favor of the motion, please say "aye."

Multiple Commissioners: Aye.

Chair Raschko: Those opposed?

(silence)

Chair Raschko: And abstentions?

(silence)

Chair Raschko: So that passes. Thank you. Number 3 on the list is Archaeological Resources and the recommendation is add a policy to 6H, Historic, Cultural, Scientific, and Educational. 6H-1.3 In order to avoid potential conflict or adverse impacts to archaeological, historic, or scientific resources, proponents of shoreline development or use near such areas should be advised to contact state and tribal authorities for early coordination. Is there discussion?

Commissioner Woodmansee: I have a –

Chair Raschko: Okay, I see on the Chat Box Commissioner Mitchell wishes to make a motion, and I heard Commissioner Woodmansee. I don't know who was first.

Commissioner Mitchell: I think technically Woodmansee is.

Chair Raschko: Okay, go ahead please, Joe.

Commissioner Woodmansee: I apologize for making the noise and not using the Chat Box. My question is for staff and it is: Is there a map or some sort of information that already identifies these type of areas? Like, is this a known area that we would be recommending?

Ms. Stevenson: Not always. The State Department of Archaeology and Historical Preservation does have some system that if you register and get approved you can get in there and look around and they will tell you if, you know, one of the areas that you're looking at is an established site and something that they do have identified and described. Other places keep those fairly close to the vest these days because they have run into some trouble with vandalism and just disrespectful practices in those areas. So the state does keep that information so you can find it, but a lot of times we require somebody do a survey or some sort of reconnaissance just to see if there may be something on the site above and beyond what's already been classified and identified.

Commissioner Woodmansee: So as a follow-up, do we envision that we would as a Department – not that I'm part of it, but – as a County that we would advise people of this issue in the areas where we actually know that there – a potential exists? And then beyond that, it's – past that, it's more of a who reacts to an application situation if it's unknown?

Ms. Stevenson: We usually, if it's a lot of shoreline areas, historically may or may not have been used, especially along the rivers and the marine waters. The people that I've dealt with in some of the cultural resources areas of expertise kind of indicate a good rule of thumb is to assume something is there. And we've had situations where we *haven't* recommended that people contact either the tribes – their cultural resources folks – or somebody from the State Department of Archaeology and Historic Preservation, and they've gotten through our processes and then all of a sudden, Oh, you're going to have to do a cultural resources survey on your property. And so we're trying really hard to identify – like Samish Island along the beach on the north side. We've

had – not everything is, but we have had several lots in there identified with something. So that's to say, Hey, some of your neighbors out there have run into some things on their property when we've asked the questions and people have gone out there to take a look, so we recommend that you contact somebody from the State and/or the local tribes and find out early in your process before you have a lot of money in either excavation or construction or that sort of thing. Because a lot of times they just don't want it dug up and disturbed, so if you're – you know, if you put a slab foundation in or things like that, sometimes that's okay. But it's just good to find that stuff out ahead of time. And we don't have anybody on staff who has the expertise or the qualifications to do that work. So we try to do this as a courtesy now because we have gotten criticized for, Why didn't I know about this long before I applied for my building permit or long before we started construction or whatever else. So somebody did make the comment that we should at least address archaeological resources in some way and so this is where we thought would be a good place to add this language. Just give them early notice and follow up. And I know at least the tribes always ask for that. The sooner that we know somebody's got something in mind somewhere the better, and then we can talk to them about what they want to do and work with them on designing their project or designing or construction practices or whatever else, whatever they need to see, if they want somebody to be out on the site and be able to observe during certain times of construction and that sort of thing.

Commissioner Woodmansee: One last follow-up. So basically if something's happening on a shoreline that's within this SMP, we're basically going to be saying to an applicant, Hey, you need to check into this, pretty much as a standard part of our conversation. Is that correct?

Ms. Stevenson: Yeah.

Commissioner Woodmansee: Yeah.

Ms. Stevenson: Mm-hmm. So this is just in the Policy section, so we're just recommending –

Commissioner Woodmansee: Right.

Ms. Stevenson: – that you do it. It's not the regulatory part.

Commissioner Woodmansee: Sure. Okay.

Chair Raschko: Thank you, Joe. Commissioner Mitchell's next and then – ah, and then Commissioner Henley and then Commissioner Candler. So please go ahead, Kathy.

Commissioner Mitchell: Well, I think it does look like anything that's in the Shoreline Management area could fall under that bill and an awful lot of the state could, too. So I don't know. I'm not real sure by putting this into the Policy how that'll really impact things. I'm just still thinking about this. That's all.

Chair Raschko: Okay, Commissioner Henley?

Commissioner Henley: Yes. It's possible that Ms. Stevenson answered the question, but it almost appears to me as if what you've done is add an improvement level – an approval level from the tribes for every application. I mean, if I read this right, it sounds to me like you don't go forward without the agreement of the tribes. Is that what we're actually saying here?

Ms. Stevenson: Well, if you're asking me, no, I don't think that's what we're doing and it wasn't the intent. It's just to get those folks in contact early on so that they can have the discussions with the applicants and they can share their either concerns or say, Hey, your site is fine. Please go forward as planned. But there are some burial grounds along shoreline areas. There's lots of different things that happen in those areas and it's just good to know ahead of time if somebody's proposing to do something before it gets exposed during construction practices.

Commissioner Henley: Okay, I'm still a little wary of it but I guess we should go forward.

Chair Raschko: Commissioner Candler?

Vice Chair Candler: Thank you. I am just still trying to flesh this out. So when you say "advise," you could just say it's a good idea to advise somebody, which is what I hear you saying, that puts them on notice there might be issues and that they don't want to wait to the last minute. But what does that mean? Like, if they go to the tribe and they don't hear anything back or – I mean, is there some requirement at some point that they report back to the Department and say the tribe sent me a letter that I'm good to go, or, I mean, is there any follow-up? What does this really mean?

Ms. Stevenson: At this point, we didn't take it that far. We're just indicating that we would advise people that we're talking to that it would be a good idea for them to contact. We do that with other things too, because they have their own review processes and requirements that would be running either on a parallel track or something that doesn't necessarily impact – we wouldn't hold up our permits. We don't have any authority to hold up our permit based on what's happening there. The SEPA process talks about cultural resources, so we're supposed to, you know, take a look at them and consider them. So this is more just to kind of encourage *our* staff to go ahead and advise people early on in the process that, Hey, you ought to get hold of somebody from the State and you ought to talk to the tribes, depending on which – mostly it's all the tribes with cultural resources of some sort – and just see if any of them have some concerns about what you're proposing. But we wouldn't ask them for a letter. We're not asking for, you know – we're not holding up our permitting process based on whether they get a yea or nay.

Vice Chair Candler: Okay. So what – I guess I'm just wondering – so what – if they don't do this, you mentioned something happens later – it *could* happen later. What is that that happens later and they find out at the last minute they need – what is that that they need? They need something that – I guess I'm trying to figure out where or when this becomes an issue that would have been better to know in advance. At what stage.

Ms. Stevenson: Yeah. Well, both the tribes and the State have regulations and requirements for how to deal with, identify, protect, excavate, and move, bury further – you know, or whatever they need to do, depending on the situation, which doesn't really have anything to do – and I'm talking mostly cultural things now; historic stuff, a lot of those are buildings or different things that they would need to protect or that sort of thing that may be on their site. But in terms of the cultural resources, there's a lot of different things that they may or may not require them to do, but I think the applicants need to know before they design their – if it's a building – their foundation work, anything like that, the way they decide to build on the property. Or if, like I said, along Samish Island, we have lots sitting right next to each other. One is, one isn't – you know? But there are several along there that have been identified by either the State or one of the tribes, saying Hey, there is something there and here's what we want you to do. So it's just a certain type of construction practice or they want to be on the site if they are excavating a foundation just so that they can monitor and see if anything is excavated out of there. But it's not something that we have

any either authority over or reason to be involved in. That's kind of between the landowner or the applicant, and either the State or the tribes to kind of do that work. What could happen is if we don't pay any attention to any of these resources and we issue our permits and they start building and somebody comes out and says, Hang on. You know, that's an area that you shouldn't even be doing this work. Then it becomes a bigger deal for everybody than just having the conversation before you start.

Vice Chair Candler: Right. So the idea is that this just kind of puts that on the Department to just kind of try to make people aware that this could be an issue.

Ms. Stevenson: And it _____ an opportunity when people say, Well, why do you guys care? Well, we've got this policy. We just want to let you know. Like in a pre-development meeting: Hey, we've run into these situations and we know there *are* some sites out in that area. You should contact and give them, you know, the information of the different cultural resource folks from the tribes or somebody from the State to reach out to and just get their questions answered.

Vice Chair Candler: So I guess my only concern is just, you know, if everybody's going to read this the same way. The word "advised" could be read, you know, a lot of different ways. I think the way you're describing it is a *good* thing, but, you know, that's almost like being directed or, you know, what – I just don't know if this can be read different ways. But I appreciate the information. Thank you.

Ms. Stevenson: I guess for me it's just an early notice, if that's an easier way to – but this is one that we didn't talk about again so that's why I put it in here. I went back and read through all the transcripts and this isn't one that we discussed again after it was presented during the public comment responses that we read through for you guys. So I just wanted to give you a chance to either include it or not. If you're not comfortable with it, I'm not – I'm not suggesting you do. It will still come as a staff recommendation and something that we're responding to one of the public comments and concerns.

Vice Chair Candler: Right.

Ms. Stevenson: But I just wanted to make sure that you guys – since these are the ones that I didn't really hear anything clearly one way or the other.

Vice Chair Candler: Thank you.

Chair Raschko: Okay, we have coming up Commissioner Rose, Commissioner Hughes, Commissioner Woodmansee, Commissioner Mitchell, but Director Hart has requested some – he may have something to say that would preclude the other questions. So if you'd please go ahead, Hal.

Hal Hart: Yeah. I think that probably the best reason, in my experience, for what Betsy's talking about – and this is to Tammy and to the Planning Commission – is that if you're in an area like this that you don't want to have a – you don't want *your* work to stop. I've had commercial projects that have been held up for months and lost millions of dollars because of the stop work that had to occur because of the cultural artifacts – a great number of cultural artifacts, in a couple of cases – and had they done the pre-screen upfront in those areas they would have avoided those costs or those losses for – both in Whatcom County – if you're anywhere around Birch Bay or if you're at Point Roberts, anything in that area – the County worked with DAHP – the State Department, and created a predictive model. The whole idea was to save you time and money that – and the

way that it works, if there are a lot of fines – just kind of what Betsy just said – if there were a lot of fines in that neighborhood, then the likelihood of having fines on your property goes up dramatically. And so we want to let people know, without being *too* specific, that they ought to do that scan and do that ahead of time so it doesn't cost them more, Commissioners. Thank you.

Chair Raschko: Okay, Commissioner Rose, please.

Commissioner Rose: So there's a term called "due diligence" that every developer understands. And it's this very thing, where you – it's your job as a developer to look into every possible agency that might expect something from you. And if I was developing in one of these areas, I would be grateful for being advised to check this one, because I wouldn't have thought of it. You know, you think about sewer and water and road improvements or whatever – impact fees. You have this whole list of things that are part of the due diligence process, and this is kind of a curve ball. So I actually think this is a great idea to add this little piece of advice – Hey, before you purchase the property, before you design and build, this is one piece of your due diligence is to contact this agency. Any rate, I just wanted to mention that because it's kind of a normal part of the development process, is to reach out to every possible caveat that might be out there that will affect your process. That's all.

Chair Raschko: Commissioner Hughes?

Commissioner Amy Hughes: Betsy, I have a question. Do we know what our adjacent counties – how they deal with this?

Ms. Stevenson: No, not off the top of my head.

Commissioner Hughes: Okay, thank you.

Chair Raschko: Commissioner Woodmansee.

Commissioner Woodmansee: I can answer Commissioner Hughes's question as to the City of Arlington, that I'm sitting at my job site here tonight. And we have a 20-acre site and we were asked to do a reconnaissance for any type of artifacts and stuff. And the size of the project that we have here is fairly large and so you wouldn't – I mean, it would be cost-prohibitive to get partway into the project and then get stopped because you did find something. So we did a grid and dug holes every – I don't know, every 50 to 100 feet in this grid. In our case, they didn't find anything. But it – so I know that's south and it's a City thing here, not a County, but we were required to do it as part of our permitting process. And I would echo what Commissioner Rose said. It's just – today it's part of due diligence and it's, you know, in particular if you're anywhere near somewhere where there could be an issue – and most of the time they don't stop you. They just have – they want you to deal with it in certain ways. They're not trying to stop your project but they want their, you know, items to be dealt with respectfully. And so it's pretty common and it's – I wouldn't move forward with any kind of a – any size of a project without doing that in a potential area that would be like that. Because if you get stopped, it's a big deal all the way – I mean, it's just a big deal if your project gets stopped. If you _____ you do everything and then you find something, it's much smoother to go through that process than it is to try to figure out what you already dug up and they don't know about if you didn't do the stuff early. And so I think it's a good thing, not a bad thing.

Chair Raschko: Commissioner Mitchell.

Commissioner Mitchell: Yeah, you know I appreciate everything that everybody's asked and said so far, especially the two Commissioners in the business. Hal, one of the terms that you used was "prescreen," and I think I'd like more advice from you, if possible, because, again, I'm not in the industry so I don't understand what the norm is. I do understand that things can be stopped for good reason. But the prescreening and what would go on between other parties and things like that seems like that's a big deal if it ends up going down that path. And I'm wondering why this would even be in this part to come to us. This sounds like policy language that would be suggested putting in here by us that's at a much higher level – pay grade level, if you will – than ours. I don't understand why this would come to us instead of going directly to the Board of County Commissioners, in other words. I would – I think what I'm stumbling around saying is I get what everybody's saying but I don't see how this is our purview.

Mr. Hart: My response – yeah. I'm sorry. Commissioner – through Tim.

Chair Raschko: Go ahead, please, Hal.

Mr. Hart: Yeah. I would say that what we want to make sure is that the process is easy for the community to access and get to build on their property. And anything that we can do to make that – you know, to enhance that process, including – in this case, it's really just providing information. Where do you find the resources if you're in an area like that? You can call – I'm at the Department of Archaeology and Historic Preservation website right now. I was just at the website in Whatcom County. When I was the director at Whatcom County we had several people on staff that had been trained to assist in that process. We don't in our community, but it just depends where you are. And what we always tell people is to go and hire a consultant, and we had a list of active consultants in the area, if someone asked. We weren't saying use that consultant. We just had them available if anybody wanted to know. And we were just trying to aid the process as it moves forward. And we always told them to contact local tribal officials as well.

Commissioner Mitchell: Okay –

Mr. Hart: It's just information.

Commissioner Mitchell: Thank you. I really appreciate that. But all things considered, I think my position at this point is – Betsy, I'm sorry to say this, but I think – I don't think this should be under our bailiwick. I think this should be run through the Board of County Commissioners first. So I think that's where I'm sitting right now, but thank you.

Chair Raschko: Okay. I think we need to come to a decision, unless somebody has something new to bring to the conversation.

(silence)

Chair Raschko: So does anybody wish to entertain a motion?

Commissioner Rose: I'll make a motion to adopt this item about archaeological resources and to add it to our list of recommendations.

Chair Raschko: Is there a second?

Commissioner Hughes: I'll second it.

Chair Raschko: Okay, who seconded it?

Commissioner Hughes: Commissioner Hughes.

Chair Raschko: Okay. Thank you, Amy. It's been moved and seconded to accept the additions under 3, Archaeological Resources. Is there any more discussion? I'll say one quick thing. This was – became part of the requirements in the forest practice industry. I mean basically every place you wanted to operate had a review and nobody was ever unreasonable, in my experience. There might be horror stories out there. But as others have said, you're so much farther ahead of the game to get these things figured out in advance than to have them come to you later when you're already in the middle of something. And for that reason – and the thing is just advice rather than a mandate. I don't think it's unreasonable to include this. Are there any other comments?

(silence)

Chair Raschko: Okay, so all those in favor, say "aye."

Multiple Commissioners: Aye.

Chair Raschko: Those opposed?

Commissioner Mitchell: Nay.

Chair Raschko: And abstentions?

Commissioner Henley: Commissioner Henley abstains.

Chair Raschko: Okay, so that passes. Thank you. So let's move on to the last one, Critical Areas. The recommendation is adjust the review distance to determine presence or absence of critical area indicators to 300 feet throughout Part V.

Is there any discussion on number 4?

(silence)

Chair Raschko: Okay, there's no discussion – or did I miss something?

Commissioner Hughes: This is Amy – Commissioner Hughes.

Chair Raschko: Go ahead. I'm sorry.

Commissioner Hughes: May I ask a question?

Chair Raschko: You may.

Commissioner Hughes: Thank you. Betsy, could you review to me the 300-foot being proposed? It seems to me in my recollection we've had different amount of footaging as it relates to different things. Could you just give me a review on all of the different feet?

Ms. Stevenson: Sure. One of the comments that we got indicated that we should be consistent in our review distances and we aren't. Because the critical areas ordinance says 200 and then in

other places – and, Dan, jump in here if you need to – talks about 300. And they said doesn't it just make more sense to have it 300 feet everywhere, and we couldn't really come up with a good reason to say, No, let's just leave it different in the different areas. So we thought it made good sense to have it consistent throughout. That when you're looking for the presence or absence of critical area indicators when you first go out to do your review, you should go 300 feet away from where the proposed development is going to be to look for those indicators.

Commissioner Hughes: So then my recollection is correct. You did have it at 200 feet in some incidences.

Ms. Stevenson: Yeah. That's what it – that's the way the critical areas ordinance is written now and we just thought it probably does make sense to go ahead and fix that here even though we didn't with anything else that came over from the critical areas ordinance. And like I said, I defer to Dan if anybody wants much more than that.

Mr. Nickel: I would just point out that we actually *do* have that 300-foot distance in certain portions of Part V already, but it's not consistent throughout Part V and so we're trying to – you know, we recognize that the review distance should be 300 feet because we do have buffers that potentially could be larger than 200. And so the 300-foot review distance is important. We didn't include that 300-foot distance consistently in all areas so we're just trying to make that adjustment here.

Ms. Stevenson: Thank you.

Chair Raschko: Joe?

(silence)

Chair Raschko: Joe, you had –

Commissioner Woodmansee: Yes. So what happens if you're requiring a proponent to get a review 300 feet away and it's offsite and the property owner refuses access? How does that work?

Ms. Stevenson: We usually do the best we can and ask them to look from the property that they can access. Look at aerial photography, depending on what's going on on the site, and try to make a determination. But, yeah, that's not – if they don't actually have approval to be on somebody else's property, then most of them are smart enough to know that they shouldn't go over there to do that. So it happens more often than you might think. And if it's critical or if it's important, we can work with the landowner to see if we can get access to go and take a look at it too and just find out. And if not, then we ask them to do the best they can from as close as they can get to determine what may be there in the way of an indicator, which are – you know, it doesn't mean that you're out there digging holes and doing things like that. You're just looking for plants, hydrology, that kind of stuff, or for different things – steep slopes, unstable slopes – depending on what kind of a critical area it is.

Commissioner Woodmansee: Well, it'd be virtually impossible to determine a wetland without being able to address all three factors, right?

Ms. Stevenson: Yeah, we're just looking for indicators at this point in time and this would be when we first go out to determine whether somebody needs to do a site assessment or not on our site visit.

Commissioner Woodmansee: Okay. So if somebody gets determined because they're determined that they should do a critical area, a full-blown report, and they still can't have access at this point, is that report restricted to their property?

Ms. Stevenson: That's a good question. They try to do the best they can to address it and indicate that they weren't – you know, they weren't granted access and the property boundary hit at whatever the distance was and so you would have to extend that a certain distance and, like I said, there are other things that they can look at to try to determine that information, if that makes sense.

Commissioner Woodmansee: Yeah, I just – I know that sometimes not being able to determine soil condition you could have two factors and the third is the soil. I mean, the soil's not there. But if you couldn't physically prove it, you'd be kind of between a rock and a hard place.

Ms. Stevenson: Most people get along pretty well with their neighbors if they understand, you know, what it is. At least if we get to the point where we do the best we can when we go out to determine indicators and we find that there are some and they're required to do a site assessment, they can usually get access for their consultant and them to be on the property. A lot of times the other property owners are quite curious – Oh, well, while you're out here, can you come and take a look at this? Or, What are you finding? And things like that. So sometimes it's a positive, and other times they just say no and we do the best that we can at that point in time.

Commissioner Woodmansee: Last question, and either you or Dan could answer for this. The 300-foot that's in Part V, is that old language or is it all new language to 2 to 300 feet in the other locations that we're – because we're trying to be consistent so –

Ms. Stevenson: I think it's a little of each, but go ahead, Dan.

Mr. Nickel: Yeah, I – the reference to 300 feet is new. You know, we have 200 feet in a couple of sections here for review area. We already made the correction in – it's in subsection 515 and it's in subsection 2 of that section, where we have a reference to a review procedure and reviewing distance of 300 feet. So that was already in the public review draft. And then two subsections later, Subsection 4, there's a reference to reviewing an area within 200 feet. And so this is an inconsistency at this point. I think knowing that we have potential buffers out there that are greater than 200 feet – they're rare, but they are out there potentially – it would be important to at least be able to capture that 300-foot distance consistently. But it isn't – that distance, you know, there's an inconsistency already right now in the critical areas ordinance. I guess that's what's come to mind here, is that the critical areas ordinance, you know, has an inconsistency that probably should be fixed in the time to come.

Commissioner Woodmansee: Okay. So right now, all the 300-foot references are all new in this. Is that correct?

Mr. Nickel: I believe that's correct. Let me – I'll verify that real quick.

(silence)

Chair Raschko: Are you still working on it, Dan?

(silence)

Commissioner Rose: Maybe I could make my question while he's working on it.

Chair Raschko: Please go ahead, Martha.

Commissioner Rose: Yeah, so, Betsy, I think I recall that this 300-foot review was to solve a problem where sometimes people would come in – it's kind of like the archaeological problem, where somebody would come in and you'd look at the 200-foot review and then something would crop up later that was 300 feet away. I just remember there was something about that – that this was actually to save people from having a problem down the line that was unanticipated, because in the beginning only 200 feet was looked at. Could you speak to that, please?

Ms. Stevenson: Yeah, I think that's what Dan was talking about a little bit. There are some certain areas that could have a 300-foot buffer area, and if we don't look 300 feet away then we won't really know for sure – if that makes sense. And maybe he can explain it better. But if we just look at the 200 feet there are areas where we wouldn't include the entire buffer area that may be applied to whatever the critical area is in certain situations.

Commissioner Rose: Right. So what I recall the discussion being before, whenever we learned about this originally, somebody could come in for a pre-application or pre-development meeting and you'd look at the 200 feet, and then they'd come back later with their full set of plans and all of a sudden well, now there's this 300-foot thing that comes into play that caught everybody by surprise. And so this is really a way to correct that. Is that true?

Ms. Stevenson: I think that's a good way of describing it. Dan?

Mr. Nickel: That's a great way to describe it. And I did verify that the current CAO does have 200 feet for the review distance, and so we were trying to make that correction to be more consistent.

Chair Raschko: Did you just say it has 200 feet?

Mr. Nickel: Correct. The current review – under the review procedures for critical areas under the critical areas ordinance, it has a distance of 200 feet.

Chair Raschko: Okay. Any other questions or comments?

Commissioner Rose: Well, I make a motion to adopt number 4 at this part of our list of recommendations.

Chair Raschko: Is there a second?

Commissioner Knutzen: I'll second that.

Chair Raschko: And who was that?

Commissioner Knutzen: Mark Knutzen.

Chair Raschko: Okay. Thank you, Mark. It's been moved and seconded to accept number 4, Critical Areas, adjusting the review distance to 300 feet. Any further discussion? Commissioner Hughes?

Commissioner Hughes: I'm concerned about what I heard that maybe this hasn't been part of the public process as far as comment. Can somebody clarify that for me? Does this supersede putting something new in that wasn't there for the public to comment on?

Ms. Stevenson: No. We got a public comment about this, pointing out the discrepancy and the fact that it wasn't consistent.

Commissioner Hughes: So that should have opened it up for all public to comment on that.

Mr. Nickel: Right. So we had made the change in the public review draft, so we had already had the 300-foot distance in there. But later on in the document there's a reference to 200 feet as a review distance and that was what the public comment that came in actually mentioned that we have an inconsistency in the Master Program here, where one distance is 300 and another distance is 200. And so that was – the public comment was just drawing our attention to that inconsistency.

Chair Raschko: Okay, anything else?

(silence)

Chair Raschko: Have we already – wow, I'm sorry for being – getting senile or something but we have a motion on the floor, do we not?

Vice Chair Candler: We do.

Commissioner Henley: We do.

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

Multiple Commissioners: Aye.

Chair Raschko: Those opposed?

(silence)

Chair Raschko: And abstaining?

(silence)

Chair Raschko: Okay, that passes. Thank you. So that completes the list of Department recommendations. At this point, we can just go through the recorded motion one last time and hopefully get through it and vote to approve. So we all should have received the newest draft with changes, and maybe we should just go through it a page at a time? Commissioner Mitchell, did you have something?

Commissioner Mitchell: I do. I've got a question. We left off the last meeting with a placeholder where Commissioner Woodmansee and Betsy Stevenson were going to have a meeting. I'd like for us to hit what happened there before we hit anything else.

Chair Raschko: Good idea. Joe, do you wish to address that?

Commissioner Woodmansee: Sure. And, again, I want to publicly thank Betsy for taking the time last Friday to sit down with me so we could wrap our heads around my concerns and where we were and where we're going. And so she printed some stuff for me so that we could see what the current purpose was for nonconforming uses. And I'm just going to read what it says.

"The purpose of this chapter is to establish regulations for the control and eventual elimination of shoreline uses and structures which are nonconforming, i.e., which were lawful prior to adoption of this program or amendments thereto, but which do not conform to present regulations and standards of this program or the policies of the Act."

So that's where we were, which I think you probably all would know that that's 180 degrees from where I feel like that we should be. And where we're headed is, under the Purposes and Applicability, is we're recognizing existing buildings and the ability to repair and replace. And while there certainly will be some cases that may take a little further discussions, and all cases will take some level of investigation of existing conditions, but it appears to me that my concerns about were – this is a vast improvement from where we were because the stated purpose was to eliminate these existing buildings or structures or other things. Now we're treating them as an existing conforming building and in – as I go, listen to it, Betsy, because if I say something wrong, correct me, okay?

Ms. Stevenson: Yeah. No, you're doing great!

Commissioner Woodmansee: And so I feel like this is a good improvement. And I haven't read anywhere in here where anything's just outright you-can't-repair-this, you-can't-replace-that. And it appears to me like by and large that in the normal situation people are going to be able to make their repairs they need and in some cases replacement. And the baseline for impact is existing condition, so what's there is the existing condition today. If you go tomorrow after this is passed – if you're limited at all what you can do, you try to do something now. But if you go there after – if this is included in the new SMP, you have the ability to maintain – you have a stronger commitment in our policies to be able to maintain and/or replace structures and stuff like that. And so I feel like that my concerns that I brought up last meeting are – I'm in a good position with it. I feel like that people are able to – going from the purpose is to eliminate to recognizing the existing structures is a huge step, and so I think it's been resolved for me. My concern has been resolved.

Chair Raschko: Okay. And that's, I believe, the last item on the recorded motion.

Commissioner Mitchell: Chair? There's three question/comments waiting.

Chair Raschko: I'm sorry. I dropped the ball on that. Okay, so we have Commissioner Rose.

Commissioner Rose: So – thank you – I agree with everything that's been said about if a thing is – if a building or structure is damaged or destroyed that was placed there lawfully – I think you had the word "lawfully" in the beginning of that verbiage that you just read from. So for example, if somebody buys a lot that was meant for weekend camping and they build a structure on it without a building permit and that structure gets destroyed by a flood, that was not built lawfully so therefore that one should not be able to be rebuilt. Because it didn't start out with a building permit. It started out – and there's many of these examples all over this county. So to me the defining word is "lawfully" built. If it was *lawfully* built before the current code, yes, it should be able to be replaced, but if it wasn't *lawfully* built it has no right to be rebuilt. So that's – I just wanted to – I mean, this is a debate that could go on forever. I just wanted to state how I view it and how I think with that wording, I think that that addresses that whole controversial side of it because,

like I said, there are many, many structures built without permits, especially in a rural area. And many of them – like, you know, well, how you deal with waste, sewage, septic that pollutes the river – you know, there’s all sorts of issues when people are building without permits. And so as long as the structure went through all the hoops in the beginning, even if it doesn’t meet today’s code, of course there should be some provisions for putting it back as long as the river has not eaten away the property or whatever. But it shouldn’t be a blanket “Any structure that’s there that gets destroyed by an act of God should be able to be replaced.” That’s not right. Any rate, I think that’s the end of my comment.

Chair Raschko: Thank you. Commissioner Mitchell?

Commissioner Mitchell: Yeah, so for – Chair, this would be directed at both you and Commissioner Woodmansee. So Commissioner Woodmansee had a placeholder number 13 then. I would assume by what you had said, but I don’t want to declare that. Do you want to remove your placeholder number 13 then? It’s on page 8 of the draft recorded motion.

Commissioner Woodmansee: I don’t know – and this, I would say, for me this is really what the Commission wants to do. I don’t know that it’s necessary to create language about something that we’re not adding to or subtracting from the draft unless, you know, we want to specifically say that we support the new language as it speaks to existing structures. And it does talk about legally established in the draft. So I – and I don’t know that it’s necessary to actually put anything in a motion because we’re not trying to change anything in the actual draft itself.

Chair Raschko: Okay, Commissioner Candler.

(silence)

Chair Raschko: Are you there, Tammy?

Vice Chair Candler: Yeah, sorry. It took me a minute to unmute. One thing that we could do if somebody wants to make a motion – you know, that’s just an option to think about – we could propose a finding that would indicate that we think that it is important that existing structures damaged by natural causes be able to be repaired or grandfathered or however we want to word it. That could be a finding. And if somebody wants to make a motion, we could do a corresponding recommendation that, you know, that the Board of County Commissioners direct the Department to continue, you know, working on language that would clarify this. But, you know, if you’re satisfied, you’re satisfied. But it doesn’t have to be that specific, I don’t think. That’s my two cents.

Chair Raschko: Can I clarify one thing you said by an act of God whereas in what’s printed there it’s – it refers also to a remodel. Are we just going to, you know –

Commissioner Woodmansee: Betsy, you want to – could you expand on that maybe?

Ms. Stevenson: I’m not sure. Where are you talking, Tim?

Chair Raschko: Well, under 13. It says clarifying that “when existing footprint is subject to a remodel permit or replacement permit,” and ____ two. ____ Commissioner Candler was talking about when she talked about acts of God. Whether she wanted to limit it to acts of God.

Vice Chair Candler: Well, no, not necessarily, and I also do think that time could be construed as an act of God, but it was just natural disaster – whatever you want to include in there. I didn’t

make a specific motion, but I was just toying with the idea. It seems like several of the Commissioners do think it's important maybe to note that we *do* think it's important that people be able to rebuild if they have a lawful structure that's damaged or whatever. So, you know, we can make a finding that says that we think that's important and/or a corresponding recommendation, you know, without knowing exactly what we want the language to ultimately be. Just recommending that the Department not make language that would do the opposite, basically. Just say we don't support that there be language in this document that's going to deprive people of their lawful existent structures.

Chair Raschko: Okay. Joe, do you want to make motion, or does anybody?

Commissioner Woodmansee: Yeah, I'll make an attempt at it. So I would make a motion that the Planning Commission acknowledges the importance of the ability of people to maintain and repair and replace existing structures – existing lawful structures, and that it is – I'm going to say this, Peter, but you might want to listen before you type. But it's that the Planning Commission discourages any policies or code interpretations that impede the ability for people to be able to do those things. And anybody that wants to help wordsmith that, I'm more than happy for that.

Vice Chair Candler: And I'll second that and make – my only thought is that it might be – that language sounds like it would be in a finding rather than a recommendation. But I guess it could go either.

Chair Raschko: Okay, so what's your desire, Joe? Do you want this to be a finding in your motion or a recommendation?

Commissioner Woodmansee: I'm going to be totally honest here. I'm not sure which to answer to that and I would take advice from anybody who wants to help me with that.

Commissioner Mitchell: This is Commissioner Mitchell.

Chair Raschko: Go ahead, please.

Commissioner Mitchell: I would recommend that you do both. I think you guys are on a roll. If you make a recommendation short and succinct there and then reference it back to the finding for any other language that you want.

Vice Chair Candler: Can I add something? I actually think she – I agree with Commissioner Mitchell. It's both and I think it could be a one-sentence in each. "The Planning Commission recognizes the importance for the ability to rebuild any lawfully-establishes structure" – period, as a finding, and then "The Planning Commission discourages the Department from putting language that will preclude that." You know, preclude "the ability to rebuild any lawfully existing structure." That seems like two separate sentences in two separate parts of the document.

Chair Raschko: Why don't we have between you and Joe to compose the motion and then remake the motion?

Commissioner Woodmansee: Okay, so Tammy, I think it should say "to rebuild, repair" or, like, "or improve." Like, we talked – Betsy and I talked about, Hey, maybe you've got – your windows are old and you want to put new windows in. You know, you need to re-side it – your siding's worn out and you need to re-side, or you need a new roof because your roof's leaking. And so those are, you know, I guess repair and improve can be construed as the same, but...

Ms. Stevenson: “Maintained.”

Commissioner Woodmansee: “Maintained,” yeah.

Vice Chair Candler: So what we would probably do is that would this first sentence. It would be a finding – I don’t know what number we’re up to – and then the corresponding recommendation should do like what we’ve been doing, which is to, you know, reference that number “in reference to number” whatever. Then – right.

Commissioner Woodmansee: Yeah. So, Peter, if it could say – well, scroll back to it when you’re ready.

(long silence)

Mr. Gill: Is this good on the finding?

Ms. Stevenson: I think rather than “rebuild” you should say “maintain.”

Commissioner Woodmansee: Actually “rebuild’s” an important word for me.

Ms. Stevenson: I would say “replace.”

Commissioner Woodmansee: Okay, I’m fine with that.

Ms. Stevenson: Rebuild doesn’t show up. It should say “maintain, repair and replace – or replace.” “Or replace.”

Commissioner Woodmansee: Okay. I’m good with that.

Ms. Stevenson: Just to be consistent with our code language.

Commissioner Woodmansee: Sure. Thank you. And between “for” and “ability” maybe there should be a “the”?

Mr. Gill: Okay? All right. Now on the recommendation, what would you like this to read?

Commissioner Woodmansee: I was thinking that it would be that “We discourage the Department from proposing” – from – hmm – “enacting policy or proposing language that would prohibit the maintenance, repair” and same wording in the other one? Tammy, help me out on this one. I’ll take the help.

Commissioner Mitchell: I’ve got a question.

Vice Chair Candler: I think it’s great that the language echo it, but what I think we should do – and I could be wrong, but – I think it should read “Planning Commission requests that the Board of County Commissioners discourage the Department from enacting policy or proposing language that would prohibit...”

Commissioner Woodmansee: Yeah. I think that puts the authority on the right people there.

Vice Chair Candler: Yep. I agree with you. Echoing the language from the sentence above is fine. It's short. "Prohibit the repair, maintenance" – ah, I can't remember. "...ability to maintain..." Yeah.

Ms. Stevenson: Can I ask a question?

Chair Raschko: Please do.

Ms. Stevenson: Do you guys think there's language in there that is doing that that you think you need to call this out specifically to the County Commissioners to tell us not to do that?

Vice Chair Candler: Well, the problem is we don't know the final document, I guess. You guys are – you know, what we're hearing is you and Commissioner Woodmansee are working on this but –

Ms. Stevenson: That's not what you heard.

Vice Chair Candler: Okay.

Ms. Stevenson: We're all done. He was okay with the language that's in there. That's why I'm asking – just to clarify. He felt like the purpose and the applicability in the new code is very different than the purpose in the existing code where they actually *do* want these things to go away. And Joe, if I'm putting words in your mouth, you let me know, but I think that you felt that the way it's written that people who legally established either structures or uses prior to putting this Shoreline Program into place would be allowed to maintain, repair, and/or replace that. It's going to get confusing to the Commissioners if you're asking them to do something that we aren't proposing, is all I'm trying to say. So if you have a problem with the language that we have in there, that's one thing, but what he's asking in the recommendation is what's in there now. So I'm just trying to get a clarification.

Commissioner Woodmansee: Yeah. If I may, Chair?

Chair Raschko: Please go ahead.

Commissioner Woodmansee: My issue – my thoughts here are that the reason for saying something additional for me is to ensure that this policy of maintenance, repair, and so on doesn't run into interference not with a particular person but with policy at a lower level that's like – that wants to interpret things maybe differently. I mean, that's where I'm coming from. And so I – but I'm certainly open to discussion on this because I understand what you're saying. Nobody's proposing anything different than what it says in the SMP draft now, or the staff's not proposing anything different. And so it's like a warning shot that maybe isn't necessary? I think it's maybe – well, Tammy, do you want to chime in?

Vice Chair Candler: Yeah. We could leave it as a finding and take it out as a recommendation, but that's – if you're comfortable with that. I still think we should leave it as a finding because that way the Board sees that we feel as policy now and going forward it's important that people have that ability. So I think we should leave it as a finding at the very least.

Commissioner Woodmansee: Well, I agree with that totally.

Ms. Stevenson: What about something in here to talk about interpretation – I mean, I don't know. I think it's going to confuse them and I'm not going to know how to – it's like, Yeah, we didn't put anything in there so I'm not sure what they want you to do. But I see what you're saying now. You're talking about it being interpreted somehow differently, that you support the language but you want to make sure that the interpretation is what you indicated in your recommendation.

Commissioner Woodmansee: Yes.

Ms. Stevenson: Or in your finding, I mean. Not your recommendation. But you could put it in here too. So I understand. I wasn't sure that that's where you were headed. I just wanted to make sure that I knew what you meant.

Commissioner Woodmansee: Yeah, that's –

Ms. Stevenson: And I think policy or interpretation that would, you know, that would somehow interfere with the normal maintenance, repair, or replacement – or *something* like that. I don't know, and I'm not trying to put words in your mouth. I'm just trying to get it clearer from where you are.

Commissioner Woodmansee: Right. And for me, that's where I'm at. I just want to make sure that as policy and code interpretation moves forward that it doesn't – and somehow or another some future person doesn't say, Well, I don't interpret it this way and I'm not going to let you do this because this is how I interpret it. But I get it. You always have that risk but – I'm rereading it real quick. Maybe it should be, instead of “discourage” maybe it should be “Encourage staff to develop policies and language that supports the ability to maintain, repair, and replace.” Instead of going on the negative side, we are asking them to encourage the Department _____. Is that – does that make better sense?

Commissioner Mitchell: I think it does, Commissioner Woodmansee. This is Mitchell.

Commissioner Woodmansee: Did you keep up with that thought, Peter?

Mr. Gill: Yeah, Commissioner Woodmansee. I guess I lost you after “Department.” “Encourage the Department to” or – “to interpret” or “to –

Commissioner Woodmansee: To interpret. So take “from” out. “...to develop policy...” Or take “proposing” – so “Develop policy and/or language that –

Mr. Gill: “...allow for...”?

Commissioner Woodmansee: Yes. That sounds good.

Mr. Gill: All right.

Vice Chair Candler: And did you not want to leave “interpret” in there as well?

Commissioner Woodmansee: I'm happy to have that word in there if you want to try to wordsmith it in there for us.

Vice Chair Candler: I mean, we could “develop policy and/or interpret language that would allow for the ability to maintain, repair, or replace any lawfully established structure.”

Commissioner Woodmansee: I'm fine with that.

Vice Chair Candler: And then my question then is, Betsy, does that – do you think that is less confusing or addresses the concern you had?

Ms. Stevenson: That works better for me. It gives us some guidance and interpretation and, you know, the developing policy, not so much but that works too – that we shouldn't be coming up with anything that's contrary to what you guys are looking for here. And it doesn't specifically speak to the language in the code, because then they're going to say, Well, what is it that they think that we need to change or look at, and there isn't anything as far as I know, because it says that. So this is better. This is taking it to the next step, that you want the Commissioners also to keep an eye on this and, if they start getting complaints of how we're interpreting that kind of stuff. You want them to know that Hey, we want to make sure that the Department doesn't somehow overstep here and take this to another level and that they do what we're asking them to do and that we're supportive of what's in there now, which is kind of what you said with the "maintain, repair, and replace." You're good with that and you like that, but let's just make sure that they don't try to change that in their interpretation somehow.

So that's how I read that now and I'm comfortable with that. Because if they ask me, Well, what about the language – because you're not asking them to change the language now in any way.

Commissioner Woodmansee: Right.

Ms. Stevenson: So that's way more comfortable for me. But this is not about me, but I think it still is a united front with all of us, which is what I'm trying to get as much as we can. So this language sounds fine to me. You've addressed it. It's important enough to you to make a finding and a recommendation to shine a light on it, and you just want to make sure that it stays intact and it's interpreted that way. Does that make sense?

Vice Chair Candler: Yes, thank you.

Ms. Stevenson: Yeah, thank *you*.

Commissioner Woodmansee: So if you need me to change my motion to include the revised paragraphs in both the finding and the fact, I'll do that now.

Vice Chair Candler: And I'll second the amendment. But I think we do need to go back up and make the number 13. We can number the finding 13 if we're doing that specific yet. Yeah. Thank you.

Chair Raschko: Okay, I'd just like to clarify one thing. So what we're talking about now is some old building. We're just talking about a lawfully established structure. If somebody has a cabin on some lake that was built in 1910, I would presume at that time there was no requirement for a building permit. Would that be interpreted to be legally established?

Commissioner Woodmansee: I'm glad you brought that up because I was going to mention that too – that not everything that got build without a permit is an illegal structure.

Ms. Stevenson: Right. I would consider it that, if you're asking just the general audience, Tim, it was legally established under whatever – which there wasn't, you know, any kind of review at that point in time. And we do have houses that were built in 1905 that are still standing that people are

living in and they've been allowed to maintain and repair and do all the things that they need to do to keep them going. So, you know, if it was prior to the time that we issued building permits or any kind of permits in this county, it was legally established.

Chair Raschko: Okay.

Ms. Stevenson: You know, it was done under whatever the law of the land was at that time.

Chair Raschko: Great. Thank you. Okay, so are we at a point where we can make a motion?

Commissioner Woodmansee: Specifically –

Vice Chair Candler: There's a motion on the table.

Chair Raschko: Is there?

Vice Chair Candler: Yes. It's been moved and seconded that we adopt the language as it currently appears in this document for findings and the recommendation number 13.

Chair Raschko: Okay, so it was in the form of a motion. Who seconded it?

Vice Chair Candler: Me. It was a formal motion and I seconded it.

Chair Raschko: All right. Thank you. So any further discussion?

(silence)

Chair Raschko: If not, all in favor, say "aye."

Multiple Commissioners: Aye.

Chair Raschko: And opposed?

(silence)

Chair Raschko: Any abstentions?

(silence)

Chair Raschko: So it passes. Thank you. All right, I would ask if anybody needs a quick break. Not that we have to.

(silence)

Chair Raschko: Good. Okay, we will continue. Okay, any other loose ends before we go through the document one last time?

(silence)

Chair Raschko: All right. Everybody's happy with page 1?

(silence)

Chair Raschko: Page 2?

(silence)

Chair Raschko: Okay. Page 3 looks just fine. Four?

(silence)

Chair Raschko: How about page 5?

(silence)

Chair Raschko: Six?

(silence)

Chair Raschko: Okay, that brings us to Recommendations. Number 7?

(silence)

Chair Raschko: Eight?

(silence)

Chair Raschko: On page 9 –

Mr. Gill: Chair?

Vice Chair Candler: There's something there.

Mr. Gill: This is Peter.

Chair Raschko: Go ahead, please, Peter.

Mr. Gill: Yeah, there's a – last meeting this item in blue under 11 was discussed and it was moved over here for further conversation. Was there any more conversation to be made on 11? The text in blue was pulled over from the Department recommendation but there was never a motion to add it. It was in a discussion phase, I believe, and that was where it left when we stopped.

Chair Raschko: Any discussion on the first blue paragraph?

(silence)

Chair Raschko: Okay, there's no discussion. Did somebody say something?

Vice Chair Candler: Yeah, I – I'm just trying to remember. I thought Commissioner Mitchell, did you want this new language? I thought that was your request to move this in, but I could be remembering it wrong.

Commissioner Mitchell: I believe I was teeing that up to see what you guys thought, if you wanted to do that.

Vice Chair Candler: Okay, thank you.

Commissioner Mitchell: And there was – and yeah, we did not vote to put that in.

Vice Chair Candler: Okay. The other thing I've noticed is I feel like we should be accepting the track changes before we – Peter, I don't – maybe I'm just stating it wrong, but there was some language earlier that was still strikethrough. Is that –

Mr. Gill: So there's an – yeah. I can go through and accept all this.

Vice Chair Candler: I feel like on final review we should do that. Somebody else might disagree with me but that's what I think. Thank you.

Mr. Gill: Okay. That is all the changes that refer to draft. It's all the changes we've discussed and this is the –

Vice Chair Candler: I still saw something-“track” shoot through up there, I think.

Mr. Gill: It looks like this one got away too. So the items that you added from the Department recommendation were added to the end here starting on 14 – 14, 15, 16, 17. Those are the ones that we just discussed tonight. Thirteen we also discussed tonight. Eleven we did not make any changes to. And we accepted some findings. That's it.

Chair Raschko: Would you please go down to number 11?

Mr. Gill: Sure.

Chair Raschko: Or whatever the Aquaculture one is now currently numbered.

Commissioner Mitchell: Yes, and – oh, thank you. I couldn't see it.

Chair Raschko: So is that what we're wanting 11 to look like?

(silence)

Chair Raschko: Okay, no comments?

Commissioner Woodmansee: I have a question.

Chair Raschko: Please go ahead.

Commissioner Woodmansee: Is this the blue lettering now, just in black, Peter?

Mr. Gill: No. The blue lettering I removed because I didn't get any feedback on whether that should be added or removed.

Chair Raschko: We hadn't gotten to that decision yet.

Mr. Gill: Sorry. I can pull it back up –

Chair Raschko: If you could pull it back up, that would be ___.

Mr. Gill: Okay. I just have to _____ for a second.

Vice Chair Candler: And my understanding is this is the language directly out of the staff report that is Betsy Stevenson's preferred language? Is that – am I saying that right, Betsy?

Ms. Stevenson: Mine was the language that was added in blue, I think, and that was from the staff report.

Mr. Gill: All right. Sorry about that. Got a little too happy with my "accept." So this is 11 again and these are the staff recommendations in blue.

Chair Raschko: Okay, so, Kathy, you say you teed this up. Do you want to begin?

Commissioner Mitchell: Yeah, and I'm trying to find where it is on that staff report, which number it was, if Betsy could help me. And this was the staff report dated November 4th that was issued in advance of November 9th, and I believe this is where the recommendations were coming from. And I've gotten pretty confused on – since all the numbering's changed – which is which now! In essence, I was looking to see what staff's recommendations were on that aquaculture thing because I think we were trying to use old language still that wasn't appropriate, and I think that's why staff had addressed it. And I just want to make sure that's right, with Betsy's help, before we try to do anything here.

Ms. Stevenson: Yeah. Bear with me here. So it's actually in my staff report from October 24th.

Commissioner Mitchell: Okay.

Ms. Stevenson: On page 6, I think. At least that's some of it. It kind of got combined. The bottom of page 6 and the top of page 7.

Commissioner Mitchell: Can we see them side by each? Is that possible?

Mr. Gill: Yes. Sorry, Betsy. What page did you say?

Ms. Stevenson: It's page 6 and 7 from the October 24th. And I might have pulled it over into the November one too, Kathy. I don't know.

Commissioner Mitchell: Yeah, I've got five copies here and I'm so confused.

Ms. Stevenson: I tried not to do that, but...

Commissioner Mitchell: It's not you. Mine are so marked up I can't tell what's what anymore. I just want to make sure that we were pulling the right language from the right report for the right reasons, and that's where everybody's eyes all needed to be together. Because if we skipped that, I think you'd be chasing it with your transmittal to the Board.

Vice Chair Candler: I agree.

Mr. Gill: Okay, now we've got side-by-side, if you can read it. That's the problem.

Commissioner Mitchell: Yeah, they're awfully small.

Mr. Gill: Sorry. I'll blow it up a little bit here.

Commissioner Mitchell: Thank you. Senior eyes.

Mr. Gill: No, that's good. So we've got 11 here on the right with the blue shown as the proposed staff changes. And then on the left we've got the October staff report with the description of the net pen finfish aquaculture.

Commissioner Mitchell: Peter, can you tell if that language matches? I literally cannot see it.

Ms. Stevenson: The language from my staff report and the language in blue on the screen on the right should be the same. It's the language that's labelled as number 11 that I was asking you to change back to what was in my staff report, which should be the language that's in blue.

Mr. Gill: Okay. So there's the two items.

Commissioner Mitchell: Ah, let's see. Peter, could you just please read for me? I still literally cannot read the blue one. I can read the black one.

Mr. Gill: Okay. The blue one?

Commissioner Mitchell: Yes, sir.

Mr. Gill: Sure. Starting at "Add": "Add a new item to Table 14.26.405, Uses and Modifications Matrix, to differentiate net pens for native finfish propagation, which would retain the same permit classifications as the current net pen shoreline use, from net pens for propagation of non-native finfish species, which would be prohibited in all shoreline environment designations across the matrix."

Commissioner Mitchell: Does that last line change what you meant, Betsy?

Mr. Gill: So we didn't get to the change yet, though.

Commissioner Mitchell: Okay.

Mr. Gill: Do you want me to keep going? It says "In-water finfish aquaculture would require net pens to contain finfish. Such a net pen requires a shoreline conditional use permit per Section 14.26.405. The text language does not reflect the matrix that a conditional use permit is needed." So to fix that it would be to add to Section 14.26.415, Aquaculture."

Number 7, Net Pens, letter (b): "The conditional use permit is required for new commercial net pen aquaculture operations proposing to propagate new native fish species." And then change existing (b) to (c) and existing (c) to (d). And then add a new item to read "(5) New commercial net pen aquaculture operations proposing to propagate non-native finfish species ___."

Commissioner Mitchell: Okay.

Ms. Stevenson: So what I'm trying to change is the language that shows up now as number 11 back to what was in my staff report, which is in the black – which, Kathy, you can maybe see better – which is what Peter just read which is also what's proposed, I think, in the blue. The way that it's written in number 11 is just a little bit different and it's more confusing and not as clear.

Commissioner Mitchell: Yeah, I'd like for the language to match so we don't screw something up somewhere for you guys. Because it's language that came from a WAC, yes?

Ms. Stevenson: It's language that's reflective of what was in the WAC in our own language and what was agreed to by our aquaculture subcommittee with the Shoreline Advisory Committee.

Commissioner Mitchell: Okay.

Chair Raschko: Okay, so where are we?

Vice Chair Candler: I have a motion.

Chair Raschko: Please go ahead.

Vice Chair Candler: I'll move that we replace existing 11 in black on the right with Betsy's proposed blue on the right and black on the left.

Commissioner Woodmansee: I'll second that.

Commissioner Mitchell: And can I modify that? And that's to take out the bracket part of the blue. Is that correct?

Vice Chair Candler: Absolutely, yes.

Commissioner Mitchell: Okay.

Chair Raschko: Okay. So, Peter, do you want to read back the motion, please?

Mr. Gill: So the motion would be to replace the Aquaculture language that exists in number 11 with the staff-recommended language that is shown in blue without adding the area in brackets.

Chair Raschko: Okay. That has been moved and seconded. Is there any further discussion?

(silence)

Chair Raschko: Okay, all those in favor, say "aye."

Multiple Commissioners: Aye.

Chair Raschko: Opposed?

(silence)

Chair Raschko: Anybody abstain?

(silence)

Chair Raschko: Okay, so that passes.

Commissioner Mitchell: Thank you, staff, for your help – and others.

Chair Raschko: Okay, is there anything else in the document?

(silence)

Chair Raschko: No? Are we ready to vote to approve the document as proposed?

Mr. Gill: Let me catch up for a second here.

Ms. Stevenson: I'll fill in the dead space and just tell you all thank you again so much for your time and dedication to this. It's made a huge difference in the process. And I hope you feel a huge sense of accomplishment. We've done a lot. Those of you who have been with me since the beginning, you've done a *hell* of a lot. Sorry, Debbie! But thank you guys all for your time. And Mark, you know, you came in late to it but you seconded a motion tonight and you've been involved and you keep sticking with it. And all of you guys, I just really, really appreciate your time and your effort. It's a thankless job and you did it with grace.

Chair Raschko: Thank you, Betsy, for that thought.

Ms. Stevenson: Yeah. And if Peter's still working and it's still dead space I'd also like to thank publicly Debbie Nicholson for turning around those transcripts so quickly. She came in – actually she was there on Thanksgiving morning because she emailed me and she was asking questions. So she turned around her transcript between last week's meeting and this week's meeting, and she just does such a fantastic job. So she can type that up in this transcript. Anyway, thank you.

And Dan, if you're still there, which I'm sure you are, I couldn't have done this without you and thank you so much for coming back for Round 2 of this. I think we're going to make it this time!

Mr. Nickel: I'm really glad to see this through.

Ms. Stevenson: I know. I'm starting to happy-dance!

Mr. Nickel: I will echo Betsy's comments because I think – I've been around here for quite a while, too. It's been great to see this process through. I'm glad to have been a part of it. So I look forward to seeing this through the end.

Ms. Stevenson: Whee!

Chair Raschko: Well, I was going to wait to the end to say something, but since you've started this, Betsy, and Peter's still at work, I think you and Dan and Peter did a great job, particularly you, Betsy, in kind of herding cats. I think what you did for the Planning Commission is to put a lot of work into laying things out in a very clear manner in order to justify what it was you were proposing, and actually bringing people along to where they could really clearly understand what it is you're trying to accomplish. My feeling is that staff and the Planning Commission are not all that far apart on what we really want to propose. So that must have been an awful lot of work, and I just want to thank you all.

Ms. Stevenson: Thanks, Tim.

Mr. Gill: Okay. I think that is it on 11. Eleven is ready to go.

Chair Raschko: Does 11 look good, everybody?

(silence)

Chair Raschko: Does anybody care to make a motion to approve the recorded motion?

Commissioner Mitchell: I'd like to make a motion to approve the recorded motion as written.

Commissioner Henley: Second.

Chair Raschko: Thank you, Vince. It's been moved and seconded to approve the recorded motion. Is there any discussion on the motion?

(silence)

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

Multiple Commissioners: Aye.

Chair Raschko: Those opposed?

(silence)

Chair Raschko: And any abstentions?

(silence)

Chair Raschko: So that was a unanimous vote to approve that and I think that *finally* brings our work to an end on this. So thank you, everybody, for a job well done, I think. Now we'll move to the Shoreline Master – oh no, we won't!

(laughter)

Chair Raschko: We did that! Okay, and I see nothing on the agenda about a staff report. Is there anything that you want to say at this point, Hal?

Commissioner Henley: He's muted.

Chair Raschko: Okay. And we have nothing on Commissioner Comments? Does anybody wish to make a comment?

Commissioner Mitchell: I do, Commissioner. This is – Chair, this is Commissioner Mitchell.

Chair Raschko: Go ahead, please.

Commissioner Mitchell: I can't remember what year this started. I don't know. However many years it's been, very good work, a lot of input from an awful lot of people. And Betsy's and Dan's and staff's guidance – Peter lately, Hal lately – thank you so very much for doing this, and particularly I'd like to thank our – not just the current Planning Commissioners but the

predecessors, because they put so much work into it ahead of us, and I think they did actually heavier lifting than we did. So thank you, everybody.

Chair Raschko: Thank you, Kathy. Anybody else? Commissioner Hughes – Amy?

Commissioner Hughes: I would like to thank the Planning Department for their grace under a lot of pressure. Public process is sometimes clumsy, but I think we gave the citizens of Skagit County their due process throughout many, many years of this, and the Planning Department through the many, many years has handled us with grace and I applaud their efforts.

Chair Raschko: Thank you, Amy. Anybody else?

Vice Chair Candler: Can I just jump on this train? Commissioner Candler.

Chair Raschko: Oh, you may, please.

Vice Chair Candler: Very briefly. I agree with everything everyone's saying about everyone's work on this, but I do specifically want to thank Betsy Stevenson for her patience with the Planning Commission's questions and excellent explanations of her positions. Thank you.

Chair Raschko: Thank you, Tammy. Anybody else?

Commissioner Woodmansee: I'll chime in. I agree with everything that's being said there. This is my first time through with the heavy lifting and I can't imagine what the *real* heavy lifting was to get to this point, because it's been a long, long deal. And Dan and Betsy, you've been great. Betsy, I want to thank you again publicly for meeting with me on Friday to help me work through my questions and thoughts on the existing structures. And I would say that this has been a thorough but good process and I appreciate the leadership of our chair and our vice chair through this process and, of course, staff, and I just thank everybody for their hard work.

Chair Raschko: Thank you, Joe. Anybody else?

(silence)

Chair Raschko: Okay. Well, thank you, everybody. Have a very pleasant evening, and we will stand adjourned.