

Skagit County Planning Commission
Public Hearing: Miscellaneous Code Amendments
June 30, 2009

Commissioners: **Bill Stiles, Chairman**
 Jason Easton
 Carol Ehlers
 Mary McGoffin
 Annie Lohman
 Jerry Jewett
 Kristen Ohlson-Kiehn
 Dave Hughes
 Matthew Mahaffie

Staff: **Gary Christensen, Planning Director**
 Carly Ruacho, Senior Planner

Speakers: **Randy Good**
 Marianne Manville-Ailles, Skagit Surveyors and
 Engineers
 June Kite, Friends of Skagit County
 Paul Kriegel, Goodyear Nelson
 Allen Rozema, Skagitonians to Preserve Farmland
 Dave Chamberlain, Forest Advisory Board
 Carolyn Kelly, Skagit Conservation District
 Ellen Bynum, Friends of Skagit County
 Diane Freethy, Skagit Citizens Alliance for Rural
 Preservation

Chairman Bill Stiles: (gavel) I'd like to call this meeting of the Skagit County Planning Commission to order. Tonight we have just a single item on our agenda, the Public Hearing on Miscellaneous Code Amendments, and we've – before we get started on that, I was at a meeting earlier today with the Commissioners where it was brought up to possibly extend the comment period – the written comment period – on this – on these code amendments. And, Gary, you may have something else on that.

Gary Christensen: Yes, thank you. Before we – before *you*, I guess, read your opening statement and talk about the procedure and protocols, the Department, in consultation with the County Commissioners and the Chair of the Planning Commission, would like to recommend that the Planning Commission extend the public comment period on this proposal, that the hearing be held tonight, and that written correspondence be allowed through July 21st. So that's an additional

three weeks or twenty-one days, perhaps. So written comments would be due to the Department – Planning and Development Services – by 4:30 p.m. July 21st.

Chairman Stiles: Do we need a motion to do that or how should we handle that?

Mr. Christensen: Why don't we just do that?

Chairman Stiles: Okay.

Jason Easton: I move that we extend the public comment period – do you want to call the meeting to order first?

Chairman Stiles: I did.

Mr. Easton: Open the public hearing, I mean?

Chairman Stiles: No.

Mr. Easton: Okay. So I call the – I call! – I *move* that we move the – extend the public comment period to July 21st at 4:30 p.m.

Carol Ehlers: Second.

Chairman Stiles: Any discussion?

Mr. Easton: I have something to say. I think it's really – I really appreciate both the Department, the Chair and the Commissioners and their willingness to respond to the public's inquiry about it and I want it – I want us to – I think our vote for this is just the right way to do things.

Chairman Stiles: Any other discussion? Hearing none, all those in favor?

Mary McGoffin, Annie Lohman, Ms. Ehlers, Dave Hughes, Chairman Stiles, Mr. Easton, Ms. Ohlson-Kiehn, Jerry Jewett and Matthew Mahaffie: Aye.

Chairman Stiles: Those opposed?

(silence)

Chairman Stiles: None. So we will extend the public comment period to July 21st. And I'll go ahead with the opening statement on the public hearing before us this evening.

The purpose of this public hearing is to receive testimony and written correspondence regarding the County's proposed amendments to Skagit County Code Title 14. There's a sign-up sheet at the back of the room for those who

would like to testify. An opportunity will be given at the end of the hearing for those that wish to testify but did not sign up to speak.

Please limit your comments to a three-minute period so that everyone will have a chance to speak. Special interest groups, associations or those representing others are encouraged to designate a spokesperson for your group to allow greater participation and cross-representation. Before you testify, clearly state your name, spelling your last name, and your address. A recording system will record your comments. Written comments are also being accepted and can be placed in the box located on the staff table near the front of the room.

And before we begin taking public comments, staff will give a brief presentation about the proposal. And thank you all for taking time to participate.

Carly Ruacho: Thanks, Bill. Carly Ruacho, Senior Planner, Planning and Development Services. And I will keep this very brief because we just went over this, as you'll recall, at your last meeting.

So Planning and Development Services has released for public review and comment a series of code changes to amend Title 14 of the Skagit County Code. We generally refer to this type of amendment as our "miscellaneous code amendments." We plan and would like to do these once a year to keep the list a little bit shorter, but generally bigger projects take our time and sometimes a couple years goes by before we have the chance. But we do keep a running list of things we'd like to change and the proposal you have in front of you is a representation of that list.

The proposal was released on June 12th. Notice of the proposal was circulated by all the usual means, including publication in the *Skagit Valley Herald* and placement of all the documents on our website.

Comments received to-date number in three in total, and all of you have either received those via e-mail, if that was your preference, or received them tonight in hard copy, if you so chose that. So you've got those three comment letters for your review. If any are submitted tonight – or now that you've extended the public comment period, as soon as that public comment period is over – we will forward those to you as well.

The nature of many of the proposed changes are cleanup or what we call "housekeeping" in nature – things like correcting erroneous references or typographical errors. There are also amendments that are more significant in nature, and I'll just recap some of those again. We went through this list last time but just for the use and reference of the audience, I'll just recap some of those items.

We added a definition for “remodel,” “repair” and “replacement,” so that’s something that can help the building folks out figuring out the nature of certain permits that come in, and also as it relates to the flood damage prevention ordinance is an issue.

We’ve modified “substantial improvement” as it relates to the flood damage prevention provisions, as well as amended the flood damage prevention provisions themselves relating to limits on construction, reconstruction and repair within the designated floodway.

We’ve also included a process and approval criteria for UGA boundary modification proposals.

We’ve clarified the County Commissioner options relating to legislative proposals.

We are proposing to codify the Alger Community Plan provisions relating to development and landscaping.

There are clarification provisions regarding Rural Business expansion potential, requirements and a formula for calculations.

And then we’ve added requirements necessary to comply with state law as it relates to assuming jurisdiction of forest conversion permits.

And, again, the total list is 119 code changes. These are just a highlighted few. Folks may want to take a look at what we call the “code concepts table,” which is available on the back table there near the agenda, which lists out all 119 and their proposed effect. And then the proposed code language – again, I have copies for review on the back table if anyone wants to look at the language in its entirety, or it is available online.

So that’s all I had for you today, and let the folks testify as they wish.

Chairman Stiles: Okay. One comment I’d like to make is that this will be the only opportunity for us to receive *oral* testimony. Even though we have extended the written comment period, this’ll be the only open, public hearing part of it.

So we’ll go through – I have the list here. First on the list, Randy Good.

Randy Good: My name is Randy Good. 25512 Minkler Road, Sedro-Woolley. First I have a letter from Kim Mower – who is our Chair of the Skagit County Ag Advisory Board – I’d like to read.

Our concerns are about the proposals and potential harmful impacts on agriculture. The Ag Advisory Board consists of highly dedicated

volunteers from the ag sector of the county. We need clear, timely information from County Planning staff about how any changes in the code may affect agriculture.

The code amendment proposals document has many significant changes that may negatively affect agriculture, in contrary to the Determination of Nonsignificance, primarily the 14.08.020(5)(c) regarding the allowance of the development of schools in lands designated farm land. More time is needed for the ag community to analyze these changes. We need transparency from the Planning and help from the County staff to sort through all the different sections. We ask to extend this comment period. Most of the ag community was unaware of the dates regarding comments, as well as some of the major changes in the document.

This is Kim speaking.

I personally, as Chair of the Ag Advisory Board, did not know of the significance of the document until I read about it in last Sunday's newspaper. The Advisory Board must function with attentiveness to detail which it was intended. Committee chairs need to organize their groups to discuss the varied changes with Planning and County staff. Agricultural leaders are only now beginning to become aware of the potential harmful code changes. The DNS document states – quote – “....correction of typographical errors adding clarity, rectifying inconsistencies, including needed provisions, and general refinement of existing regulations” – end quote. This code amendment proposal is interpreted by the ag community as a great deal more than that.

That's from Kim Mower, who's the Chair of our Ag Advisory Board.

And I have just a quick note on – personal comments from myself. As a member of the County Ag Advisory Board, I am very alarmed that the County Planning staff member assigned to the Ag Board failed to bring forward any information on the code amendment proposals to the Ag Board to review and make recommendations. County advisory boards are public citizens who volunteer to serve at the request of the County Commissioners to assure a properly functioning County public participation process and fulfill GMA requirements.

The Ag Advisory Board first became aware of the code amendment changes just this last Friday. Planning staff called the changes “housecleaning.” I call the changes a breakdown of our democratic process. Under legislative actions 14.08.070, Public Participation Requirements, it says in there proposed code language change from “shall” to “may” will eliminate the need for all advisory boards that review Comp Plan elements, subarea plans, functional plans and development regulations. Proposed is only a review by Planning staff to the Planning Commission, totally eliminating early, knowledgeable public processes.

All of these code amendment proposals require further review by the citizens and advisory boards. Thanks.

Chairman Stiles: Thank you, Mr. Good. Excuse me; she has a question.

Mr. Good: Sure.

Ms. Ehlers: You are going to turn these – this letter – in?

Mr. Good: Yes, I've got copies to hand in.

Chairman Stiles: Okay. Next on the list, Marianne Manville-Ailles.

Marianne Manville-Ailles: Good evening. I'm Marianne Manville-Ailles, M-a-n-v-i-l-l-e hyphen A-i-l-l-e-s, and I'm with Skagit Surveyors and Engineers at 806 Metcalf Street in Sedro-Woolley. And we have read through the proposed changes and have made just – and made comments on them and we will submit those to you and just for the Planning Department's – for you guys. If you – I do have this in pdf form – and if that would be helpful to you I'd be happy to provide that to you.

Tonight the primary thing that I – that we – would like to discuss is not what is in the changes but a change that was – that's missing, and that is the inconsistency in the setbacks for resource lands and the inconsistency between 14.16 and 14.18. In 14.16, which is the zoning code, there's a section that deals with setbacks and it states in there that there will be a 200-foot setback from properties that are outside of and adjacent to resource lands.

And so that means then if you're doing a land division on properties – a subdivision, just a plain old, straight old subdivision – on properties that are in, like, Rural Resource and are in Rural Reserve and it's adjacent to Rural Resource, that you would have a 200-foot setback on your Rural Reserve properties to protect the resource lands. And that provision – there is also in 14.16 a provision that will allow for that – for a waiver from that to be done through plat notes and, in the case of Industrial Forest, also with permission and signatures from the adjacent property owners.

In the CaRD ordinance, which is 14.18.300, there is – there are also provisions for setbacks, and they say that CaRDs need to be set back 200 feet from adjacent resource land. And this is problematic because it left out the words "outside of and adjacent to." So now if you are within resource land and adjacent to resource land, the CaRD lots have to be set back 200 feet from the property boundaries. So if you have – so what that does – what that forces is it forces the development deeper into the resource lands so that we have a larger impact on the resource lands than we would if they were – if those CaRD lots could be located on the periphery to keep them out of the resource lands.

And we have found this – this has come up – this has come up a number of times recently and the only remedy for – to deal with this situation – unlike 14.16 in the CaRD ordinance and 14.18 – the only remedy for this is to get a Hearing Examiner variance, which is very costly and takes a great deal of time. And so we are now – we have seen – we have examples and I have piles of examples that I am going to turn in to you guys of – this is so not intuitive that routinely it gets missed in stuff that we've done. I've got probably half a dozen or a dozen short plats where it's been handled differently – all kinds of different ways. And I think that it is simply an oversight in that the words "outside of" did not get included into the CaRD language. If that could be corrected, it would be better for the resource lands and it would be easier to administer.

In the event that that does not get changed, I would like to see at least the option for us to be able to administratively – to have an administrative option for reducing those setbacks so that we don't end up going through the Hearing Examiner process.

I do have a very recent example of one where we did go through the Hearing Examiner process. It was long, it was contentious and, in fact, the decision just came out today and the Hearing Examiner did approve the setbacks. And he had some really – some really, you know, interesting comments in his decision, I think, that are – they're very insightful and shed some light on this subject as well.

So we'll turn all this information in to you, and I know that that's not on the list of things that you have before you today, but I would really ask you to consider this and, if nothing else, at least send a message to the Commissioners that this is an area that does need to be cleaned up so that we can – so that we don't continually face this with our clients. Thank you.

Chairman Stiles: Thank you.

Ms. Easton: Marianne?

Chairman Stiles: Excuse me, can I have a question for you?

Ms. Manville-Ailles: Sure.

Mr. Easton: Given the fact that this is not something that we've reviewed and I obviously haven't seen your letter yet, it would be helpful for – at least for me – to see it in the way you would propose. And by no means is it – I'm not indicating how I would vote – but what you would propose for changes so that we could have a chance to look at those, and in the time that staff does respond to these comments, as they do normally and now have an extended period to do, they can make some comments on it too, for our review. So I'm going to suggest that

you actually, you know, draft some ideas of what you would think could alleviate this potential problem and then staff has a chance to respond to whether the problem exists and what kind of language we might be able to consider, since it's outside of the list that we're currently working on.

Ms. Manville-Ailles: I'd be happy to do that and I did dash – and I mean “dash”! – off comments for tonight, but we will provide something that's more coherent and with the proposed changes to you.

Mr. Easton: And my comments to the rest of the public hearing is that that – I think that's a suggestion you should all consider in your public testimony in writing at times, because it helps us to review things in a better fashion. So I mean I don't – I'm not saying this just specifically to you. I think in general it would help us from a review point of view. Thank you.

Chairman Stiles: Any questions? Carol.

Ms. Ehlers: If you would – you're comparing two laws. And if I understand you correctly, one does what you want done; the other one doesn't. Make sure that you give the analogy for those two.

Ms. Manville-Ailles: I have that – yep.

Ms. Ehlers: Okay.

Mr. Easton: Thank you, Marianne.

Chairman Stiles: Any questions? Thank you, Marianne. Next on the list is June Kite.

June Kite: I'm June Kite and I reside at 20819 Starbird Road, Mount Vernon, and I'm talking tonight for myself and for Friends of Skagit County. And first I want to voice appreciation to the Planning staff, who continue to do the best they can with diminished staff and budget, and to the Planning Commission for their continued willingness to support the public process that it affords us.

Earlier I submitted a comment letter that spoke mainly in regard to the proposed CaRD revision, and tonight I will expand on that and include some comments on other codes being presented for amendments.

With the previous letter, I commented on the 2007 Comp Plan adoption, and the areas of concern that were expressed but were not addressed at the 2007, and those were the trailing issues, which consisted of the CaRD issue. And it was expressed that there were many things that needed to be addressed in revisions of the CaRD and those have not been accomplished to-date.

I also have requested from the Board of County Commissioners a moratorium on accepting applications for long CaRDs in particular, until the situation has been addressed. And this would afford the Planning staff time and budget to work on doing an adequate review of the needs of the changes that we would recommend. It has been suggested that we have a working committee meet with the Planning staff and that takes budget time, and if we can shift from applications to working on budget time it would be beneficial.

The miscellaneous code recommendations that are being presented tonight deal a lot, as was explained, with housekeeping issues and meeting state requirements.

I agree with statements that were presented in earlier with the Advisory Board letter that Randy Good read about needing to meet with the Planning staff so that we can express our concerns, get the proper code language so that it can be reviewed adequately.

I will go down the list. In Definitions, one of the definition improvements that was brought to light by comments that Friends of Skagit made regarding utilities, and they have better defined the “minor” and “major” utility and have added a “major regional utility.” The major utility requires an unclassified use permit, but it doesn’t clarify what is required for the minor utility and for the major utility – whether they’re a Level I permit or a Level II permit.

In Permit Procedures, in 14.06.050, application level includes language for long subdivisions which says “fewer than nine” or “nine to fifty lots.” And in other CaRD language, the short plat is a four-CaRD and the long plat is five and above, so there is confusion as to the “fewer than nine lots” or “nine to fifty lots.” That didn’t make good sense to me.

Inconsistencies: Short subdivisions are defined as five; a long subdivision is five or greater; and what is the Level III before the Planning Commission? I didn’t understand that. What do we take as a Planning Commission Level III?

In the code section 14.16.150, Rural Business was clarified by the gross floor area, and that was a good improvement. And it is noted that in the Rural Freeway Zone motels are limited to thirty-five rooms, yet the Hillside Motel at the Conway freeway exchange – or interchange – the Hill – the Starbird freeway exchange – the Hillside is not *in* the freeway zone and yet the seventy-eight-room motel was approved. The question that we all – the community – all asked was: How does the Planning staff get the ability to say no? All the code indicated that and the Planning Department recommended denial, but the code went – but the application was approved. We’d have to improve our ability for the Planning tech staff to say, It does not fit. Or does it go to the Planning Commission? Is it a – anyway, that’s a personal bent of mine.

In land divisions, 14.18.310(5)(b), which is the CaRD, the only recommendation for change is added information for non-conversion of forest practice, and I understand that that is in order to meet state requirements.

At the first reading of that section there is a total misdirection, in my estimation, in the statement of non-conversion in the CaRD regulation. A CaRD is a *total* conversion of land from resource to small, substandard lot, residential development, and if there was any – if there has been an easement placed, there has already been a conversion. So it's a little bit confusing to me.

As was stated in my previous letter, over time and use it is recognized what needs clarification or is ambiguous and what is inconsistent. Much work has been done to protect agricultural lands, but more needs to be done.

In Section 2 of the CaRD, the Applicability, the CaRD is permitted in all resource lands with varying densities, but some with double and quadruple densities, and these are inconsistent protections. And these are the items that I'm encouraging the Planning staff to work with us in order to – that we can adequately express our concerns and work out the differences.

There has been no restriction put on the number of small lots in the CaRDs. The long CaRD, then, provides for pods, but when does it become a LAMIRD or a PUD, or Planned Unit Development? Do we just keep stacking, stacking and stacking? Our 2007 Comp Plan very adequately addressed the LAMIRD, and to me a subdivision – long subdivision – of more than twenty small lots constitutes a local area of more intense rural development, and those are not permitted outside of what was in existence in 1990.

One other inconsistency I noticed was the Rural Village lot requirements for onsite septic with individual wells is 2-1/2 acres, but our long CaRDs with multiple pods have, in some instances, had individual wells and individual septic on contiguous lots. So that is less protective than the Rural Village designation.

And there are many other inconsistencies and what I would consider wrongs with the unlimited CaRD – that there is a need for a moratorium on the CaRD that cannot be addressed by miscellaneous amendments, and therefore I encourage the Planning staff to – and I will again approach the Board of County Commissioners – to – for the moratorium, and allow the Planning staff to budget some time to work with citizen groups to iron out the differences.

Thank you for your time.

Chairman Stiles: Thank you. Next on the list, Paul Kriegel.

Paul Kriegel: Good evening. My name's Paul Kriegel and I'm the Asset Manager for Goodyear Nelson, which is a small timber land holding company

here in Skagit County. I left you a letter this morning because I didn't know if I was going to be able to be back or not, so I'd just like to add a comment or two to that.

Regarding item 104, 14.18 – you can read the numbers – it's my understanding that this issue with the fire district is basically if you have forest lands – either Industrial Forest, Secondary Forest or Rural Resource lands – and they weren't in a fire district prior to 2005, you won't be able to subdivide those lands. And I just want to point out that that, in our opinion, is a taking and it's a rather significant devalue of our property. And as we enter negotiations to possibly do some selling of some of our land or trading of some of our land, those are issues that greatly weaken our position and make us less competitive as a small landowner. And so I would hope that you would take that type of step very carefully and think about the devaluing that's taking place on people's private property. Thank you.

Mr. Easton: Question?

Chairman Stiles: Sure.

Mr. Easton: This may be a difficult question for you to answer and it may be better for Dave to answer – I know he's going to testify in a minute – but can you give me some sort of point of reference about how much land would be impacted by this decision? Not just yourself, but in general in the county?

Mr. Kriegel: I was not able – I'm on the – I should mention I'm also on the Forest Advisory Board and, like our brethren in the Ag Advisory Board, we just found out about some of these things – other than a couple of things that we'd been working on – on Friday, as well. The Planning Department representative that works with us forgot to tell us about some of the other impacts to forest lands. So we haven't – I haven't, at least – been able to find a map that shows me even whether our lands are in or out of a fire district prior to 2005. I'm sure there's a map like that around, but I have not seen it. So it's not an unreasonable question, but I – it's one I can't answer at this point.

Mr. Easton: Sure. For deliberations purposes, I'm going to need something like that or at least some sort of reference about how much land we're talking about.

Mr. Kriegel: I think we're heavy to Rural Resource because we're very much an urban tree farm, but we have some of the rest of it as well. But it's – this is a very serious matter and I've already been told to stop thinking like a forester and think more as an asset manager, and I understand why the family feels that way.

Chairman Stiles: Question, Annie?

Ms. Lohman: I have a question. Do you know if – to your knowledge, do the – are there fire districts that *do* reach into Secondary Forest, whether or not there's development or not?

Mr. Kriegel: They have in the past. They're quite often the first responders on a fire and so they – and I know that there's been deals made in the past where fire districts have agreed to extend their boundaries to take in certain areas because of issues that have come up. A lot of what – I'm sure Secondary Forest land especially, a lot of that is probably in a fire district. But I haven't seen the map so I don't know. And this wasn't something that we were asked about or told about, and so it hit us rather quickly.

Chairman Stiles: Any other questions? Thank you, Mr. Kriegel.

Ms. Ohlson-Kiehn: I have a quick question.

Chairman Stiles: I'm sorry – Kristen?

Ms. Ohlson-Kiehn: Hi, Paul. So this piece that's in the Land Division – this 14.18(5)(h), adding a date for the fire district – that exists already in the Zoning portion of the code, doesn't it? That date for the fire district boundaries?

Mr. Kriegel: I can't answer that. I don't know.

Ms. Ohlson-Kiehn: I think – well, this is for the – I think this is to make it consistent with what already exists in the code. This is the piece in the Land Divisions, but I think there's another piece that's already in the Zoning.

Mr. Easton: Carly, does that –

Ms. Ohlson-Kiehn: Is that the case?

Ms. Ruacho: In Industrial Forest?

Ms. Ohlson-Kiehn: Yeah. I mean, that date already exists in the code, right?

Ms. Ruacho: Correct.

Ms. Ohlson-Kiehn: And this is just to make it consistent with what already exists.

Mr. Kriegel: Is that Industrial Forest, Secondary Forest and Rural Resource?

Mr. Easton: No, it's Industrial Forest only.

Ms. Ruacho: Yeah, we might want to talk about it during your deliberations.

Ms. Ohlson-Kiehn: Okay. All right. Sorry. Thank you.

Mr. Easton: Staff can't answer questions during the public hearing, Mr. Chair?

Chairman Stiles: Sure they can.

Mr. Kriegel: Thank you.

Mr. Easton: Okay. So you just need to research that more?

Ms. Ruacho: No, I mean, we can get into it if you'd like to talk about it now.

Mr. Easton: Well, it's – my theory is it's on our mind and if you know the answer it'd probably be good timing to tell us. That's if you're okay with that – if the Chair's okay with that and the Director.

Chairman Stiles: I don't mind.

Mr. Easton: It fits well in my notes.

Ms. Ruacho: There is a section in Industrial Forest – I'll just turn to it really quick so I can quote it. So in Industrial Forest regarding the placement of a single-family residence, there're several criteria that need to be met. And it's in 14.16.410(3)(c), sub iii – pardon me, sub ii: "The residence is located within an existing, as of July 26, 2005, boundaries of a fire district."

So the date we're proposing in the new section is the same date; it's a consistent date. The nature of the proposed provision has to do with subdivisions, rather than the construction of a residence.

Ms. Ohlson-Kiehn: Oh, okay.

Ms. Ruacho: So there is a different impact, a different effect. The date is consistent, but the two provisions are discussing different things.

Ms. Ohlson-Kiehn: Okay. Thank you for that ____.

Mr. Easton: And that's Industrial Forest only, right – what you just read to us? So this proposed change would affect more than just Industrial Forest?

Ms. Ruacho: Correct.

Mr. Easton: Okay. Thank you.

Mr. Kriegel: So it's not a consistency issue; it's an expansion into other zoning.

Mr. Easton: Okay. Thank you.

Ms. Ohlson-Kiehn: Thanks.

Chairman Stiles: Thank you. Next on the list, Allen Rozema.

Allen Rozema: Thank you, Commissioner Stiles and Planning Commission members. I would like to extend my thanks for extending the public comment period, and Skagitonians will be working on drafting some comments. Oh, excuse me: Allen Rozema, Skagitonians to Preserve Farmland, Executive Director, 414-A Snoqualmie Street.

So I won't take up too much of your time tonight. Thank you. I do want to point out, though, we do want to take exception with 14.08 as being titled "Miscellaneous." You have five pages of new code being added to Skagit County Code and it's a fundamental change no matter how you look at it – a fundamental change in how the County will be processing UGA application requests. They may argue – staff may argue – that it was part of the Countywide Planning Policies, but to my knowledge that hasn't gone through the Planning Commission public vetting process – things like that. So this is a fundamental change in how Skagit County is going to accept, process and approve UGA applications, and that on its face should be pulled out of Miscellaneous and put on its own agenda and see the light of day. So that would be my recommendation and I look forward to submitting written comments by the 21st. Thank you.

Chairman Stiles: Excuse me, Allen? We have a question.

Mr. Easton: You're going to give us written comments encapsulating what you just said in addition to other things? Because what you just said, I think in writing would be really helpful for me.

Mr. Rozema: Yeah, that's what we'll be –

Mr. Easton: Okay.

Mr. Rozema: Our interest – Skagitonians' interest – obviously right now is how this UGA expansion criteria is going to affect UGA expansion on the farm land – our interest. I should also note House Bill 1967 that just passed recently is being codified at the state level, is not being incorporated here for doing some updates. I think it would have been important to somehow address that because that prevents the expansion of UGAs onto 100-year floodplains. There is two cities exempt, but it does apply to a couple major urban areas within the county. So we'll be sorting through all that and trying to come up with some more intelligent comments ____.

Mr. Easton: And the suggestion, too, I think would be good to include.

Mr. Rozema: Thank you.

Chairman Stiles: Thank you. Next on the list, Dave Chamberlain.

Dave Chamberlain: My name is Dave Chamberlain, 14348 Hidden Ridge Lane, Bow, Washington. I'm here representing the Forestry Advisory Board. Actually I've got a few things here to go over. I've got some comments that you might characterize as "pro" and some comments that are in the "con" category, as far as some of the changes that are being proposed. I also have some written testimony from Aubrey Stargell and I'll deliver that in the box.

Anyway, let me just start out with some of the prepared remarks. Speaking as the Chairman of the Forestry Advisory Board, this day has been long-awaited. Since the Board was established in 2004 we have worked on various matters concerning forest practices. Early on most of our efforts involved state actions that would hinder forestry in Skagit County. Since 2007 we have been working on a project called "The Rural Forestry Initiative," also known as "RFI." RFI is a County-based initiative aimed at removing obstacles to practicing forestry on rural lands in Skagit County. Though the proposed code changes cover only a portion of the RFI package, it is a worthy starting point.

In the package of code changes that you are reviewing, RFI concepts are included in CaRD subdivisions involving resource lands. The RFI concept is very basic and simply stated involves application of state forest practice rules to the portion of a parcel being managed for forestry, while CAO regulations would apply to any areas where land is being converted to non-forestry use. CAO regulations were established pursuant to the Growth Management Act and were intended to protect critical areas in association with conversion activity. Critical area buffers were never intended to address resource protection for ongoing forest practice activity. The Forest Practices Act is the long-standing regulatory framework governing the protection of public resources during the conduct of forest practices.

The proposed code amendment in this case falls under the category of rectifying inconsistencies. The inconsistency in this case is the application of a development regulation on land that is not – has not been and is not being converted. Implementation of RFI will allow land owners to manage their land for timber under the laws designed for such practices. The misapplication of the CAO causes multiple deterrents for prospective forest managers. There is the consequence of a reduced land base from additional buffering; permitting costs would be exponentially higher; and managers may not be able to obtain timely approvals when attempting to respond to marketing windows. Support for the code changes involving CaRD subdivisions and resource lands will promote the maintenance of forested open space and will contribute to the rural character of the county.

That concludes my positive commentary. Now I want to shift over to another subject and it relates to one we've already talked about. The Forestry Advisory Board is dedicated to preserving working forests in Skagit County. This includes federal, state and private lands. Within County jurisdiction, expansive forests are most recognized in the resource zones, yet it is also true that productive forests occupy thousands of acres in the various rural zones. While most of the privately owned forest acreage is located in remote areas within the Industrial Forest zone, a large percentage of forest cover is located in areas associated with partial development, including houses, fields and other non-forestry uses.

Since 2007 our Board has promoted the Rural Forestry Initiative as a means to maintain and encourage the continuation of forest management on lands of mixed use. While these lands can be of great value for many uses, our intent is to strengthen the option to practice forestry on at least portions of these lands.

The FAB board has worked hard to stay informed and participate on all issues relating to forest land. For this reason, we were disappointed to find that a major land use proposal was included in the current code update process without any prior knowledge. I am referring to the proposed revision to the land division ordinance that would prohibit subdivision in Industrial Forestry, Secondary Forestry and Rural Resource lands. And I would note that the prohibition already exists for Industrial Forestry, but, nevertheless, this is an addition.

These lands include a bundle of rights that have collective value. Certainly one of the values is the productivity of the land for growing timber. Other uses carry value as well. These combined values are part of the intricate uses of the land for overall management of assets. Removing these rights without thorough and careful consideration sends a chilling message to landowners about the stability of land investments.

In the future I hope that the FAB will be included in the early discussions about proposals with significant potential to affect the value and use of forest lands in Skagit County. As we all know, well intended actions often result in great harm through unintended consequences.

Anyway, that concludes those remarks. Also I've got for the record some of the materials that relate: the Rural Forestry Initiative, the economics, the rationale for and the ability to manage forests in rural settings, in mixed settings, houses, fields, et cetera. I think it's often stated that forestry just has to be off by itself and if anybody can hear a chainsaw that there's going to be a, you know, a big stir. And my experience being in the industry for the last thirty-five years is that the only problems we've ever had and the only appeals that I've ever had, it's been on Industrial Forest lands. Sure, I've had neighbors that said, Gosh, it's too bad you're cutting the trees down, but I've had as many say that as, Gosh, I'm glad you're cutting the trees down; finally I'm going to get some sunshine.

So I think it's a bit of a – what I would call, instead of an urban legend it's a rural legend that forestry and dwellings are incompatible. Farmers live on the land that they farm. Foresters sometimes like to live on the land they farm, too, and they can do it very successfully.

Within these documents you'll see a lot of material from Washington Farm Forestry. Before you think, Well, he's just trying to promote something, there is a lot of land in that category – an unbelievable amount of land – and it's being managed. And you don't hear about litigation. So I think some of the facts that speak to that are in this paperwork.

There's more paperwork coming. We want to give you the HCP that goes with the state regulations. That's one other benefit of lands managed under state rules that has HCP protection. County CAO rules do not. So we'll provide you with that.

And just in case there was any doubt about the thoroughness and the completeness of the rules under Forest Practices, in case somebody says, Well, he's just trying to – he's just trying to get an easier rule package so he can cut more trees down. Well, these are the rules for cutting trees down, and this dates back to the '70s. It's not development rules. It's cutting trees, growing trees, managing trees. So they *are* different rules, but it's different actions.

So I want to leave this with you and there'll be more. Thank you.

Chairman Stiles: Thank you. Any questions?

Ms. Ehlers: Yes.

Chairman Stiles: Question – go ahead.

Ms. Ehlers: We have in years past – many of us – been gotten copies of the Forest Practice Rules. What's the latest edition?

Mr. Chamberlain: They change almost yearly – portions of them. You almost have to look up on the Internet to get the latest changes. But I'm pretty sure there was changes made last year and they're, of course, always in the process of modifying rules. There's efforts underway as we are here today to change the riparian rules.

Chairman Stiles: Okay, thank you. Next on the list, Carolyn Kelly.

Carolyn Kelly: Good evening. I'm Carolyn Kelly. I'm Manager of the Skagit Conservation District and I'm also Chair of the Conservation Futures Advisory Committee for the Farmland Legacy Program. The address is 2021 East College

Way, Number 203, Mount Vernon, Washington. And I really want to thank you very much for extending the comment period. That'll allow both of my boards to be able to review the documents and make thoughtful comments and take a little more time with that.

I'd just like to comment right now that I agree with Allen Rozema. The section on the urban growth boundary expansion: I would recommend if at all possible that be pulled out of Miscellaneous and dealt with separately. I think that there's big changes potentially in there dealing with three issues that are so hot right now when dealing with urban growth expansions: Expanding for schools; expanding for commercial retail; and expanding for open space and recreational use. And I think that there's been a lot of public interest in those issues and that, as recommended earlier by June and others, too, that working with the local committees that are out there – advisory committees – I think that we could come up with a product that would be, you know, supported by all and not be contentious.

And one more suggestion when it comes to public process: I had people call me up trying to find the documents that were being referred to tonight, and I knew how to find them but a lot of people, it took some digging. And then if possibly the Comp Plan amendment process could be on the home page for the County where they list other things like swine flu and things like that. And bigger letters, so that folks when they just open it up they can see it and then they can go right to the documents. It might help get the word out a little easier.

Mr. Easton: Carolyn –

Chairman Stiles: A question from Jason.

Mr. Easton: Carolyn, I apologize. I didn't see the hearing today or get to review the video of it with the Commissioners, but did you testify this morning?

Ms. Kelly: Yes.

Mr. Easton: Did you or Allen or either one of you testify to the part about asking that the UGA portion of these code amendments be taken out? Has that come to their attention?

Ms. Kelly: No, we just asked for an extension of the time.

Mr. Easton: Okay. Thank you.

Ms. Kelly: Thank you.

Chairman Stiles: Any other questions? Thank you. That's all that signed up on our list. Is there anyone else who would like to speak?

Ellen Bynum: Thank you. Ellen Bynum, Friends of Skagit County, 110 North First, Mount Vernon. I won't go over the points that have been discussed previously in terms of the details. But I was very interested in commenting on the lack of standards or lack of rules about how we do these processes. It seems to me that we have a number of things listed as Miscellaneous code revisions that actually deal with things like, Does the County have authority or discretion to enter into development agreements? And I haven't gone back to read the code or read the original intent or read the state law, but it seems to me that in your deliberations you need to ask some very basic questions. One is: Who has the authority for doing these things? And how did that authority get extended? And what are the boundaries of that authority? And if that authority is not bounded, do you want to suggest boundaries for it? Because what we have done in Skagit, whether we like it or not, is that we have ad hoc – made ad hoc decisions about land use ___ – we've made individual decisions on behalf of developers, on behalf of conservationists, on behalf of state agencies. And we don't have a consistency in how our actions are giving us the goal and the vision that we planned for in our Comp Plan. And I know that's kind of esoteric and we could probably talk for a long time with Carol and Jason and a number of others about that, but I want to put it in the record as something that we've got to write some standards for.

Mr. Easton: I think June just might have testified that Carol and I are long-winded.

Ms. Bynum: Yeah, well, whatever! I mean, it is a dialogue and the other half of that is to let the public know that it is actually going to be their responsibility to track this stuff. You know, you appoint citizen advisory committees and we think that that is a nice way of doing business, but that's an *old* way of doing business. The more progressive areas where they don't have enough money, the Planning staff has been cut, and they do want to do planning they have divested that planning authority down to local community and neighborhood groups and empowered the staff to teach local people how to make decisions about how their neighborhood looks. And, you know, the developers are all screaming and saying, Oh, well, that doesn't give me any opportunity. In most cases, if it's done right it will give you certainty. It will give you certainty for the development. You will know how much land there is in Skagit County.

Friends recently had the privilege of speaking with a developer firm who had moved to the county and was very shocked to learn that 59.09% of the county was untaxed. I mean he almost fell off of the chair when we told him that. So one of the jobs – you know, the ones that we don't like to take on – is really talking about we are a rural county; we have limited resources; we have x-number of acres available for development; we have x-number of acres for forestry. If we want it to stay in forestry, we have to do certain things about that; if we want it to stay in ag, we have to do these other things. When those things

compete we better make up our minds what we want because if we do laissez faire planning, which we have done for a long time, even though we've got a good plan and supposedly we're better than Snohomish and we're better than Whatcom and Friends has made us better than, you know, other places that didn't have Friends – I've been told; I wasn't there then. So, you know, there're some reasons that we are the way we are.

And the flooding is the other piece that makes us look the way we look. I – you know, just as an example, it's okay to say, Well, farmers live on farms, but in the long run are we actually going to want farmers to live on farms? We may not want them to live on farms when the farm is in the floodplain. We may want to not have that. And we may want to pay them not to do that.

So I guess I'm – what I'm asking is for you to step back a bit and look at some standards that – you know, in places where you want to make changes, ask the hard questions about where the changes fit and what it's going to cost, because in the long run it'll cost us a lot more if we don't do it now.

So that's kind of the broad brush. I'll give you some specifics, but I'll do that in writing. Okay.

Chairman Stiles: Thank you. Any questions?

Ms. Bynum: Okay – questions? Thanks.

Chairman Stiles: Thank you. Come on.

Mr. Easton: Come on down!

Diane Freethy: Good evening, Commissioners. I'm Diane Freethy. I'm the President of Skagit Citizens Alliance for Rural Preservation. We are pleased that the Planning Department is attempting to clean up the development code. These changes will likely improve the Department's efficiency and hopefully may lead to a reduction in the number of legal appeals in the future.

Rather than commenting at this time on all the proposed changes that concern us, we wish to draw your attention to code Definitions by offering some examples that have caused problems in the past.

On page 3, line 44 of the change document – I'm not sure where the – if you've got that in front of you.

Chairman Stiles: What was that page again?

Ms. Freethy: Page 3, line 44. The definitions for utility developments are inadequate in that some terms lack meaning and are practically useless; for

example, the words “small,” “broader” and “normal.” The PUD used this deficiency to its advantage during the Hansen/Thomas water line appeals which were adjudicated by two of the County’s Hearing Examiners in 2006. Both Mr. Dufford and Mr. Furlong raised the issue in their respective decisions. Furlong said – quote – “The definitions of ‘minor’ and ‘major’ utility developments are vague at best.” Dufford said, “These definitions are not models of clarity” – unquote.

For water line permits, we recommend that the definitions be refined using the following criteria at minimum: the size of the community; number and type of hook-ups; the type of project – whether it’s a distribution or a transmission line; pipe size and length of the line; number of appliances, such as hydrants and pressure stations; and the necessity for county road cuts.

Other utility developments should be similarly defined. And to comport with the intent of the Comprehensive Plan urban governmental services, as defined in Skagit County Code 14.04.020, should be limited to cities, towns and urban growth areas to prevent urban sprawl from occurring in rural zones. Except in rare situations, urban services such as pipe water and sewer lines are prohibited in rural zones, including, but not limited to, Natural Resource Lands and the Rural Reserve.

That said, we caution against the use of conditions, exceptions and exemptions suggested by land speculators and developers who aim to avoid the Comp Plan amendment process. Even minor adjustments can subvert the intent of the GMA and our Countywide Planning Policies, which, by the way, are supported by a large majority of Skagit County citizens. This type of deviation tends to invite legal challenges and drives up planning and permitting costs, which, in turn, place an undue burden on taxpayers.

We hope you’ll give our recommendations your careful consideration. I will submit tonight basically what I’ve said and then we will submit some other comments, thanks to the extension of the comment period. Thank you for that. And thanks for listening.

Chairman Stiles: Any questions? No? Thank you very much.

Ms. Freethy: Thank you.

Chairman Stiles: Is there anyone else who would like to speak? I’ve gone through the list and I think we’ve got just about everybody in here so if – one last chance: Anybody else like to make oral comments?

(silence)

Chairman Stiles: Hearing none, this public hearing is closed (gavel).

Ms. Ehlers: I have a request from staff. When you are dealing with the comments that Diane made, please look at the Coordinated Water System Plan, which is an official document, to see if there are not some answers in there to some of these issues.

Chairman Stiles: Okay. Continuing on with our agenda, is there any general business items that we need to discuss?

Mr. Jewett: We need to change our deliberation date.

Chairman Stiles: That's true. Deliberations for this were scheduled for December – or, excuse me, July 14th, so, Gary, do you have recommendations on that?

Mr. Christensen: I was just – yeah – checking your website and, yes, we were tentatively scheduled to meet on the 14th, I think it was. Is that right?

Mr. Easton: Yeah.

Mr. Christensen: So in that the written comment period has been extended to the 21st, and due to other progress or lack thereof that we've been able to make on the Open Space, which we were hoping to bring back before you, perhaps, on the 14th as well – we are making progress but not as far along as we had hoped – my suggestion would be that we meet on the 28th, which is the last Tuesday of this month.

Mr. Hughes: Next month.

Mr. Christensen: Oh, I'm sorry; yeah, tomorrow is the 1st. And the agenda then would be perhaps some discussions on the Miscellaneous Code Amendments. I very much doubt that we will on the 28th – only a week after the comment period having expired – be prepared to make any final recommendations. I suspect that what the purpose of that meeting would be to do is to provide some direction to the Department – perhaps how we might then during the month of August do some additional research and work. And then when we reconvene in September we'll be better prepared to deal with some of these Miscellaneous Code items.

As well, I hope then by the end of next month, I guess it is, that we'll have something for your review on the Open Space Concept Plan, based on your last meeting and our discussions then.

So that's what I would propose or suggest at this time, of course subject to a number of things kind of falling into place between now and then. But with that, if you have any thoughts or comments I would welcome them.

Chairman Stiles: Jason.

Mr. Easton: A couple quick – it sounds like more like review than deliberations? You're thinking about more like a work session, it sounds like, as opposed – for both those topics – as opposed to actual we're-ready-to-deliberate on both of those?

Mr. Christensen: Yeah, I think so. I think if the comment period expires on the 21st, we will need some time to copy and prepare the correspondence. It doesn't leave really much time for you to review or for us to review those comments before we meet on the 28th. I guess the reason why I've suggested the 28th is because I'd like to meet with you once before –

Mr. Easton: September?

Mr. Christensen: Yeah, before September – before our August –

Mr. Easton: Recess?

Mr. Christensen: -- break – recess, yes. Thank you.

Mr. Easton: I like the word "recess."

Mr. Christensen: Or sabbatical.

Mr. Easton: That was when we took months off! This is a recess!

Mr. Christensen: We're taking weeks off – yes. So, with that, yeah, I very much doubt that on the 28th that you're going to be making any decisions on the Miscellaneous Code Amendments in the form of deliberations. I think yes, it probably is best characterized as maybe a work study session where we can talk about what some of the issues are. There may very well be that we might come to quick resolution that some of these matters just need to be deferred. And so we don't want to spend a whole lot of time doing work or research if we perhaps collectively can agree in some kind of study session format that maybe some of these items need to be set aside because they perhaps are more significant in nature or are raising some issues. So I don't want us to spend a whole lot of time on something if we can quickly, through a study session format, agree that maybe some of these things need to proceed on their own path.

So, with that, we would meet on the 28th, perhaps in a study session format. We *may* be prepared to have you make some recommendation on the Open Space Concept Plan, if we can get everything put together, based on your latest directives and what you asked us to prepare and bring back to you.

Mr. Easton: So one quick follow-up question –

Mr. Christensen: Yes?

Mr. Easton: -- from me, and then I know there's other people who have questions, but it's a suggestion.

Mr. Christensen: Okay.

Mr. Easton: I suggest that -- I like the format you're discussing, but I do suggest that on one issue that came from a diverse amount of people in this public hearing we need the Commissioners' opinion about what to do about the -- whether they're open to a change about pulling the UGA issue out of this thing. Because that's a major -- this is just one Commissioner's opinion; I know we're not in deliberations, but I'll be clear -- I think that needs to be by Department staff considered about whether this is really appropriate between here and there, because you're going to get -- you already got a bunch of testimony about it -- you're going to get public comment about it. And so it seems like this one doesn't seem to fit. I'm sort of concerned, and I think the Commissioners need to have some insight into your planning about that one issue. That's my only suggestion ____.

Mr. Christensen: That and there's probably some others, as well.

Mr. Easton: Yeah, well, I'm going to stick to just that one right now. I'll defer to everybody else.

Chairman Stiles: Anyone else?

Ms. Ehlers: Yes.

Chairman Stiles: Carol.

Ms. Ehlers: The Countywide Policies on the urban growth areas were included in the documentation with the Hamilton Plan, but there never was a legal announcement and there never was a hearing. And so if that is part of what these folks are talking about, that's true. I keep an eye on that because I had to go to the Hearings Board once to force a public hearing for the county people, because the cities don't want the county folks to have the right to have any comments on that. So if this is part of the issue that they're talking about, add that thought to your concept.

And as far as the 28th is concerned, I like your idea but you might aim to see how much of the comment that you can have Xeroxed by that point and then you can hand it to us and save the postage. And make the comments later because it looks like from what we've seen that there's going to be a fair amount of paper.

Ms. McGoffin: If you want to read it earlier, we could stop by and pick those up, too.

Ms. Ehlers: Well, we could but there's a lot of Xeroxing.

Mr. Hughes: Well, don't they plan on e-mailing – the e-mail list anyway – and you wouldn't make all those copies – which, by the way, you can switch me over to the e-mail list.

Mr. Easton: He's been converted!

Mr. Hughes: I'm going to save a tree!

Mr. Easton: He came to the light!

Mr. Christensen: We will – you know, it's a little difficult to anticipate how much written comments we might get. It could be a little, could be a lot, or something in between. So what we will do is use our better judgment at the close of the written comment period and decide how we can best get that to you, whether it be sent electronically, whether it be delivered to your doorstep, whether we hold on to it and wait until we meet on the 28th. We'll just make the best judgment we can and we will consult with your Chair.

Mr. Jewett: I like that.

Ms. McGoffin: Okay.

Chairman Stiles: Okay. Anything else? Hearing none, I'm – this meeting's –

Ms. Lohman: I –

Chairman Stiles: Go ahead.

Ms. Lohman: Sorry. I am slow. So what would be the order – the agenda order – then? Is the Open Space second and the work session on the code amendments first? What's the order?

Mr. Christensen: Probably the other way, but we're – if you have some thoughts and preferences, share those with us between now and then, because the agenda will probably come out, you know, a week or so in advance. But if you have preferences or some thoughts about how you would like that to appear, then please contact us.

Ms. Lohman: And would it be deliberations then, on the Open Space?

Mr. Christensen: In all likelihood, yes. Yes. That's what I'm anticipating at this point. So what we would be bringing back to – we want to get that to you in advance so it's – you know, that is something we don't want to hand out to you and say, Is it okay, good to go? We want to get back to you the changes and revisions that we have talked about that you've agreed to and we want to give you enough time to reflect on those and make sure that it correctly represents your recommendations and desires. So there're some logistics there in terms of our being able to get that product put together.

Chairman Stiles: Okay, anything else? This meeting is adjourned (gavel).