

Skagit County Planning Commission
NMFS/FEMA Biological Opinion Update
Public Hearing & Deliberations: Annual Code Amendments
April 5, 2011

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Allen Holtzheimer, Silver Bell Winery
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Chairman Jason Easton: Good evening and welcome to the Skagit County Planning Commission meeting tonight. I call this meeting to order (gavel). Commissioners, the agenda is in front of you. Just for review for the public, we will have the Biological Opinion Status Update from Mr. DeVries, then we will hear – we will have a public hearing concerning the code amendments. I asked you to come prepared to deliberate on those code amendments following that, and then any other general business before the end of the meeting tonight. Anyone want to add anything to the agenda?

Carol Ehlers: Are we not going to announce that the Shoreline Master Plan Advisory Committee deadline was extended?

Chairman Easton: We will announce that during the general business.

Ms. Ehlers: Just as long as it's done.

Chairman Easton: Yes, please remind me to make sure it is.

Dave Hughes: It's already been announced!

Chairman Easton: Technically you may be correct there! All right, well, with that said, I'm going to turn this over to Mr. DeVries. Was that the plan?

Tim DeVries: Yes.

Chairman Easton: All right, Tim.

Mr. DeVries: Good evening, Commissioners. Tim DeVries with Planning and Development Services. I'd like to thank the Chair for finding a few minutes to fit me in here tonight.

Chairman Easton: Sure. Oh, just one thing, Tim. You guys have in front of you a handout that Tim has supplied for us. It should be at the top.

Mr. DeVries: In three or four months we're going to be coming before you with changes to the flood damage prevention ordinance and possibly something like definitions in Title 14 having to do with implementation of the biological opinion requirements and FEMA requirements under the National Flood Insurance Program. And we will be holding a public hearing, we'll be holding deliberations, but I kind of wanted to take just a minute or two this evening and give you kind of a heads up that this will be coming down the road, and kind of why we're going to be looking at that and what the history is.

I have prepared and you have in front of you a brief chronology of kind of how these things occurred. In 2004 the National Wildlife Federation filed a lawsuit against FEMA for not complying with federal regulations that they consult with other federal agencies regarding other federal laws and requirements, specifically the Endangered Species Act. And during the course of the trial the court ruled that the – that FEMA had the ability to consult, and, through the National Flood Insurance Program, that they were either encouraging or at least allowing development in the floodplain that they could have some affect on.

So they ordered FEMA to consult with National Marine Fisheries regarding the Endangered Species Act, specifically for the five listed species of endangered salmon in the Puget Sound area, as well as the Orca that – whose primary food source is one of the endangered species.

So they began that consultation and four years later in 2008 the National Marine Fisheries Service issued a 226-page Biological Opinion. Condensed down, what

that says is there is jeopardy being caused and they must stop it. That's about as simply put as I can make it. And so what that left FEMA in the position of doing was through the National Flood Insurance Program trying to figure out how they can resolve the issue of jeopardy being done to the salmon and, specifically, to salmon habitat in the floodplain. Because the Biological Opinion determined that the floodplain was habitat to the species that were being endangered.

Coincidentally, in Skagit County we happen to have all five endangered species, which means we also affect the Orca whale, so we've become a little bit of the poster child for all of this. But there are 122 Puget Sound communities – NFIP communities – that are affected by this.

So within this Biological Opinion there were a lot of Reasonable and Prudent Alternatives and RPA Reasonable and Prudent Alternative 3 had to do with minimum criteria that the communities would have to adopt to ensure no further harm being done. And so there were minimum criteria developed that they would have to adhere to in one way or another. There were three different options. They could adopt a model ordinance where all of these alternatives had already been incorporated; or they could take their assemblage of codes and ordinances, revise them if necessary, and submit those as being compliant; or each project could go through section 8 or section 7 consultation with National Marine Fisheries on a project-by-project basis, which is very, very lengthy.

So the deadline by which all of this had to occur and your choices made and your decisions made and your codes adopted or amended was December 22nd of last year, 2010. Because there was a lack of real direction and because there were a lot of questions that communities wanted to have answered about what kinds of things would or wouldn't be approved, National Marine Fisheries authorized an extension until September 22nd of this year, by which time all Tier 1 communities – such as Skagit County – and all other tiered communities must implement the requirements to satisfy the Biological Opinion and thereby protect the salmon and their habitat.

About a month ago FEMA, NMFS, Department of Ecology, several other state and federal agencies, as well as several local or Puget Sound Indian tribes all met and had a conference – a two-day conference – on what all of the various aspects were. And we had some workshops and we heard some legal and administrative issues, we heard some technical issues. And out of that, Skagit County put together a group of people whose job is to revise the ordinances that we have in place in trying to find the ways that are best for Skagit County to implement the requirements of the Biological Opinion, and thereby comply with the Endangered Species Act and the National Marine Fisheries.

So this staff has met once already. It includes a biological consultant, it includes legal staff, and we are working through our changes to the flood damage prevention ordinance, as well as other documents. And (we're) meeting again

next week, and we have meetings that we're scheduling with FEMA to – on a programmatic approach. And so our hope is that by mid-summer we will be able to come before you with our completed project and begin the public hearings. And it was my intent just to be here tonight in the spring and let you know kind of what is coming before you in a few months.

Chairman Easton: Great. We'll take – we have a couple of minutes – we'll take questions for about the next five minutes to the max – at the max.

Mr. DeVries: Okay.

Chairman Easton: Questions? Commissioner Ehlers?

Ms. Ehlers: I wouldn't expect you to answer this now, but when you come before us later please tell us the relationship of *this* set of restrictions with the critical areas ordinance set of restrictions and with what *might* turn out to be the new shoreline implications of these things, so that people are not faced with three or four divergent or slightly similar but not exact requirements.

Mr. DeVries: Okay.

Chairman Easton: Good. Other questions for Mr. DeVries? Before we dispense with this topic, it's historically been the – or the tradition for this Commission has been not to meet in July and August, and we do our best to try to avoid that, but a scheduling – just so you're aware – and if you've already made your vacation plans and won't be able to rearrange them I understand – but just as a heads up, we are earmarking because of deadlines and because of meetings that are set late in June with FEMA, we're going to probably need a public hearing – or, a meeting – excuse me – on the 19th of July. So just tentatively keep that in mind, okay?

Mary McGoffin: I just have one thing.

Chairman Easton: Yes?

Ms. McGoffin: So are you working with the Cities, too? Is this a City-County effort?

Mr. DeVries: No, we're not really because each floodplain community has their own specific issues that they need to resolve. And in this case of Skagit County, Mount Vernon has already submitted their work and it's been approved. Burlington is a community that is largely already developed and so it's a matter of looking at a community that's already paved and asphalted and saying, Well, there's not really much you can do, whereas in the unincorporated county we have so many different areas that we need to address that it doesn't really lend itself to combining our efforts with a developed city.

Chairman Easton: Okay. Any other questions? All right. Thank you, Tim.

Mr. DeVries: Thank you very much.

Chairman Easton: All right, the next item on the agenda for tonight is the public hearing on the annual code amendments. I call this public hearing to order (gavel) and I will read our opening statement.

The purpose of this public hearing is to receive testimony and written correspondence regarding the County's proposed 2011 Annual Amendments to Skagit County Code Title 14. The sign-up sheet was in the back; it is here now in the front for those of you who would like to testify. An opportunity will be given at the end of the hearing for those who wish to testify but did not sign up to speak.

Tonight, because of the limited amount of folks who are here to testify, I'll be limiting your testimony to four minutes so that everyone has a chance to speak. If you're here with a group, please appoint one as a spokesperson so that greater participation can happen. Before you testify, it's really important that you clearly state your name, spelling your last name. Give us your address. And a recording system will record your comments and we ask that you stand here. Written comments are also being accepted and can be placed in a box located at the staff table near the front of the room. And your exits are – no, sorry.

But before we begin taking public comments, staff will make a brief presentation about the proposal. Thank you for taking the time to participate. Ms. Ruacho.

Carly Ruacho: Good evening, Planning Commissioners. Carly Ruacho, Senior Planner at Planning and Development Services. And I just realized, if Gary's watching – so Gary Christensen, the Director of Planning and Development Services, requested that I have a laptop so that we could communicate via e-mail in case there was anything that he wanted to say.

Chairman Easton: He could e-mail me, if he'd like.

Ms. Ruacho: Right. So, Gary, if you're watching, you'll have to e-mail Jason because I neglected to set up the laptop. Sorry about that.

So back to the topic. We're here tonight to, as Jason said, have a public hearing on our annual code amendments. We do try to do these on an annual basis. The last time we did them, however, was 2009 so we did skip a year. So we should probably, you know, change the name because I think every time I come before you I say that we skipped the previous year, and that's why the list is so long, and that we'd like to have a shorter list next time. But it gives us something to strive for next time.

So we've got the lengthy list again. Last year, or last time we did them – 2009 – we had 111 and this time we have 92, so we're making progress in getting the number down. So it is a very comprehensive list. It deals with various parts of the code. A lot of the amendments are minor in nature, things that we term "house keeping" – just things that you find as you work with the code on a daily basis that could be further clarified, possible erroneous references or even just typos and things of that nature. That isn't to suggest – and we've changed the way we refer to these amendments, hopefully to make it clearer to folks that just because we run them in a batch it's not to insinuate that they are all minor or that none of them are significant or that they're not issues that deserve individual attention. So we do have substantive proposed language in these amendments that I'm sure you'll hear comments on some of those tonight. And you've received previously all the comment letters that came in by the deadline, which was on Friday. We had a little over a twenty-day comment period for folks to be able to write in and express their concerns or support or ask their questions. And you've received a fairly significant packet of those letters that have come in, and then I'm sure folks here tonight will add to those.

I'll just run down for some folks who might be watching, (who) might not have heard of this issue before some of the more significant changes just so folks can kind of get a feel for the things we'll be talking about tonight.

One of the proposed changes was the addition of net metering systems as a new use to allow small solar and wind energy production facilities in Skagit County. Right now we're currently operating under an Administrative Interpretation where we deal with these issues. This is one of those uses that has kind of come up more recently with green energy and those types of things that people want to do.

So our code is ever-evolving. There's lots of uses that weren't conceived before that come up and we need to address those as those needs arise. So that's one example of that.

We also have the addition of a recycling drop box facility as a new use. And this would allow small neighborhood-scale collection of certain recyclables with lesser permitting requirements. So, again, recycling (is) one of those uses that has really come to the forefront in our culture and we would like to encourage that type of use with the less permitting requirements we can, if it's at a scale that meets the neighborhood needs.

Another one right along the same lines, the use that we've termed "manure digesters." So a very interesting phenomenon that maybe some of the country doesn't have any idea of what we're talking about there, but in Skagit County it's an interesting power generation-type facility and something that came up. As you all know, we already have one permitted through a certain course of action,

but if there are additional ones we would like to address that in the code. So that's been defined and added as a use in the proposal.

We've got a proposal for a process and approval criteria for land division extension requests. And that has to do kind of with our – the state of our economy and folks moving through their land division projects and how quickly or not they are moving these days, and the possibility of having an extension provision for those folks who weren't able to complete them in the time given in the previous code provisions.

We're got some language relating to the expiration of applications, and this is going to help us bring to conclusion some outstanding inactive land divisions. We've had some issues lately. You've probably seen in the paper or heard about some issues with these older projects that do cause some concern for folks and are difficult to process. So we hope these provisions give certainty to applicants, as well as to the Department and neighbors and citizens at-large, to be able to bring these projects to a conclusion in a reasonable amount of time.

We have proposed amendments to school siting criteria in the Bayview Ridge UGA which would allow school buildings to exceed the current size and height limits, and modifies the siting criteria a bit to make siting a school on the ridge a little easier and gives a little more certainty to the School District as they begin to do that search for property that may be needed in the future if the population grows in that direction, as is planned.

We have a provision that would allow the expansion of existing NRI-zoned agricultural support businesses onto Ag-NRL land, which was the topic of some comment letters, I'm sure you noted.

And that kind of wraps up the more significant ones, and then the list goes on and on as far as just minor provisions, clarifying uses and making the code be something that's a little more user-friendly both to staff and to the public on a daily basis. So hopefully that gives our viewing public a little idea of what we're here tonight to talk about, and if they're interested in participating in the future this is something anybody can be involved in that uses our code. We keep a running list. This is how we end up with about a hundred of these proposals. Each time folks send e-mails, call the Department or talk to staff and say, You know, I was looking at the code and maybe I don't quite understand this or it could be clearer, or, I used this code and, you know, I had difficulties with it. Maybe it could be expressed in another way. Or they found a wrong reference, or something like that.

So we are very agreeable to having folks let us know any issues that they find in our code and then we try to address them in an expeditious manner as we can. As soon as we start the list we begin processing, a new list has already been started. So some of the comments you saw in your packet have suggestions to

code sections maybe that we didn't undertake this time but – and that will be the basis of our list for next time. So it's good job security and keeps us on our toes and will bring us back before you again with another list next time. So hopefully that gives some clarification and hopefully you guys – you were already quite familiar with it, but in case anybody wasn't, hopefully that clarifies.

Chairman Easton: Thank you, Carly. All right, so at this time we'll go ahead and begin the public testimony. First to speak will be Mr. Wallace. Please remember to state your name, spell your last name, give us your address and limit your comments to four minutes.

Bill Wallace: Mr. Chairman and members of the Commission, good evening. My name's Bill Wallace. Last name is spelled W-a-l-l-a-c-e. I reside at 16273 Par Four Lane in Burlington. I'm the President of the Burlington-Edison School Board and I'm here tonight on behalf of the School District. Thank you for the opportunity to speak to the proposed 2011 code amendments as they apply to a school siting up in the Bayview Ridge subarea.

First of all I'd like to thank Director Gary Christensen and Skagit County for working with our School District regarding the Bayview Ridge Plan as it applies to siting schools. It's very important that the County and the Burlington-Edison School District maintain good communications in order to help provide for future school facilities in the Bayview Ridge urban growth area, an area where approximately 1500 housing units are planned. That kind of growth could bring enough additional students to fill a couple new elementary schools and a significant expansion at the high school.

There are several benefits for schools being sited in the Bayview Ridge area including, but not limited to, having neighborhood schools; access to utilities and services; *not* located in flood-prone areas; and not located on agricultural land.

There are two zones in the Bayview Ridge urban growth area. The School District has been working with the County to allow for future school sites. They are the Bayview Ridge Community Center zone, which I'll refer to as the "BR-CC," and the Bayview Ridge Residential zone, which is referred to as the "BR-R" zone. In November 2010, and again in January of 2011 the School District provided written recommendations to the County for both zones. As Gary Christensen replied in a February 17, 2011, e-mail to the School District, he says – quote – "The intent is to create a consistent code requirement for school siting in either zoning district, be it Bayview Ridge Community Center or Bayview Ridge Residential."

After reviewing the current 2011 code amendments as they relate to both the BR-CC and the BR-R zones, several but not all of the School District's proposed changes have been addressed at this time. First, the BR-CC zone. Thanks to

the County, the amendments for the Bayview Ridge Community Center zone do address the School District's proposed changes.

Now for the BR-R zone. Some of the School District's proposed changes are included in the amendments for the Bayview Ridge Residential zone, which we appreciate, but not all. There are three School District proposed changes for the BR-R zone that are not yet addressed and would be problematic for siting a school there in the future. Burlington-Edison School District Superintendent Laurel Browning wrote a letter to Gary Christensen, dated March 31, 2011 – last week – outlining those issues. I understand that copies have been provided to the Commission.

Chairman Easton: That's true.

Mr. Wallace: Okay. Thank you. To quickly summarize those three remaining issues in the BR-R zone, the School District is asking the following to be addressed: One, the 40-foot maximum height limitation. We propose providing an exemption for schools, as was done for other structures in this zone and was done for the school facility – for school facilities in the BR-CC zone. A typical elementary school with two stories and a gymnasium is approximately 55 feet. Schools, like all facilities, must comply with the Federal Aviation Administration regulations regarding height.

Second issue: Requiring a school facility be, as it's currently written now – quote – “that it be sited as close to the outer edge of zone 6 as possible” – unquote. According to Skagit County has stated in writing that a school can be situated at any location with airport – within airport safety zone 6, except at the northwest end at the approach to their main runway. While the School District agrees with not locating a school in airport safety zones 1 through 5, limiting the location of a school to the outer edge of zone 6 is unnecessary and unduly restrictive.

And the third issue in BR-R zone is the current requirements states that – quote – “Proposed school site includes or abuts permanent open space” – unquote. This amendment is consistent – we're seeking that this amendment is consistent with other code provisions and avoids ambiguity. And so the School District proposes that the amendment be changed to read – quote – “At least 25% of the proposed site will be permanent open space, playfields or other active recreations” – unquote.

In closing, as you review the 2011 codes, I request that you refer to Superintendent Browning's March 31, 2011, letter to the County and that the BR-R codes are amended to fully support school siting.

This concludes my presentation, and thank you for your consideration.

Chairman Easton: Mr. Wallace, in reviewing the Superintendent's letter, the statement you just made about your preference on point 3, requiring that a school site – quote – “site includes or abuts permanent open space,” the statement about 25% or less that you just read is not included in the letter. So if you have that in writing, it would be – and by no means am I projecting that the Commission will agree to that –

Mr. Wallace: Sure.

Chairman Easton: – it would be good for us to have that, if you or your representative have that.

Mr. Wallace: Okay. In her letter, she referenced – there's an attachment, and that attachment is – relates to a meeting on November 15th and there were some written recommendations presented from the School District to the County at the time.

Chairman Easton: Did you find it in there?

Annie Lohman: Yeah, it's on –

Chairman Easton: It's in there and – it is there on the amendment?

Ms. Lohman: Yeah. It's in there.

Chairman Easton: Okay. Great.

Mr. Wallace: So that statement that I just read in quotes is stated in that attachment.

Chairman Easton: Okay. Great. Thank you, ___. Thank you, sir. Oh, one question. Carol.

Ms. Ehlers: You say 25% or less. That means it could be 5%.

Kristen Ohlson-Kiehn: Read down where it says “at least 25%.”

Chairman Easton: It says “at least 25%.”

Mr. Wallace: I think at least 25%.

Ms. Ehlers: Okay, “at least 25%” is different from “25% or less.”

Ms. Lohman: It says “at least.”

Ms. Ehlers: Okay. As long as it's clear.

Mr. Wallace: If I said that, I misquoted. The intent – it should read “at least 25% of the proposed site would be permanent open space, playfields or other active recreations.”

Ms. Ehlers: They’ve got to have a place to run. Now I don’t understand her language: “Not providing for the 40 foot height exemption...” How do you plan to coordinate with the flight patterns? One of the proposals is under the touch-and-go flight pattern, which has a risk to it. How do you plan to relate your needs, the aviation needs, the school children’s safety and the noise question? Because the teacher and the student must hear one another easily and clearly.

Mr. Wallace: Yeah. Well, I’ll take a stab at this and following me John Ravnik is here, as well. He’s working with the School District. First, as far as the siting, are the height restrictions. Our intent is to certainly continue to work with the County. We’re asking for perhaps another 15 feet on top of the 40-foot restriction that’s there now. And we would, with any particular site location – which we don’t have now in either zoning – our expectation (is) we would also be working with the Port of Skagit to ensure the compliance with the Port and the FAA regulations for any height restriction. We certainly want to meet any regulations and we certainly want to have it at a safe location.

As far as the noise issues, that was one of the things that the County had asked us to address and we had some consultants do some noise testing out there, and I might ask John to address that if he – he’s scheduled to come up next. Maybe, John, you can address the noise issue and how that was addressed.

Chairman Easton: Okay. Thank you, Mr. Wallace.

Mr. Wallace: Thank you.

Chairman Easton: Mr. Ravnik?

John Ravnik: Thank you. Good evening. Some nice familiar faces and new faces, and it’s a pleasure to be here. My name is John Ravnik. I’m a civil engineer, a principal engineer at the Ravnik and Associates in Burlington, Washington. Ravnik is spelled R-a-v – as in Victor – n-i-k. My mailing address is Post Office Box 361, Burlington, Washington.

I’m going to touch very quickly on the matter that I was going to address and then I’ll go back to Commissioner Ehlers’ comments about height and noise and those factors, if I may, please.

In working with the School District and the board members, we’ve been careful to keep an eye on what allowances are needed for elementary schools, and they do vary and are rather extensive at times. In taking a look on page 11 of 25 of your

code amendments, which is the BR-CC zone, Mr. Wallace did correctly represent that the changes proposed by staff mirror the requests made by the School District. There're some minor text revisions; however, the context of the changes is consistent.

In an elementary school site, generally in the nature on the order of 15 acres, two-thirds of the property is recreational playfield; however, underneath your permitted uses you'll find that staff is recommending that you strike recreational – recreation playfields as permitted uses. In a school site, although the school is the predominate facility, the playfields in themselves consume two-thirds of the property. And we don't want to go down the road of looking into a project site, acquiring a piece of property, only to find out thereafter that we can't have recreation playfields. So it's just brought to your attention as a point of discussion – think you might want to –

Chairman Easton: Could you give us that reference one more time, please?

Mr. Ravnik: It's in page 11 of 25 under section 14.16.155, line number 12, item (c), "community parks," and then the words "and recreation playfields" are lined out.

Chairman Easton: Okay. Thank you.

Mr. Ravnik: You'll notice that there's other types of recreational playfield facilities that are either left in or have been added; however, that's something that you may want to delve into.

On an absolute side note, your item number (a), which is a fire station, will mean that you now have the ownership of a pre-existing, nonconforming use at your own Bay View fire station. But you can take care of that yourselves.

Should we start with noise?

Chairman Easton: Sure. Briefly.

Mr. Ravnik: Okay. We did an acoustical study conducted at the southeast corner of the Bay Ridge fire station property. For your reference, that's up in the northerly, north-easterly portion of the BR-CC zone. The study was performed for a one-week period, twenty-four hours a day. The report has been submitted to Skagit County staff. It did utilize the Washington Administrative Code noise requirements and there were no noises at that property that exceeded the maximum allowable or the long-term allowable. The only loud noises that occurred that were over the required levels – maximum levels – were the fire station, and those are exempt because they are a life safety element. And if you would care for a copy of that report, I'd be happy to provide it. Skagit County staff can provide it to you. They were given it on November 15th of 2010.

Building heights. The Port of Skagit County has put a considerable amount of time and effort into establishing what are maximum allowable building heights. They have actually two criteria. One that establishes how high can I be without having to get an FAA permit, and the other one being what's the maximum allowable height that I can get with FAA authorization.

On both the north and south sides of Peterson Road – and let's just take the BR-CC as one part and mirror that to the north – both of those with FAA authorization allow building heights on the order of 160 to 180 feet, depending upon the location of the property. Skagit County's – I believe it's called Contour Heights Restrictions Map, will detail that on there. For whatever reason, in 2009 when your amendments were done those height allowances were in effect, and code says your building heights should conform to International Building Code or FAA, and now it's been revised to 40 feet or FAA, whichever is *less*. So you'll find that your zones have actually put the Port's efforts aside and established a new, lower level of building height, for some reason.

Chairman Easton: So any questions for Mr. Ravnik? I have one. So Mr. Wallace testified that 55 feet is the average elementary height for an elementary, including a gymnasium?

Mr. Ravnik: Yes, sir.

Chairman Easton: But with what you just said about the FAA, if it is the pleasure – if it turns out to be the pleasure of the Commission to alter that number, is 55 the number, as the engineer, you're recommending?

Mr. Ravnik: It is. Actually we took the height of the Lucille Umbarger Elementary School and added 10% to it.

Chairman Easton: Okay.

Mr. Ravnik: That was how we came up with it.

Chairman Easton: I'd just hate for you to have to come back again if that comes up. Okay.

Mr. Ravnik: Yes, yes.

Chairman Easton: All right. Carol?

Mr. Ravnik: Um –

Chairman Easton: Or go ahead, John. Did you have something else to add?

Mr. Ravnik: I did. I just wanted to check with Commissioner Ehlers if I answered all of her questions, but her hand's up.

Chairman Easton: Looks like her hand's up!

Mr. Ravnik: Ms. Lohman, if you'll excuse me for a moment.

Ms. Ehlers: Well, it's better to get these questions addressed in the beginning of a process than two or three years down the road when somebody says, You didn't think about that.

Chairman Easton: We definitely agree on that.

Ms. Ehlers: I'm thinking of the future. I listened to the airport fight in Anacortes for years.

Mr. Ravnik: Yes, ma'am.

Ms. Ehlers: And I have the benefit of the Navy flying overhead, so one becomes attuned in ways one might not. And I went down and looked at West View School and realized that when that was first permitted the highway, I-5, was not as noisy as it now is and you had to put a concrete wall up to protect West View from the noise from the highway.

Mr. Ravnik: I don't believe that Interstate 5 was present when that school was constructed.

Ms. Ehlers: That could well be. And it's that sense of the future that I'm trying to think of.

Mr. Ravnik: Yes.

Ms. Ehlers: Is there any – and I've got here the document the airport did in 2003 in terms of dealing with encroachments, which I trust you have looked at.

Mr. Ravnik: I have gone through portions of it but not through every page. Thank you.

Ms. Ehlers: Well, I wouldn't have either if I were you, because there are – there's redundancy in there. Do you think you're still okay for the future of what the Bay View airport might turn into, especially with small, private jets?

Mr. Ravnik: Are you done with your question? I do for two factors. Starting last summer – although the Port of Skagit County has gone on record in writing for at least the last couple of years the Commission has stated they have no concerns about a school siting in any location within zone 6. This last summer they

amended that slightly to reflect except for the northwest corner, which happens to be a Bay Ridge Light Industrial zone, has no influence on a school.

Ms. Ehlers: Okay.

Mr. Ravnik: All right. When the acoustical analysis (sic) and the architect worked together and they conducted the investigation, the acoustical analysis said, Standard International Building Codes will address the noise dampening required. We haven't even gone into the availability of different windows, roofing structures, doors and materials that could further dampen it.

Ms. Ehlers: Okay.

Mr. Ravnik: Okay? And in talking with the Port, they do see expanded growth out at the Port. I don't think any of us could put our finger exactly what it is on, but the fact that we've still got a lot of flexibility in building standards that we can use to dampen noises. And I do believe that Bay View Elementary School is still surviving quite well. I have faith that we can work together to keep it a good school.

Ms. Ehlers: Bay View Elementary School was the most beautifully and carefully sited school I've ever watched in my whole professional career. So it should be good.

Mr. Ravnik: I'll take that as a compliment. Thank you.

Chairman Easton: Commissioner Lohman?

Ms. Lohman: Is Lucille Umbarger the tallest structure that the School District has?

Mr. Ravnik: The tallest elementary school, yes.

Ms. Lohman: But so when you say 55 feet, that's anticipating any possible structure that you might have?

Mr. Ravnik: Yes, it is.

Ms. Lohman: Okay.

Mr. Ravnik: Yes, it is. Yep.

Ms. McGoffin: So you wouldn't need to go higher than that?

Mr. Ravnik: That's 10% higher than - yeah. Bay View - or, excuse me - Lucille Umbarger Elementary School, before that was created all of the School District's

schools were based upon two first grades, two second grades, two third grades on up. Relative to being a K-8 program, that school was designed to accommodate three levels. So the gymnasium is bigger, the cafeteria is bigger. In those open structures, when I have a larger room – all right? – my roof gets higher. So I have a triple level elementary school that I've added 10% more height to.

Chairman Easton: Okay.

Mr. Ravnik: Yes, thank you.

Chairman Easton: Okay.

Ms. Ehlers: Okay.

Chairman Easton: Commissioner Hughes, did you have a question? No? All right. All right, we will move on.

Mr. Ravnik: Thank you very much.

Chairman Easton: Thank you. Thank you, Mr. Ravnik. I would welcome that the District and their representatives stay for deliberations in case there are other questions. We do reserve within our bylaws the ability to work with staff and those that are testifying, if they choose to stay.

Mr. Ravnik: Thank you.

Chairman Easton: The next one to speak – Mr. Rozema?

Allen Rozema: Thank you, Commissioners. Allen Rozema, Director, Skagitonians to Preserve Farmland. Rozema, R-o-z-e-m-a. We are located at 414A Snoqualmie Street, P.O. Box 2405, 98273.

I submitted a letter last week, so hopefully you got that. I won't elaborate too much. Just point out again that our review of the code, we think we've identified a redundancy in two proposed code amendments and we're bringing that to everyone's attention. And hopefully something can be resolved there with addressing that redundancy.

If there are going to be two code paths for a rezone – and I'm referring to proposed code section 14.16.400 – that would allow a boundary line adjustment to expand – what is it? – Natural Resource Industrial lands into Ag-NRL, that's a de facto rezone.

And then another proposed code amendment in 14.08.020, subsection (3), it appears to be allowing the County to accept Comprehensive Plan amendments

more than once per year. And our read of that amendment striking “provided that no modifications of” Comp Plan “policies or zoning designations are proposed” could free up an opportunity for the County to accept rezone requests more than once a year. We get there with the previous sentence. And I’m sorry; I’m jumping ahead. Page 7 of the proposed code amendments, line 31, that “the County may adopt amendments more frequently than once per year if the proposal is related to current use taxation...” And then the sentence after that in parentheses is striking related to rezone requests – things like that.

So our read indicates there’s two code paths being proposed to rezone land, or at least Ag-NRL land, and somehow if there’s going to be two code paths they should be equally painful or equally easy. And one is being set up to be real easy while the other one’s going to be real hard and it would drive most rezone requests in Ag-NRL through this special use permit process. So we just want a little focus there and try to make those two code paths – eliminate one or make them equal in terms of the amount of review process and procedure that one would need to go through. And then more specifically with regards to the new code section, 14.16.400, that would allow a rezone through a boundary line adjustment. We are requesting that additional language be adopted that is similar to what we call the “39-1 language,” and that is found in code section 14.08.020. That code language requires – it’s what you already have. It allows residential boundary line adjustments for subdivisions in Ag-NRL, but if the residual balance of land is placed into a conservation easement. If that makes sense.

Chairman Easton: What was that reference again?

Mr. Rozema: It is –

Chairman Easton: Did – you’re referencing what language you would prefer –

Mr. Rozema: Correct.

Chairman Easton: – is used?

Mr. Rozema: There’s – excuse me. I said the wrong one. 14.16.860. I’m sorry.

Chairman Easton: 14.16.860? Okay.

Mr. Rozema: 14.16.860. That’s the agricultural protection section. I don’t know if it’s called “agricultural protection act,” but it requires the balance of land not utilized – or, in that case, residential – to be placed into an agricultural conservation easement. And so if the Commission and the County desires to keep pursuing the BLA rezone process through the Hearing Examiner, it would be nice to have that 39-1 language, the residual balance of land to be placed in a

conservation easement. And we believe that would help prevent an end run of the typical annual rezone application process.

And then again we identified that redundancy with that other code amendment, 14.08.020, allowing the County to accept Comp Plan amendments more than once a year if it's related to current use taxation. And current use taxation only applies to agricultural lands, forest lands and open space lands, so our read of that would imply the County can accept a rezone application on Ag-NRL more than once a year.

Chairman Easton: And your biggest concern then is that it's more than once a year? Or is it it lowers the level of restriction, or both?

Mr. Rozema: Well, right now our read is there's two rezone processes – permit paths – being created with these two proposed code amendments. So we would prefer to pursue the one that allows accepting rezone applications more than once a year over creating a new code section that would allow a rezone request through a boundary line adjustment through a Hearing Examiner.

Chairman Easton: Okay. Questions for Mr. Rozema? Commissioner Ehlers?

Ms. Ehlers: You have a whole paragraph you haven't talked to us about on substantial evidence.

Mr. Rozema: Yeah, that was more of a minor concern. Our biggest concern was related to rezone requests. We – substantial evidence: That's in reference to locating wells outside of 1-acre siting requirements on Ag-NRL. And it just appeared to us that substantial evidence was fairly subjective and vague. And understanding the context in which that was being put forward, we thought that adding language or replacing that language – “substantial evidence” – with language that would reference a written report by a licensed whatever, whether it's a well driller, a water quality specialist, a water systems designer. But someone in a qualified field with regards to wells would provide a written report to the County saying because of these technical difficulties we recommend that we place it outside. That way County staff and the public aren't fighting over, Well, what does “substantial evidence” mean and did you provide something? As we indicated in the letter, if a licensed whatever – well driller – provides that report, the County staff is assured, the public is assured, the applicant is assured that there's a minimum level of competency required to get that license; therefore, a minimum level of competency to prepare the report. And our concern also is thwarting third-party losses and frustrations of appeals and things. If someone just can write whatever then it's subject to all sorts of he said/she said type of argument.

So we thought keep it in the spirit of keeping things simple. Just have a licensed well driller, water quality specialist or someone prepare that report. And hopefully it doesn't add anything to the cost or time of the permitting.

Chairman Easton: Mr. Hughes?

Mr. Hughes: Do you have – have you folks ever done a or know – done an inventory of the agricultural support service businesses in the county that –

Mr. Rozema: A complete inventory? Not comprehensive. We think there's – well, we know there's less than 400 acres, but right around 400 acres.

Mr. Hughes: No, as far – existing businesses that we're – that this – we're talking about.

Ms. Lohman: NRI.

Mr. Hughes: The NRI business.

Mr. Rozema: Oh. We think there's seven or eight. So, yeah, there's at least seven or eight opportunities but it's more NRI zone land is created then you create more opportunities for this provision to be created. And we have been aware of and been involved in very loosely on the studies that are identifying, one, currently how many zoned acres of industrial land we have in the county and what sort of ideas should be generated to create more industrial-zoned land in the county.

Chairman Easton: Commissioners, any other questions for Mr. Rozema?

Ms. Ehlers: I have a quick –

Chairman Easton: Commissioner Ehlers?

Ms. Ehlers: Yes. The issue of existing is something that's troubled us in more than one zone. But this is a good case in point. If someone starts with a very small business and it's permitted and then the business grows and grows and grows, what kinds of recommendations are there that are practical for that business owner other than requiring them to give up the site entirely, try to figure out how to retrofit it back to ag land, after it's tried to move someplace like Bayview Ridge? I'm not being facetious. It's come up a number of times and it will again. So if you don't like the way the County has proposed dealing with an existing business, how do you prefer it be dealt with?

Mr. Rozema: We pointed that out in our letter. We would like to see language that would require the residual balance of land to be placed in an ag easement or

–

Ms. Ehlers: Okay. And that's all you want?

Mr. Rozema: That's correct. I am not asking for anything other than what we've put in our letter, or suggesting anything that we put in our letter.

Ms. Ehlers: One of the problems of learning to read is you have to have the vocabulary and the vocabulary for each profession is quite specific.

Mr. Rozema: Correct. So, again, I'd just like to point out we believed the two code amendments that were identified are redundant and –

Chairman Easton: Oh, we're clear on that.

Ms. Ehlers: We're clear on that.

Chairman Easton: We're clear.

Mr. Rozema: There you go. And, anyway –

Chairman Easton: And we'd – again, we'll extend the invitation to you to stay for our deliberations, too, if we have any questions for you.

Mr. Rozema: Thank you.

Chairman Easton: You bet. All right, according to the sign-up sheet, that's the end of those who have signed up. That doesn't mean that we're out of time for people to testify. If you would like to testify, would you please raise your hand if you haven't been identified? Is there anyone else who'd like to testify? Okay. Sir? Right here in the front row, or the frontier row? Please remember to state your last name, your address, spell your last name and limit your comments to four minutes.

Louie Requa: Sounds familiar. Yes, Commissioners. My name is Louis Requa, Skagit Surveyors & Engineers, 806 Metcalf, Sedro-Woolley. Last name R-e-q-u-a. It's been a little time since I've been here with the Planning Commission. There's a couple of faces here – Dave and Carol – I recognize, but –

Chairman Easton: We appreciate your service in the past, too. You know what we go through.

Mr. Requa: Of course. I am here to make some comments prepared by our Senior Planner, Marianne Manville-Ailles. Unfortunately she threw me under the bus this morning when she found out she had a church obligation tonight, so she can't be here to do this. So she prepared a letter and I think I will just go ahead

and read it. And there are basically some comments that we would like to make about some of the code changes.

I have two letters here. One's dated July 7, 2009, which was presented to Carly at that – at a different time concerning some of these same issues, and I have April 5th letter, 2011, that I will also submit for your reading.

Our comments on this round of code amendments center on three areas – our concerns about code changes affecting the expiration of applications, our concerns about meaningful extensions for preliminary plats, and the requirement for CaRD lots to have a 200 foot setback when they are located on parcels designated as resource land that are also adjacent to resource land.

*Number one: **Expiration of Applications**. The current code revisions include provisions that address Requests for Additional Information/Application Expiration of Application, and it's 14.06.105. The revisions require that all information requested as part of a project review be submitted within 120 days or the application will be denied. There is provision for the county to grant up to three three-month extensions. In most instances this should be adequate for an applicant to be able to compile and submit the requested data. However, on projects that are complex and require the input from one or more county departments or state or federal agencies the timeframes can be substantially longer. In the event of a study – in the event that a study is requested that will clearly exceed the arbitrary timeframes established in the code, the clock should be stopped until the study can be completed. An example where this may be necessary is for wet season review of soils for septic.*

In those instances where the applicant is waiting for input from County Staff the clock should also be stopped. Applicants should not have applications denied because they cannot get the information they require from County Staff in various departments.

And this does happen occasionally.

This is particularly true in the case where something arises that is new and both the applicant and the County Staff are attempting to work through how it should be dealt with. The same is true when the County requires the applicant to obtain approvals or input from other public agencies.

More consideration should be given to this section of code to insure that active projects are not denied.

And one comment I would like to make about this: We're not advocating that some of these applications that have been sitting on the books just keep grinding on and on. We're talking about if there's active pursuit of the application. These timeframes are too tight, especially for the economic conditions that we're in today.

*Okay, number two: **Preliminary Plat Extension**. The proposed code revisions include a onetime and one year extension for preliminary plats. Prior to the last significant update to Skagit County's UDC plat extensions were allowed. Presumably the revision to once again allow for a plat extension is the result of the extremely difficult economic times that the development community is facing. Unfortunately, the one year extension's not adequate to provide any meaningful relief to those projects that are in imminent danger of expiration. None of us can know exactly when the banks will again start lending on construction projects and these plats that have expended tens and tens of thousands of dollars will again become viable. If the intent of Skagit County is to provide a mechanism for these projects to weather this storm of economic downturn and be able to come out on the other end and be completed, then a more flexible approach is essential. This could look like a series of one or two year extensions that could include revised conditions of approval to reflect changes in provision of infrastructure to keep up with the current state of the art. Such extensions are clearly allowed in state law. RCW 58.17.140 states "A final plat meeting all requirements of this chapter shall be submitted to the legislative body of the city, town, or county for approval within seven years of the date of preliminary plat approval. Nothing contained in this section shall act to prevent any city, town, or county from adopting by ordinance procedures which would allow **extensions** of time that may or may not contain additional or altered conditions and requirements."*

We do not believe that the intent of the County is to only pay lip service to the real concerns of the owners of preliminary plats that are approaching expiration. If that is the case, we would strongly urge you to consider a more flexible and meaningful code revision that is able to respond to the economic crisis for as long as it lasts.

Lastly, the 200 foot setback for CaRD Lots within and adjacent to Resource Land.

This is something that is also addressed in the other letter that I mentioned, July 7th of '09, but it still seems to be prevalent. She said:

We have attached our letter of 2009 where we first expressed our concerns regarding this issue. The issue has not been resolved and we again would like to express our concerns. The following is a summary of our 2009 letter:

The Problem is this: *The setback provisions included in the zoning code, which is Skagit County Code 14.16.810, paren (7) and (8), and the CaRD code, Skagit County Code 14.16.310, paren (8) and (b), are inconsistent in terms of their application to resource lands. The inconsistency results in negative impacts to resource production when applying the CaRD provisions. The CaRD setback provisions appear also to be internally inconsistent with the intent of the code regarding protection of resource production, Skagit County Code 14.18.300, paren (1) (a) and (b), 14.18.310, paren (5)(b), and 14.18.310(9) and (b). In the most recent code changes (see 14.18.320, paren (1)(a) and (b)) the problem is further exacerbated by requiring CaRD lots that are abutting a public right of way to have the cluster lots adjoin the public right of way or for the cluster lots to attain residence on adjacent lots. For lots located within and adjacent to Resource Lands it is not possible to adjoin the right of way (or to a residence on an adjacent lot) and be 200 feet from the adjacent Resource Lands.*

Now remember, this is for if the CaRD is in the resource land and you've got adjacent resource lands.

Chairman Easton: We need you to wind up your testimony.

Mr. Requa: Okay. The letter goes on to state a solution to the problem.

Chairman Easton: We'll have both copies of the letters before we go into deliberations. We'll make sure of that. So we're going to take the chance to ask you a couple questions, though.

Mr. Requa: Go ahead.

Commissioner Easton: Commissioner Ehlers?

Ms. Ehlers: One of the things which was supposed to be defined in these amendments was the word "adjacent," because when we did the Master Planned Resort they used the term "adjacent" and then they used the term "immediately adjacent."

Chairman Easton: Are you addressing the person who's testifying?

Ms. Ehlers: You have now used the term “adjacent” and “abutting” and apparently it comes in the same sentence. What do *you* think the term “adjacent” means?

Mr. Requa: Well, it’s – when we went through this once years ago “adjacent to” and “contiguous with” was deemed not abutting. That was what we were told by the legal beagles – that that wasn’t the case. It still could be separation. And that resulted in some problems with the CaRD clustering process.

Ms. Ehlers: Mm-hmm.

Mr. Requa: If you remember, the clustering – the CaRD process was supposed to be a process where there was some incentive for property owners to do the CaRD process in lieu of creating some open space.

Ms. Ehlers: Mm-hmm.

Mr. Requa: And that if you owned a house on that property and you wanted to create an incentive for those people to do that, the incentive was that they wouldn’t have to put the cluster next to their home, that you put the cluster – say it was a four-lot CaRD, you could put the cluster of three lots someplace else and your home over here and not be impacted by the cluster. And over time that has evaporated. Now the cluster has to be – all existing residences and the house all have to be together, which I think is a disincentive. That’s a personal problem that I have with the code. Because I see a lot of people that will come to our office and say, Well, I want to – I’d like to do the CaRD. That gives them the density bonus. And then I tell them, Well, you’ve got to cluster next to your house. No. Forget it.

Chairman Easton: Okay. Other questions?

Mr. Requa: And so the “adjacent to”/“contiguous with” really doesn’t mean that they are together, line on line.

Ms. Ehlers: Except in the thesaurus.

Mr. Requa: Pardon?

Ms. Ehlers: Except in a thesaurus.

Mr. Requa: Yeah.

Chairman Easton: Okay. Thank you, sir.

Mr. Requa: Any other questions?

Chairman Easton: No, I think that's all. Thank you. Sir?

Allen Holtzheimer: Hi. Thank you for the opportunity. My name is Allen Holtzheimer. Last name is spelled H-o-l-t-z-h-e-i-m-e-r. My residence is 20125 Hill Vue Street in Burlington. And I'm here representing a very small company that I've started called Silver Bell Winery.

You've had some very polished speakers here. You're not going to get that with me. I'm just a regular guy. I'm not an attorney or engineer or anything, so – and what I want to say is a little more anecdotal rather than specific.

Chairman Easton: Okay.

Mr. Holtzheimer: About six or seven years ago my wife and I decided that we thought it'd be a really cool idea to have a winery as a retirement business. A lot less stressful than what I do now. And so she nodded and said, Yeah. Good idea. So I have – we went into the Planning Department at the time and just, you know, said, Hey, we're not doing it now but where can we put a winery? And we were allowed to put it out on the Ag-NRL land. You know, we could buy a small farm, convert a barn into a wine tasting room and whatever. You know, we weren't real specific at that point.

About six months ago I went back in and said, We're serious now, because I finished my WSU training and it turns out I can make really good wine and we have some investors that want to support us, so we're off and running. And I was told at that point, Oh, that's not the case anymore. You can't put a wine tasting room on the ag land anymore.

So that was a very big disappointment. And the answer on county property was basically it had to be on Rural Reserve and Rural Reserve only. And there was some industrial places where we could put it, but we're not interested in being in a – you know, next to Nordic Tug. It's wine tasting! We want to be in an agricultural type of environment, not necessarily on ag land but...

So that was a real disappointment for us, and at that point we basically stopped looking for land in Skagit County, where we've lived for twenty years, and we started looking in Snohomish and Whatcom County because we didn't want to be in an industrial zone. We wanted – you know, this is an agricultural type business.

A couple weeks ago I went back into the Planning Department with one piece of property that we looked at and they said, Oh, you need to come to the Planning Commission meeting because it looks like they're going to make a change, which it looks like – and I'm not real educated on this – but it looks like that by expanding the NRI use into the Ag-NRL land will allow me to put a processing facility, which a winery will be considered, on ag land now.

So that's very exciting, but I'm a little concerned that there's a change on the Rural Reserve zoning, which is crossing out, under Permitted Uses, line (k), Wine tasting rooms. And that's – I don't understand why that would be done. It's a – if there's anything that's a rural business and that's a positive for this county, it's the wine tasting business – wine production and wine tasting. It's a business that attracts monied tourists, people that eat at expensive restaurants, people that stay at nice hotels, people that spend money in the county. They come to the tulip festivals, they – you know, they're the kind of tourists that we want. It's very low impact on the land, there's no – very, very little environmental impact of a wine tasting room. You know, some grape skins when you're done making it, pretty docile waste products.

And so I'm a little concerned that we're going to remove the ability for me to, you know, take out – we're going to add one zone that I can put my business in but we're going to take another one out. And those are the only two zones that we could, you know, really want to be in. And so, you know, obviously it's a little selfish for me – my motives – and you guys are here to have the big picture and, you know, do what you say. But I just really think that that's kind of a little short-sighted with what we're trying to do and tough economic times. You've got a business that's willing to put some money in here and create a pretty cool type business, for lack of a better term, and then we're going to cross that off.

So that's it.

Ms. Ehlers: What page and line?

Mr. Holtzheimer: Oh, I'm sorry. Under Rural Reserve, page 15, under 14.16.320.

Mr. Hughes: Line 30.

Mr. Holtzheimer: Line 30.

Chairman Easton: Page 15, line 30.

Ms. Ehlers: Thank you.

Mr. Holtzheimer: Yeah, and when I went in six months ago she said, Well, you can't be on the Ag-NRL land but look here, it's permitted right here and it's an outright use, and then, you know.

Chairman Easton: We appreciate you bringing it to our attention. Are there any questions for Allen? Commissioner Ehlers?

Ms. Ehlers: There is a wine tasting on McLean Road – on Memorial Highway.

Mr. Holtzheimer: Mm-hmm.

Chairman Easton: Okay, what's the question?

Ms. Ehlers: Isn't that in the NRL zone?

Chairman Easton: Well, I think we'll save that for deliberations and ask staff then.

Ms. Ehlers: Okay.

Mr. Holtzheimer: Oh, I'll answer that if you know. That's on Ag-NRL land but I guess previously there was an exception that allowed an agricultural processing facility on Ag-NRL land, which is why – Tulip Valley Vineyards is who you're referring to, was allowed to do that. But for some reason – and I'm not an expert on this – but that exception was taken away at some point in the recent past.

Chairman Easton: We'll delve more into that. I'm seeing heads shaking in multiple directions around the room, so we'll delve more into that when we get into deliberations.

Mr. Holtzheimer: Okay. Okay.

Chairman Easton: Stay there, though. There's more questions.

Mr. Holtzheimer: Yep.

Chairman Easton: Annie and then Josh.

Ms. Lohman: I have two questions. The first one is: Would you be doing any vineyard-type production or would you be basically importing all of your grape or whatever ___ you use?

Mr. Holtzheimer: I would be doing both. And at this point, you know, sales dictate what you do but my guess would probably be 60 or 70% of what we would bottle would be from other places. We would import the grapes because it's not hot enough here to grow what most people like. But we anticipate having, you know, some vineyards because we want to grow our own grapes, too.

Ms. Lohman: And my second question is: Are you envisioning creating a new Ag Industrial zone, or would you be using an existing Ag Industrial zone?

Mr. Holtzheimer: You mean creating a new building?

Ms. Lohman: When you were talking about it's allowed in the Ag Industrial zone, in the potential that we're supposedly going to be expanding that, are you anticipating that you would be going into a new Ag Industrial zone?

Mr. Holtzheimer: I'm not anticipating anything. I haven't found a piece of property that's complied with what I want to do within the code yet. So (I) don't know the answer to your question.

Chairman Easton: Commissioner Axthelm?

Josh Axthelm: Yes. As far as wine tasting, in a wine tasting room do you do other things there as well, like have dinners, have functions, or is it just restricted right to wine tasting?

Mr. Holtzheimer: We will want to do other smaller functions. I know that there are some wineries, you know, all up throughout the state that like to host weddings and, you know, big functions. We don't anticipate doing anything greater than ten or fifteen people at a winemaker's dinner-type thing.

Chairman Easton: And I just want to remind the Commissioners that this would be – I mean, and the public – that this is not testimony pertaining to his particular business. It's to the general code changes that we're considering.

Mr. Holtzheimer: Right.

Chairman Easton: Just so that we're clear on that. We're not having a public hearing about a future project where you don't know where you're going to put it. We're excited that you're interested. And I don't mean that as a slight. I just want to make sure the public's clear as they watch us at home.

Mr. Holtzheimer: And I have one other comment to make on this.

Chairman Easton: Quickly.

Mr. Holtzheimer: In Napa Valley there's a huge kickback right now against all of the wineries because they've – you know, the massive amount of traffic and problems that they're having because of massive tourism about – because of wineries. You're *never* going to have that in Skagit County. We will never have that type of environment because you can't – you're not growing the big, powerful – you know – popular grapes here. So it's –

Chairman Easton: Thank you for your testimony.

Mr. Holtzheimer: Just to add that on.

Chairman Easton: Thank you.

Mr. Holtzheimer: Thank you.

Chairman Easton: Is there anyone else who wishes to speak in the public hearing? All right. Sir? Just state your name, spell your last name, and give us your address.

Doyle Schmidt: My name's Doyle Schmidt, S-c-h-m-i-d-t. 19642 S__ Lane, Mount Vernon, Washington. I live out by Pleasant Ridge. And I am co-owner – family owns some property that – down in the Conway area, and it's adjacent to the Welts' property that was approved here recently for development. And we went through the development stages in the early '90s to, you know, just to see what we could do and to plat it. And we did the clustering. Actually Louie did all the work. And I just would like to say that we'd like to see it extended. We're not in a hurry to do anything. We've just been sitting on it. And we're not developers; we're just a family. And we did all the things the County required at that time and we'd like to see the plat be able to go through. It might be ten more years. I don't know. I mean, we have no set deadline or anything.

So that's all I really – at the time we did the plat we tried to get the County to bump – we've got commercial forestry right down to the farm land and at that time we tried to – we asked and pleaded for them to move the boundary up to the back of Hermway Heights and just run a straight line across that level to Cascade Ridge. And we own 600 acres there. And that's all I had to say.

Chairman Easton: Thank you. Commissioner Ehlers?

Ms. Ehlers: How do *you* define "adjacent"?

Mr. Schmidt: "Adjacent" would be a neighboring property, to me.

Ms. Ehlers: Next door?

Mr. Schmidt: Yeah.

Chairman Easton: Okay. Thank you for your testimony. Anyone else?

(silence)

Chairman Easton: All right, hearing none I'll now close (gavel) the public hearing. The hearing is closed.

We are going to recess – it'll be a ten-minute recess – for document reproduction. And then we will come back and then we'll discuss – I'll take a look over the break what it is that we haven't reviewed yet. We'll discuss when we get

back how we feel about deliberations, how we want to break deliberations up, and things of that nature. All right? So we are in recess.

(recess)

Chairman Easton: I call the Skagit County Planning Commission back to order (gavel). All right. We are, on our agenda, under Deliberations of the Annual Code Amendments. Along with your Vice Chair, during the break I was considering multiple ways that we might slice the elephant so that we could eat one bite at a time here and figure out how to manage our time. So here's what I suggest. I suggest that we, for respect to those that are here, that we deal with a couple of issues right away. We're still waiting for some of the materials that were – written materials – that were submitted by Mr. Requa, so we're going to hold off on that for sure for this time. And there's a really good chance that the issues you brought up will not be deliberated on tonight. I can't say for sure, but at this point it's looking that way.

What we're going to do is we're going to take these in this order, unless there's a disagreement. We're going to deal with the issues around the School District and the Bayview Ridge, and then we're going to deal with the issues that Mr. Rozema brought up in his letter. We'll see where we're at time-wise there. The last order of business, regardless of where we're at time-wise, is we're going to dispense with everything else in the code changes that we can do in a lump sum, in a group.

During this time, between now and when we get there, if there is a particular – not one that I've mentioned – but if there is a particular one of the code changes that you do not want to see deliberated on en masse, you need to write yourself a little note and we will remove those from the large group that we will consider at the end.

Is everyone agreeable to that sort of format for the way we go forward in deliberations?

Ms. Ehlers: Suits me.

Chairman Easton: Is there anyone disagreeable with that? Carly?

Ms. Ruacho: Sorry. Some of the issues that Louie brought up, as we discussed about a month ago when I came before you, we do have some that are time-sensitive and that we would really like to have deliberated on tonight. Although I do respect that there's other people in the audience that came on other issues they're not necessarily time-sensitive, but some of the ones that Louie brought up are.

Chairman Easton: Okay, so we're waiting on Louie's – on his letter –

Ms. Ruacho: Comment letter.

Chairman Easton: Comment letters, and then we've got to have some time to review that so – I'm trying –

Ms. Ruacho: Right. So I don't know if you want to, like you say, talk about some before the letter gets back and then take a recess to read it, but if it's agreeable, that's where we talked about before, either having another meeting this month so that we can get deliberations done and meet our May deadline for some of those extensions. Those really are the only two –

Chairman Easton: – that are time-sensitive.

Ms. Ruacho: Time-sensitive.

Chairman Easton: Perfect. Okay. Carol? Go ahead, Carol.

Ms. Ehlers: I suggest that something that you want discussed in a lump be the wind power.

Chairman Easton: Right. What I'm going to do, I'm going to create an opportunity at the end where we're going to deal with everything else. If you want something removed from the everything else pile, that's when you would bring up wind, as an example, and say, I want to – and I'm going to reserve – every Commissioner can have the right to pull as many out as they'd like to say, Let's discuss this as an individual item, which would – is what I presume you're saying about the wind.

Ms. Ehlers: Right, but what do we do when we have a word that we – something we'd like to be kept in that they took out, or something they – that sort of thing?

Chairman Easton: Well, we'll – those would be the kinds of ones that we would take and discuss separately. If you have something that you want to see altered, we'll do those separately.

Ms. Ehlers: I have –

Chairman Easton: Any other –

Ms. Ehlers: – a bunch of them.

Chairman Easton: Okay. Well, you'll want to make a list because we're going to get to this point in a little – towards the end. Any other questions about the order and how we're deliberating? Was there a question in the audience? Mr. Rozema, you've got to go to the mic if you're going to speak.

Mr. Rozema: (inaudible)

Chairman Easton: Okay. Well, I appreciate that. Okay.

Mr. Rozema: (inaudible)

Chairman Easton: That sounds good. Okay. For those of you who couldn't hear him, he's being so generous to offer – he's being very generous – completely seriously – generous to Mr. Requa to offer his time. So if that's – we probably will rearrange things in that order. Let's deal with the School District issue, then we'll take a recess and then – and distribute the issues that are time-sensitive. And we will make every effort to deal with the time-sensitive tonight and then see where's we're at in relationship to whether we can add this to our May meeting or from there.

All right. So, with that –

Ms. Ehlers: Which ones are the time-sensitive ones? Where are they?

Ms. Ruacho: On your –

Chairman Easton: Go ahead, Carly.

Ms. Ruacho: On your colored list – and this might help; it kind of goes along with what Jason was talking about. So what I did was I took the code concept list that kind of keeps all the code amendments in a more manageable order and gave them kind of a color coding. So prior to public testimony tonight, I went through, based on written comments, and gone through, and the yellow items have received no comment. So that's probably this lump sum that you guys are talking about, you know, maybe addressing at the end of the meeting, unless somebody wants to pull some out just on their own accord. But those yellow – so all the yellow that you see received no comment.

Then I took another step, which is the green color which is on the first page, and then on page 3, those are the time-sensitive issues.

Chairman Easton: Okay.

Ms. Ruacho: And then the blue are those that received comment –

Mr. Hughes: The green is, right?

Chairman Easton: Green is time-sensitive. And blue?

Ms. Ruacho: And blue are the ones that received comment but we thought we could probably dispose of them pretty quickly. There might have been misunderstandings or just a really quick explanation, and we could move forward on those. So the ones that are still in white are the ones that we see as probably your larger issues that you might, you know, want to wait until your next meeting to where you have more time. We could respond in writing – those types of things. Unfortunately, some of those are the ones that were here today, but if Allen doesn't – Allen Rozema, because there're two Allens today – doesn't mind if his aren't addressed today and could come back at those deliberations. Some of those are his.

Chairman Easton: All right. So at this time let's take up the issue of code amendments that relate to the letter addressed from Burlington-Edison public schools. So those code changes that apply to the – so, Carly, do you want to open with some statements here? I think primarily what I'm interested in is not a rehashing of – by the way, definitely not a rehashing of everything that has to do with Bayview Ridge. Though we love that part of our county, that would be quite an exhaustive meeting. What I would like is for you to address points 1, 2 and 3 towards the bottom of the page – of their – for page 1 letter about why the changes they requested were not included, from a staff point of view, and if – you know, or if you're agreeable to share your opinion about maybe changing your opinion on those, that would be helpful. Then after you do, then I'll open it up to the Commissioners.

Ms. Ruacho: You bet. So what we have – and I only made one, just for the sake of – we were copying a lot during the break and are still copying some things to get to you. So what I did was I just copied one and I do have it here, if anybody's interested, which is a January 28, 2011, letter from the Burlington-Edison School District. In that letter, addressed to Gary, the School District makes some requests for language change – language amendments to the zoning code. So this was, I would say, within the last week of when we were proposing to release for code changes we got this letter.

So we had been working on proposed code changes for several months and then we received this letter and gave it absolutely every effort we could to make sure that it was included in this batch and released for public comment and made it this round, rather than waiting until another opportunity for code amendments. With this letter are some very specific language changes in a strikethrough and underline format and they are all relating to the BR-CC zone. During Mr. Wallace's and Mr. Ravnik's testimony, and also in their letter, I believe, of March 31st, during the comment period, they make reference to an earlier letter – November 2010, I believe – where they – I don't know if they attached it to their letter or not; I know Mr. Ravnik has a copy with him here tonight – where they indicate that they had other suggested amendments to the BR-R zone. Those, unfortunately, were not included in this letter that came. I'm sure, like I said, it was received by the Department at another time, kind of probably filed with

general correspondence, noted for potential future changes, but the one that came on January 28th, which is kind of when all our minds were thinking “code changes,” we’re in code change mode, were directly addressing just the BR-CC zone.

So we worked with the Port, got those changes and got those released for public comment. Also, at our initiation, which, interestingly enough, they had spoke to this before but not in this letter, there is school siting criteria in BR-R as well. And so we initiated changes to the BR-R zone for consistency, not knowing that the School District – at least for me personally because I had not been in receipt of that other letter and I was the one physically drafting the codes – not knowing that they had requested changes to BR-R at some earlier date and time. So the changes that you see to BR-R were changes that we initiated ourselves just for consistency in the two zones.

The reasons that the issues number 1, 2 and 3 that they outlined are not included, number one is that what they requested for the BR-R zone was a blanket exemption from the height limit, and in a commercial zone – which the BR-CC is – we felt like that was appropriate, that was something we could accommodate. It already had a 50-foot height limit and they asked for an exemption to that limit, and so that’s what’s proposed. In a residential zone with a 40-foot height limit with no footage given, there wasn’t, you know, sufficient time to have a dialogue and determine well, what would you need in BR-R if you were to put a school there versus BR-CC. And to have a blanket exemption wasn’t something that we proposed.

The second one, being on the outer edge of zone 6, again –

Chairman Easton: All right, before we move on to the second one –

Ms. Ruacho: Okay.

Chairman Easton: – I have a question.

Ms. Ruacho: You bet.

Chairman Easton: So then is the – now, from my understanding from listening to both the speakers from the School District, that a 55-foot limit height exemption in BR-R would be acceptable to them. Is that something that you’re in a position now to give us a staff recommendation on?

Ms. Ruacho: What we would recommend is that moving forward with any of these 1, 2 or 3 would be what we would consider a substantive change that would require additional public comment.

Chairman Easton: So you’d need another public hearing.

Ms. Ruacho: We would need another public hearing.

Chairman Easton: All right, well then let's deal with that. There's no reason for you to go into 2 and 3 if it's the staff's opinion – in my opinion – there's no reason to go into 2 and 3 with us if it's staff's opinion that – let me see what the will of the Commission is. Here's where I'm – is what I'm considering. Removing this section, calling for an additional public hearing – it's important enough that these gentlemen came to testify about it so it's obviously important to the School District. I don't feel any need for us to rush. There's nothing time-sensitive about this. So if you're agreeable, we can take this from our business on the code amendments just in relationship to the BR-R zone.

Ms. Ruacho: There's kind of – there's two ways to go about it. You could go forward with the code changes that are in place that give them some more flexibility in the BR-CC and in the BR-R, just not – it doesn't address these three things. You could recommend approval to the Commissioners, if you're agreeable to that. Sorry, Matt, that you're back there behind the forest. But you could go forward with that. And then you could either recommend to the Board that they hold the public hearing on the three items and give your recommendations on the three so they already know what you're thinking. Or you could recommend that you hold another public hearing.

If you pull the whole thing, it holds up the changes that are already proposed, and it's my understanding that they are supportive of –

Chairman Easton: Right.

Ms. Ruacho: – the changes that are already proposed. They would just like to see some additional language, as well. So those are the two options.

Chairman Easton: All right, so let's review the options then. The option that I'm going to propose that we consider is the option of giving our recommendations to the Commission and recommend that the Commission – the Commissioners – have a public hearing. Does anyone disagree with that as the option? The other option would be that we have a public hearing.

Ms. Lohman: Why don't we keep it with us?

Ms. Ehlers: Why not keep it with us?

Chairman Easton: Well, I think we're in a position after hearing from – I feel like we're in a position, after hearing from the District and the public that was interested at all in these type of changes – not these specific ones – that we would hear – it seems slightly redundant to me. I mean, I'm not opposed to it. I'm just trying to stream – looking for opportunities to streamline.

Ms. Ehlers: If I were managing a school district, I'd like to know what the package is and I would like to be an integral part to discussing the specific language for the whole package. Because if I have to build a school honoring laws that come from this agency, that agency and Timbaktu, I'd like to have the whole package negotiated before it came to a public hearing.

Chairman Easton: Okay. Well, from an options point of view, are you agreeable to the idea of approving the changes that have been agreed upon by both the District and – we have no public testimony against them – and staff's agree – staff has agreed to those changes? Can we approve what we already have in place from what's been presented to us?

Ms. Ehlers: We could if it was –

Chairman Easton: And then we can deal with issues 1, 2 and 3 separately.

Ms. Ehlers: If we didn't have twenty-five pages of detailed information and these letters, which, in my case, at least – I'm not altogether certain of exactly which word in which sentence there is agreement and which ones there is not.

Chairman Easton: We're only – Commissioner Ehlers, we are only talking about, right now, the issues that relate to the BR-R and the BR-CC zone.

Ms. Ehlers: I know that. I've got it highlighted.

Chairman Easton: Okay.

Ms. Ehlers: But, it isn't clear to me precisely which language we would be agreeing to.

Chairman Easton: It would be the changes that are in your –

Ms. Ehlers: That they didn't disagree with.

Ms. Lohman: Mm-hmm.

Chairman Easton: Ryan, can you take over the – it's every code amendment change suggested by staff that's been presented to us and then an open – you know, available for written comment and then we just had a public hearing on it. So everything that had been done prior to this letter.

Ms. Lohman: But Mr. Chair?

Chairman Easton: Yes?

Ms. Lohman: There was a question brought up by the School District about removing recreational playfields in the BR-CC, and so then the question is, Is that –

Chairman Easton: And we can consider that during the deliberation on this issue.

Ms. Ehlers: Well, actually we might not have to because if you go into the Definitions in the code the (d) and (f), where it says “major public uses” and “minor public uses” end up covering those things which you struck.

Chairman Easton: And we haven’t actually asked staff to give us their comments on that particular issue yet either.

Ms. Ehlers: Well, you see –

Chairman Easton: I’m trying to – what I’m so far unsuccessfully attempting is to try and extract some sort of – you know, do we eat the tail first or do we eat the leg first here, in trying to deal with a (sic) issue. Right now it happens to be this issue. So I’m going to ask – I’ve heard from a couple folks – is there a majority of you – you know, are the majority of you comfortable moving forward with the BR-CC and the BR-R zoning changes that are proposed? And then we can have a deliberation on them. I’m not asking for a vote. I’m asking for some direction about how we move the ball forward.

Mr. Hughes: Are we talking about the changes as they just concern the School District or all the changes? Fire stations, police precinct – you know, all the stricken and that?

Chairman Easton: It would be the code amendments that are – let’s see. Carly, what numbers are we discussing here? It would be –

Ms. Lohman: 40, 41.

Mr. Hughes: The BR-CC and the BR-R.

Ms. Ruacho: Right. 40, 41.

Mr. Hughes: Well, I’m looking at the sheet of paper we’re you’ve got the strikes and the underlines.

Ms. Ruacho: Right. In that sheet, in that packet –

Chairman Easton: Page 11 of 25?

Mr. Hughes: 11 to 12.

Ms. Ruacho: My recommendation would be take the whole section. I think we can quickly discuss the other changes – the fire stations and parks and police precinct station.

Mr. Hughes: And I know there's an answer for it, but I think it just needs to be brought –

Ms. Ruacho: Yeah, absolutely. But I think I would recommend that you take all of 14.16.155.

Mr. Hughes: 14.16.155.

Chairman Easton: 14.16.155.

Mr. Hughes: 160.

Chairman Easton: 155 through –

Ms. Ehlers: 340. 340 is the other one.

Ms. Ruacho: 340? And all of 340.

Ms. Ehlers: It's on page 16.

Chairman Easton: Could you say that one more time for me? I didn't get that in my notes.

Ms. Ruacho: All right, so we're on – of the actual code amendment language, strikethrough packet, page 11 of 25, 14.16.155, and then page 16, 14.16.340. They both run onto the other page, as well, but... And I think we can –

Chairman Easton: All right, any objection to doing that? Hearing none, we're moving on. All right, so here's what we're going to do. Now we're going to deliberate on that. First thing I want to do is hear staff's recommendation on the one change that's been testified to that was referred to – that the Commissioner brought up concerning playfields. What is – you know, what's the rationale for taking that out?

Ms. Ruacho: Right, and it's as Carol stated. So what we're doing here, we're striking fire station, police precinct office, post office and libraries. Those are all covered under the broader definitions of minor and major public uses. For some reason when this was drafted – this happens a lot when it's drafted by a different individual; we have inconsistencies. The way it's referred to, the way those are referred to in every other zoning district are not by their names. We don't say "post office," we don't say "fire station," we don't say "police precinct." We say

“minor public use,” “major public use,” which includes those as well as other things.

So this is just a consistency change. It has no effect on the implementation. Those items would all still be allowed, as well as other minor and major public uses – strictly for consistency.

The same thing with the recreation playfields. That’s just not a use that we call out individually. What we do is we have “parks” called out and the definitions of those parks allow specific type of activities. Recreational playfields is included in the definition of specific types of parks, which are still listed here. Again, it’s just for consistency. When you get that specific and you list something in only one zone it causes problems in the rest of the zoning code, as we have someone here tonight talking about wine tasting rooms which we’ll find out that exact thing is happening. When you list it one place and nowhere else, it causes problems. So we like to list things under more of a general definition. So all of those items that are seen as stricken are also allowed – are *still* allowed – under the items that are listed as underlined.

Chairman Easton: Okay. Anyone willing to make a motion on considering this section of code and the changes concerning it? And then we can move into discussion.

Ms. McGoffin: I can’t think what I’m trying to say.

Chairman Easton: The Chair would like a motion, basically, that says that we would accept the code changes from page – from the code sections 14.16.155 through 14.16.340.

Ms. Ruacho: *And* 14.16.340.

Chairman Easton: Excuse me. *And* 14.16.340.

Ms. McGoffin: I move that we accept the motions –

Chairman Easton: The changes.

Ms. McGoffin: – the changes as described by our Chair.

Chairman Easton: We have a motion. Is there a second?

Elinor Nakis: I’ll second that motion.

Chairman Easton: Okay, it’s been moved and seconded that we approve the changes as presented to us by staff for sections of code 14.16.155 and sections of code 14.16.340.

Ms. Ruacho: And I would just have one clarifying remark – that you're – the way the motion would read would be that you recommend approval. Because that's always going to be your motion for these.

Chairman Easton: All right. So we recommend approval of 14 – changes to 14.16.155 and we recommend approval to 14.16.340. All right, it's been moved and seconded. Discussion?

Ms. Ehlers: I just want to –

Chairman Easton: Let the Chair recognize you so we can keep moving smoother. Elinor?

Ms. Nakis: Carly, I just want to clarify this. On, let's see, number 57 –

Chairman Easton: Ryan, can you put those back up for us, please?

Ms. Nakis: What's that?

Chairman Easton: I'm sorry. I'm having Ryan put them back up.

Ms. Nakis: Oh, okay. The RRv, Remove wine tasting use. You said that's been removed from there to make it more general, so it's not really –

Chairman Easton: No, that's not in this section. I think you're in a different section.

Ms. Ruacho: Yeah, that's not in the section that you guys have a motion on right now. It's in 320.

Ms. Nakis: Okay, but this is something you just – you kind of just said something on that right before we did this.

Ms. Ruacho: It's similar. Yeah, and I apologize if it was confusing. I was just trying to give an example that when we list a use just one time in the code it makes it very difficult because that – based on the code construction, it is therefore prohibited in every other zoning designation. So this wine tasting is not something that you guys are – is included in your motion right now.

Ms. Nakis: Right. I understand. But we just passed that motion, right?

Chairman Easton: No, we haven't passed a motion yet.

Ms. Ruacho: No, we haven't voted.

Chairman Easton: We haven't voted.

Ms. Nakis: Oh, I apologize.

Chairman Easton: No, we just have a motion and a second. We're having discussion just limited to the Bayview Ridge Community Center, 14.16.155, and the BR-R, which is 14.16.340.

Ms. Ehlers: When are you going to tuck in the information we got tonight?

Chairman Easton: After we dispatch with this, we will discuss how to go forward with the rest of the concerns that the District has, which staff is recommending, although we haven't taken any action yet. We have a couple of different options from staff. We will deal with that after this motion's dealt with. Hearing no more discussion, I'll call for the question. All those in favor of the changes as proposed, signify by saying aye.

Ms. Lohman, Ms. Nakis, Mr. Hughes, Ms. McGoffin, Ms. Ohlson-Kiehn, Mr. Axthelm and Mr. Mahaffie: Aye.

Chairman Easton: Aye. All those opposed?

(silence)

Chairman Easton: Any abstentions?

Ms. Ehlers: Abstaining.

Chairman Easton: Okay. Passes eight-zero. Eight for, zero against, one abstention. All right. So at this point we have two recommendations, two options recommended to us from staff, although of course we could always do our own thing. But if you look at the letter from Burlington, the way I'd like to describe what needs to be addressed right now is if you look at their – that last – the numbers 1, 2 and 3 at the bottom of the page, those seem to capture their three major concerns. It's staff's opinion that – we heard from staff, from Carly – that it is staff's opinion that this is substantial enough that we would need a separate public hearing. Whether that public hearing comes before us or whether that public hearing comes before the Commissioners is a decision that we can make a recommendation on. Does anyone have a preference?

Mr. Hughes: How about legal counsel?

Ryan Walters: If you recommend to the Commissioners that they have the public hearing, you'll slow down the adoption of this package.

Chairman Easton: Even though we just dispatched with the rest of it?

Mr. Walters: Well, you are –

Chairman Easton: We just recommended it eight-zero to the Commissioners.

Mr. Walters: Yeah, but if you are packaging – it depends on how many different – if you were going to package a bunch of stuff tonight altogether –

Chairman Easton: We are, I think.

Mr. Walters: Then, yeah, to add that now would require a public hearing before the Board to adopt that package, unless things get split up again. I mean, it would probably be just as simple –

Chairman Easton: To keep it here?

Mr. Walters: Yeah, keep it here. Take it to the May or take it to some later date.

Chairman Easton: Okay, so are we – we're all of the same mind then?

Ms. Ohlson-Kiehn: Well, the other advantage of having a public – of *our* holding a public testimony would be that since the staff thinks it's a significant change, we could *hear* that there's no public comment on that change.

Chairman Easton: Right. Agreed. No, agreed. And whether that's done by us or by the Commissioners –

Ms. Ohlson-Kiehn: And then we can give our recommendation to the Commissioners based on that input.

Chairman Easton: Right. I didn't realize it was going to make things slower.

Mr. Walters: I do think –

Chairman Easton: By no means did I mean to imply earlier that I didn't want to hear what the public's thoughts were on these three things. I was just trying to find a way to –

Mr. Walters: I do think it is the Board's preference that *you* hold these public hearings on these matters.

Chairman Easton: All right. Well, with that being said, then we're agreed then that we will just recommend – we recommend to staff – or we instruct staff, as one of our – this will be a finding? Correct?

Ms. Ruacho: Sure.

Chairman Easton: All right. As a finding, that a public hearing be held in the near future to deal with – I don't want to slow anything down in this process, so I want it done soon, and particularly with our schedule I think we have that option.

Mr. Hughes: As soon as legally possible.

Chairman Easton: As soon as legally possible, we would like to deal with the following three issues: The issue concerning the zoning in BR-R – the zoning BR-R as it relates to height restrictions for a school; as it relates to the phrase "sited as close to the outer edge of zone 6 as possible"; and as it relates to – quote – "sites including or abuts permanent open space."

Ms. Ruacho: And what I would say there is what goes out for public comment, as what happened before when the District submits their proposed code amendments, we worked with the Port, we worked with other stakeholders, that language might not be exactly as they have proposed.

Chairman Easton: That's fine.

Ms. Ruacho: But we will address their concerns, you know, with the idea that –

Chairman Easton: Yeah, I just want to be clear the Commission wants these three – within whatever way you structure it, let's make sure all three of these come back to us again.

Ms. Ruacho: Correct. I'm clear.

Chairman Easton: We're a stakeholder, and I'm saying, as a stakeholder who's holding the meeting, make sure all three of these return to us. I'm not too concerned about their form, but I want to make sure they all come back. And I've had some concerns in the past that when I request trailing issues reappear they seem to either disappear into the ether or end up on a really long list. And so this is not to go into that file.

Ms. Ruacho: Right. I mean all I can say on that is it's a recommendation.

Chairman Easton: Well, I'm speaking to the Director, who's watching us.

Ms. Ruacho: Right.

Chairman Easton: He sent me an e-mail; he's definitely watching us! So that one's for Gary.

Ms. Ruacho: Yeah, but the Commissioners establish the work plan.

Chairman Easton: I understand.

Ms. Ruacho: And to go back through another public comment period would push other issues that were next on the docket – and that's at their discretion if they want to –

Chairman Easton: I understand.

Ms. Ruacho: – to push other issues or not or how to fit this in. So I can't guarantee you that this will be picked up and –

Chairman Easton: And I spoke too soon. I just got an e-mail from Gary two minutes ago. He just signed off, so he'll still have to watch the video to see this part. All right. So we're all agreed we've made that recommendation as a finding. That's dispatched.

Gentlemen, we thank you for your time here today. We will not be taking anything else up today that relates to the School District. So we'll go ahead and let you – if you'd like to excuse yourself, you're sure welcome to. Thanks for coming tonight.

Ms. Ehlers: I think this is the first time we've had somebody from the School District physically present at a hearing in which we've discussed the schools.

Chairman Easton: That's a compliment.

Ms. Ehlers: So I thank you.

Chairman Easton: All right, at this point we're going to recess because we have more paperwork that needs to be distributed to us so that we can – we need to consider it in relationship to a timely issue. It's now 8:05. How much paper are we getting? Wow. Twenty after, and subject to a possible extension if I choose to, but at this point we're adjourned until twenty after eight (gavel).

(recess)

Chairman Easton: I call the Skagit County Planning Commission back (gavel) into order. After reviewing with the Chair – the Chair and the Vice Chair, after reviewing the sheer amount of documents that need to be reviewed by us, I don't feel like it's fair to the topic to continue deliberations tonight. I don't think we have enough time and I want to make sure that we take – you know, are really considerate of this.

In addition to that, I would like to give staff a chance to prepare or have the option to prepare a report for these particular issues as they've now been addressed in these letters that came in. And they were on time. I want to stress

that to the public. This has all been done in the right way. The letters came in on time but we need time to have – to deliberate. We always had the option that we wouldn't finish deliberations tonight. I'm taking that option right now as the Chair, unless there's anyone who's silly enough to disagree with us. But the Chair and the Vice Chair have made that decision. So we will continue deliberations until the 19th. At such time –

Mr. Hughes: (inaudible)

Chairman Easton: Yes. I had said that that's what I want to continue with. That will be a meeting dedicated to finishing the deliberations on the code amendments, with the exception of the public hearing that we just requested.

Ms. Ehlers: Oh, that would do.

Ms. Ruacho: So let me just be clear. I understand that you want to table these issues that are the subject of Skagit Surveyors' letter, as well as some others. But we still have items on the table tonight that we could, you know, use the rest of our time tonight and possibly get through, if you so choose.

Chairman Easton: Yeah, we could – you know what? Why don't we do that? Why don't we – if you're agreeable, let's take the color-coded list out. Have you had a chance, in between all the time here, to think about which ones in particular you would like pulled out in addition to the ones that are in white? We would not be considering those that are in the white.

Ms. Ehlers: No, because I was trying to look through what the rest of the ____.

Chairman Easton: That's what I was concerned about. All right.

Ms. Ehlers: I think it's an excellent idea.

Chairman Easton: Can we move forward with the yellow?

Ms. Lohman: With the exception of the school.

Chairman Easton: With the exception of the one we dealt with earlier.

Ms. Ehlers: Can we start through the document one page after another and approve things where nobody has any qualms?

Ms. Ruacho: Yeah, that'd be ____.

Chairman Easton: That's kind of the same thing I'm proposing.

Ms. Ruacho: We could go line by line through the yellow really quick, just to make sure nobody wants to put it on the list.

Mr. Hughes: The old-fashioned way.

Chairman Easton: Okay, here we go.

Ms. Ehlers: Well, you refer to numbers and I'm not going by numbers. I go by pages and line numbers.

Chairman Easton: All right, so let's pull up the code. Thank you, Louie. We will not be dealing with your issues tonight. So if you – so you're aware of that.

Ms. Ehlers: But you may find the rest of the discussion interesting.

Chairman Easton. Sure. You may not, either! All right, we need to look at the code, Ryan. We have the color code stuff in front of us. We need the – it would be helpful to have the code in front of us.

Ms. Ruacho: Thanks, Louie.

Mr. Walters: The current code?

Chairman Easton: The current – no, the proposed change code.

Mr. Walters: Okay.

Chairman Easton: The proposed code changes.

Ms. Ehlers: No, this is the old list.

Ms. Ohlson-Kiehn: Do you have that?

Mr. Walters: Yeah, I have it on the monitor, so if we just switch to the monitor.

Chairman Easton: Okay, do you want to switch to the monitor?

Mr. Walters: I'm suggesting that.

Chairman Easton: Oh, you're suggesting that. There we go.

Mr. Walters: I can just do it with my mind.

(laughter)

Chairman Easton: We'll start with – we're going to start then with the – Carly, the idea here is to start with "Cluster"?

Ms. Ruacho: That's the idea.

Chairman Easton: It's a perfect choice of words!

Ms. McGoffin: He needs to scroll back.

Chairman Easton: Can you scroll back, please?

Mr. Walters: Give me a page number.

Mr. Hughes: 1 of 25.

Chairman Easton: 1 of 25.

Mr. Hughes: No, what is the number?

Ms. Ruacho: 2.

Chairman Easton: There it is – bingo. Cluster.

Ms. Ruacho: Right. So now – and I would just like to preface. As you noticed in your comment packet, there were three comment letters that were very detailed and structured very uniquely, and to the best of my understanding these identified in yellow had received no comments. If you read differently and understood differently, you know, we can certainly move these to another list.

Chairman Easton: Right. Let me reiterate that. If there's anything we're about to deal with that you don't want to deal with in a – we're going to review it briefly, we're going to put it in a pile, then we're going to have a motion at the end to approve the pile. Great choice of words, I guess, but... Unless you tell us otherwise, and no one will – there won't be any discussion. If you tell us otherwise, we will pull it out and we will not consider it for tonight's action. All right, that being clear, we move on to the word "cluster."

So what we have here is the striking out of "located immediately adjacent to," the addition of the word "adjoining," and the addition – taking out the number "1" and adding the work "one."

Ms. Ruacho: Correct. So this is, as Carol mentioned earlier, she was hoping to see a definition of the word "adjacent." That made it on to an early, internal draft but did not make it out of internal comment. The way legal counsel suggested, trying to clarify these words is kind of one location in the code at a time. We

don't necessarily mean the same thing by "adjacent" everywhere we use the word adjacent.

Ms. Ehlers: Mm-hmm.

Ms. Ruacho: So defining it is not the proper way to address it.

Ms. Ehlers: Okay.

Ms. Ruacho: So in the amount of time we had for these issues, these were the two situations where we could clarify what we meant. So you've got "cluster" and "cluster pod" ____.

Chairman Easton: Any heartburn over "cluster" or "cluster pod"?

Ms. Nakis: Well, isn't that the same issue that Mr. Requa was mentioning in his letter?

Ms. Ehlers: No, that's another section. That's later.

Chairman Easton: We'll have time for that.

Ms. Ruacho: He brought up that issue. I mean, you're correct in that he talked – it was, I believe, in response to Carol's question: How do you define the word "adjacent"? And so what we've done is – like I said, "adjacent" has been a problematic term and so the word "adjoining," when you look up the word "adjoining" in the dictionary it's much more specific than the word "adjacent." And so we're going to take these "adjacents" one section at a time whenever they – wherever they occur and try to be more specific with our wording as to what we mean by "adjacent" because it can be interpreted differently by different people.

So in this case, I think Carol asked Mr. Requa a question about how he defined "adjacent." He said what he thought. We're proposing to remove "located immediately adjacent" and replace it with the word "adjoining," which means touching – very specific – so that there won't be that confusion, hopefully, in the future.

Ms. Ehlers: And he also raised the question of a road and that comes later in this pile.

Ms. Ruacho: It does.

Chairman Easton: All right, so to the issue of "cluster" and "cluster pod": Is there any – any – all right, we're moving on.

Mr. Hughes: There's consensus on it.

Chairman Easton: There's consensus. We're moving on to number – "family."

Ms. Ruacho: We received no comments on this. This is a recommendation by legal counsel to kind of come into conformity with RCWs on the issue of families, and then we'll get into some more group homes and different things coming up along the same vein.

Chairman Easton: Any concern about the definition of "family"?

Several voices: No.

Chairman Easton: Moving on, "family member"?

(silence)

Chairman Easton: No objection. Moving on, "group care facility."

Ms. Ehlers: So that would be –

Chairman Easton: It's a little hard to read for everybody.

Ms. Ehlers: – for families.

Chairman Easton: Thanks. "Group care facility."

(silence)

Chairman Easton: Hearing no concerns, moving on. Drop down to "recycle drop box facility," please. Right there.

Ms. Ehlers: Where are you?

Ms. Lohman: Page 3.

Ms. Ruacho: Page 3, midpoint page 3, line 19.

Ms. Ehlers: Recycling drop box.

Chairman Easton: Any concerns there? If I'm going too fast, tell me.

Mr. Axthelm: What context is this in?

Ms. Ehlers: Yes, there is a slight concern, sir.

Chairman Easton: Yes?

Ms. Ehlers: I remember when there was a drop box facility near March's Point. It got pretty tacky and pretty dumpy and not attractive at all because nobody was responsible for it except a County employee was supposed to do it but the person was located twenty-five miles away, and you know what that means.

Chairman Easton: Because I understand your concern – is it to the level that you need us to deal with it separately?

Ms. Ehlers: It's an administration issue, I think, as much as anything, and I don't see it in here.

Chairman Easton: Yeah, I think this is addressing the definition.

Mr. Hughes: This is strictly a definition, and I think we get to the maybe what you might get excited about – you know, later is where it's permitted and...I'm not —.

Chairman Easton: Anybody else?

(silence)

Chairman Easton: All right, then we're going to move forward with it.

Ms. Ehlers: I just wanted it managed.

Chairman Easton: Alrighty. So noted. "Short-term visitor accommodations."

Ms. Ehlers: I love it.

Chairman Easton: Yeah, this brings some clarity to where a spot that needed some clarity.

Ms. Ehlers: There is a –

Ms. Ruacho: We do listen.

Chairman Easton: I never said you don't listen.

Ms. Ruacho: Oh, review the tape!

Ms. Ehlers: There is an issue, though, that was brought up earlier and that is the relationship of temporary and short term, so I would suggest you deal with that next year.

Chairman Easton: Okay.

Ms. Ruacho: Deal with the issues brought up – temporary and short term – in the comment letters?

Ms. Ehlers: Well, we bypassed the institutional retreat where it talks about temporary stays. I think – and this comes up in other sections of the code – so I think you need to figure out what you mean by temporary unless you identify it as no more than two weeks. Think of categories: two weeks, weekends, that sort of differentiation?

Chairman Easton: Okay.

Mr. Axthelm: Bed-and-breakfast is underneath this, as well?

Ms. Ruacho: No, they're a use on their own – a stand-alone use.

Chairman Easton: A stand-alone use. All right, no objections then? "Solid waste handling facility."

Ms. Ehlers: Can you regulate on the basis of this thing, Bill?

Bill Dowe: I believe so.

Ms. Ehlers: Because you were having trouble with it.

Mr. Dowe: Yes, this sort of –

Chairman Easton: Do you want to comment?

Mr. Dowe: – clarifies in great detail of what a solid waste handling facility is.

Chairman Easton: If this definition would have been in the code, this may have helped us avoid some of the challenges we went through in the last couple of years, Mr. Attorney?

Mr. Walters: I haven't worked on that issue.

Chairman Easton: Do you want to nod? She's nodding. Okay, Jill nodded. Let the record show that Jill nodded. You can't talk because you're not on the mic – sorry. Do you want to? Do you feel like you need to? Because, I mean, I'm not going to stop you.

Jill Dvorkin: No, that's okay. If that's all you need from me.

Chairman Easton: I just need to know this would make it better. Yes? It makes it better. Awesome.

Mr. Axthelm: Is there a solid waste definition? I mean, you say what solid waste handling is; is there actually a definition for "solid waste"?

Ms. Dvorkin: I believe there is.

Chairman Easton: Yeah, there we go. Ryan just highlighted it.

Unidentified female voice: Well, you have to speak!

Mr. Axthelm: That seems kind of vague. "Any other discarded material" seems kind of vague.

Chairman Easton: It's kind of a catch-all. All right, does anybody have any concerns about keeping "solid waste facility" in the – off the pile? All right, we move forward. Let's jump down to 25. This one should be easy. 14.06.150.

Ms. Ruacho: Nobody commented about the erroneous reference. Nobody wants us to keep the wrong reference, so we appreciate that.

Chairman Easton: All right, we cleaned up an erroneous reference. Seeing no objection, we move on. .020(3) – are you with me, Carol?

Ms. Lohman: Item number 25.

Chairman Easton: We're moving to item number 27. We just dispatched – am I going too fast?

Ms. Ehlers: No, I just want to find what it was you did.

Chairman Easton: We just took 25 and dealt with it.

Ms. Ehlers: Back to – let's see. Let's double-check something. 14.06.080, you have – we're not ignoring that, are we?

Chairman Easton: You're talking about number 22?

Ms. Ohlson-Kiehn: We're not on .08 yet. We're still on 14.06.

Chairman Easton: Yeah, I'm just moving to .08 right now.

Mr. Mahaffie: Yeah.

Ms. Ehlers: Okay.

Chairman Easton: 14.08.020(3).

Ms. Ehlers: You haven't –

Chairman Easton: We are deleting language regarding the policy designation changes for the initial subarea plan adoptions. Why?

Ms. Ruacho: There was a state statute change that eliminated that language. Our language mirrored the statute language and they changed the statute language so we're changing to mirror that. Jill brought up a comment that Allen Rozema's letter does reference this section. It's my understanding – and, again, you know, if you have a different understanding – that although he references this section, he doesn't have a comment specific to this section. He just would prefer this change over another change.

Chairman Easton: Right.

Ms. Ruacho: But there wasn't a comment like "I oppose it" or "I'm concerned with it."

Chairman Easton: So, in the Chair's opinion, this would – taking action on this, if we choose to, would not preclude us from being able to deal with the questions that Mr. Rozema brings up that reference this. So we're acknowledging that there's a similarity in the comment but not a conflict. Everyone agreeable? Are you with me?

Ms. Ehlers: I agree with that, but I'd like to pay attention to what Ellen Bynum said.

Chairman Easton: As it relates to this section?

Ms. Ehlers: It relates to this section. It's incredibly dense. And if you were to organize it according to annual changes, emergency changes, administrative changes with an a, b, c, d or e, it would make it so much easier to read and make sense of. And I don't think that – I don't think to take sentences and apply them to an a, b, c, d requires a hearing. That's not, to me, a substantive change.

Chairman Easton: So we have a suggestion from the Commissioner to restructure this in the future? In the future.

Ms. Ehlers: As it's published, so that people can actually read it.

Ms. Ruacho: So not change any words.

Ms. Ehlers: Not change the words.

Ms. Ruacho: But somehow –

Ms. Ehlers: Divide it.

Ms. Ruacho: Divide it into different sections.

Ms. Ehlers: Yes.

Ms. Ruacho: Okay. I mean, I can take a look at that. That's just a –

Chairman Easton: Well, maybe offline Carol could provide you with a suggestion on how to do that. Is that agreeable?

Ms. Ruacho: Mm-hmm.

Chairman Easton: All right. So that's something we can look forward to maybe next year.

Ms. Ehlers: Well, if you wait until next year somebody might be confused between now and then and waste some time.

Ms. Lohman: So is the answer to the question –

Chairman Easton: Is the answer to my question – okay, let me back up. My question then is – to Carol – Does this need to be pulled out and you want to have this done differently?

Ms. Ehlers: I don't think you need to pull something out in order to ____.

Chairman Easton: No, no, no. You're misunderstanding my language. Let me be clear. What I mean by pull it out is that you want to deal with this – you don't want to approve this tonight. We're creating a pot –

Ms. Ehlers: I'm willing to approve the language if you could only define it as to the category. That's not a substantive, linguistic or legal change.

Ms. Ruacho: I think I understand what she's saying.

Chairman Easton: All right.

Ms. Ehlers: Go read what Ellen Bynum wrote.

Chairman Easton: And I have. I'm just trying to find the will of the Commission about whether to move this section forward.

Ms. Ruacho: Right. She had language changes to the section, not to the sentence that we're referring to here, 020(3), the section that we're striking. She did not have any comments related to that.

Ms. Ehlers: I'm not commenting.

Ms. Ruacho: She had comments related to the structure of the whole section. We can take a look at that. We could not act on *her* changes because her changes do include language changes. So if you're thinking something lesser than that where it would strictly change the format, that's something we could look into.

Ms. Ehlers: That's all I'm suggesting.

Chairman Easton: Okay, so when would we look into that and would that preclude us from moving this into the pile that's about to get approved?

Ms. Ruacho: Nope. It would be fine. Like she said, it doesn't – we can change numbering without public hearing.

Chairman Easton: All right. I just to make sure that Carol's heard and there's a connection to this ___.

Ms. Ruacho: And I'm not making any guarantees because I don't know that I can do it with no language changes.

Ms. Ehlers: I'm not sure you can either, but I think it's worth –

Chairman Easton: I look forward to hearing back about both of your investigation –

Ms. Ruacho: Okay!

Chairman Easton: – on whether you can make this without changes or a public hearing. But, at this point, we're going to move on –

Ms. Ruacho: As is.

Chairman Easton: – to number 28, and 27 will remain in the pile. 28. Why are we removing "at public meeting set date/time"? Because we added the words "at public meeting"?

Ms. Ruacho: No, we just – when we set a date and time with the County Commissioners, we do that with the Clerk. We don't necessarily need to go in front of them to set their date and time. It's just a procedural issue –

Chairman Easton: Gotcha.

Ms. Ruacho: – that takes time on our part that it's not really necessary.

Chairman Easton: Okay.

Mr. Dowe: It adds an extra week to our processing.

Chairman Easton: Yeah. Well, I have no issue with moving this one forth then. All right, moving on. .090, number 29, the review portion. Review and decision by Board – adding the language “If...Commission did not forward an official recommendation...” Any concerns here?

(silence)

Chairman Easton: Alrighty. We're going to jump – it looks like we can go to 32, right?

Ms. Ruacho: Yep.

Chairman Easton: Number 32, which would coincide in the code under Added new use – to add new uses, starting with the words –

Ms. Ehlers: What page?

Chairman Easton: You're on page 8.

Mr. Hughes: Maintenance and drainage.

Chairman Easton: 8 and line 24. You with me?

Ms. Ehlers: Mm-hmm. Wonderful idea.

Chairman Easton: Maintenance, Drainage. Any concerns?

(silence)

Chairman Easton: Great. Net metering system or solar.

Ms. Ehlers: No concern.

Chairman Easton: Recycle box facility – drop box facility. Repair and maintenance of water lines... This is the 8 inches or less issue.

Ms. Ehlers: I'm assuming that you mean replacement?

Ms. Ruacho: Of water lines?

Ms. Ehlers: Mm-hmm. 8 inches or less.

Ms. Ruacho: Repair and maintenance.

Chairman Easton: Would replacements – should we add the word “replacement”?

Ms. Ehlers: I’d like the word “replacement” just so that people understand that’s what you’re doing. Otherwise, somebody might say, Oh, you have a water line break, and we’re not talking about –

Chairman Easton: Make that in the form of a motion to add the word “replace” following the word “repair.” Comma – repair, comma, replace and maintenance. You want to make that in a motion?

Ms. Ehlers: I so move.

Chairman Easton: It’s been moved. Is there a second?

Ms. McGoffin: I’ll second.

Chairman Easton: Second. Discussion?

(silence)

Chairman Easton: All those in favor?

Ms. Nakis: How about –

Chairman Easton: Ah, there’s a discussion. Yes? Did you want to say something?

Ms. Nakis: Yeah, I did.

Chairman Easton: Go ahead – sorry.

Ms. Nakis: How about “repair, replace and maintenance”? I mean because –

Chairman Easton: Isn’t that what I just said?

Ms. Ehlers: That’s what you said.

Chairman Easton: That’s what I meant to say.

Ms. Nakis: Oh, okay. I'm sorry.

Chairman Easton: "Repair, comma, replace and maintenance."

Ms. Ohlson-Kiehn: I'm sorry. I just have to ask a question – why not? What's the difference between "repair" and "maintenance"?

Chairman Easton: Yeah.

Mr. Hughes: Amen.

Ms. Ehlers: "Maintenance" may mean that you're cleaning up the pipe and "replacement" means that you're replacing it.

Ms. Ohlson-Kiehn: Right, but what's the difference between "repair" and "maintenance"?

Chairman Easton: No, what's the difference between "repair" and "maintenance"? I guess you could, in theory – you could maintain a pipe without repairing it.

Ms. Ruacho: Right.

Ms. Ehlers: Yeah, and you can repair it without maintaining it.

Chairman Easton: Or you could clean a valve or, I mean, you could clean some portion of the pipe.

Mr. Hughes: Just keep all three words there.

Ms. Ohlson-Kiehn: All right. Fine. Thank you.

Chairman Easton: No, that's good!

Ms. Ehlers: The water systems of Skagit County will bless us.

Chairman Easton: Actually I saw a letter from them. All right, 33.

Ms. Ruacho: What happened there?

Chairman Easton: It went in the pot – it's moving over to the pot there, the pile.

Ms. Ruacho: With "replace"?

Chairman Easton: With the word “replace.” Oh, I’m sorry; I didn’t call the question. I call the question. All those in favor of the motion to change – to add the word “replace” –

Ms. Ruacho: “Replacement,” we would recommend.

Mr. Hughes: “Repair, replace and –

Chairman Easton: “Replacement”? Repair, replacement.

Ms. Ohlson-Kiehn: “Replacement and maintenance.” Yeah, yeah, that makes sense.

Chairman Easton: It’s been – does the motion maker agree to the adjustment of the word of the seconder?

Ms. Ehlers: She will agree.

Chairman Easton: The seconder agrees, so it’s been amended. Now the motion will read to add the word “replacement” after the word “repair” and before the word “and.” All those in favor, signify by saying “aye.”

Ms. Ohlson-Kiehn, Ms. Ehlers, Ms. Lohman, Ms. Nakis, Mr. Hughes, Ms. McGoffin, Mr. Axthelm and Mr. Mahaffie: Aye.

Chairman Easton: Aye. All those opposed?

(silence)

Chairman Easton: Any abstentions?

(silence)

Chairman Easton: Nine-zero. Passes; affirmative. We are now on number 33, .100. We’re on page 9 and we are “Changes to allow” – we’re under the “Changes to” allow special uses. So why are we removing the word “church”?

Ms. Ruacho: I believe it’s redundant in that section. Let me –

Mr. Axthelm: Can you scroll that down?

Chairman Easton: Can you scroll down? Josh?

Mr. Axthelm: No, never mind. I’ve got it right here ____.

Chairman Easton: It's okay. Go back up for a minute, Ryan. Sorry. Thank you. Stay there for a minute.

Mr. Walters: Should we go to the current code?

Ms. Ruacho: Yeah.

Mr. Walters: That's helpful.

Chairman Easton: He's pulling up the current code, in case you're –

Ms. Ruacho: Churches are listed twice in that code. They were listed under Permitted Uses and then under Hearings Examiner Uses, and the intention was to have them listed under Hearings Examiner Special Uses.

Chairman Easton: So the only way you can have a church in that zoning is to have a Hearing Examiner?

Ms. Ruacho: That's correct.

Ms. Ehlers: But you didn't add it in.

Chairman Easton: That's a substantial change.

Ms. Ehlers: Is it there?

Mr. Walters: It's in the existing code.

Ms. Ehlers: Okay. Okay, that make sense.

Chairman Easton: It's in the existing code but it's also – it's twice right now. The rule of thumb is if it's in twice you go to the higher level – would be that you have to go to this Special – this use has to go to an attorney as it is right now because it's in there twice?

Ms. Ruacho: Right. It's a typo.

Chairman Easton: So we're not changing – we're not changing the fact that you've now – churches now have to go get a Special Use permit that they didn't have to go get before.

Mr. Walters: Carly, isn't it typical that they have to get a Hearing Examiner Special Use permit in other zones?

Ms. Ruacho: Right, and they would in this zone as well. This was just a –

Chairman Easton: I just to be clear we're not making a change here. We're just removing the word because it's already being applied that way?

Ms. Ruacho: I mean, we're making a change in that we had an error in the code. We had duplicity here.

Mr. Hughes: It's in twice.

Chairman Easton: I get that.

Ms. Ruacho: Someone could argue and say –

Chairman Easton: I understand that not a structure, though.

Mr. Walters: Not “duplicity” but “duplicativeness.”

Chairman Easton: “Duplicativeness.”

Ms. Ruacho: “Duplicativeness” –

Chairman Easton: If you're curious, the word for the day ____ there following along with the Planning Commission. I mean, we're right there next to the PBS channel – we can do a word for the day!

Ms. Ruacho: So we would – our position would be that if there's an error like this, you know, we would –

Chairman Easton: I just wanted to clarify. They're already getting their special use permit. So I'm not – if I vote for this – I'm not changing that.

Ms. Ehlers: They're already in there.

Chairman Easton: They're already in there. That's what you're telling me.

Ms. Ruacho: Yeah. I mean, Ryan had it up a second ago, I think.

Chairman Easton: Right.

Mr. Hughes: Yeah.

Chairman Easton: Okay.

Ms. Ehlers: That's all we need to know.

Chairman Easton: All right, that's all I need to know. Okay. Where do we add – you want to bounce us back to the code changes? Where are we adding small scale production at?

Mr. Hughes: Where's that?

Chairman Easton: Oh, there it is under line 22.

Ms. Ehlers: Line 22.

Chairman Easton: Okay, any concerns with that?

Ms. Ehlers: Well, we've had experience with the fact that small, if it succeeds, eventually becomes very large. But I don't think that's a reason to deny the existence of small. I think that's something for you guys to think about as to what you do with that guided growth.

Chairman Easton: RVCs are related to – aren't these related to pre-1990 GMA? Isn't there a connection with the zoning that goes back to pre – to GMA issues?

Ms. Ehlers: Mm-hmm.

Ms. Ruacho: Rural Village is the outer boundaries, but within the boundaries you can change the zoning.

Chairman Easton: All right. Well, we're only – it seems to me that it's – although it's a little thing on the small scale, we're adding some clarification that wasn't in there before.

Ms. Ehlers: Yes.

Chairman Easton: All right. Moving on, let's go to 35, which is Business and professional offices. I think I'm bouncing around a little bit. Any needs to look at number 37? I haven't heard anybody say no, so I'm going to keep moving. 36, .120 RFS. Rural Freeway Service, one of our favorite zonings.

Ms. Ehlers: May I ask why we're not – why we're not even – in Hearing Examiner Special Use, in that 14.16.100, I don't see any reference to it but it seems to be perfectly okay to have the marinas with no more than twenty slips, and the mortuary, although there's no reference here in the yellows to it.

Mr. Walters: It's there. It's just –

Ms. Lohman: They changed the wording for alphabetizing. Marinas and mortuaries – that's all.

Ms. Ehlers: Okay.

Ms. Ruacho: And then –

Chairman Easton: Gotcha.

Ms. Ruacho: And Jill did point out that apparently there's one comment letter where they address marinas with no more than twenty slips. They were indicating they would like to see some criteria.

Ms. Ehlers: But the criteria are already in the definitions. Only you don't find it in –

Chairman Easton: So would the Commission see a need in that section of the code, which is what we're approving right now – or preparing to approve – to address the concerns the commenter made about what they believed to be a need for some changes in the definition?

Ms. Ehlers: I looked carefully at the Definitions –

Chairman Easton: It doesn't seem like the right place, but...

Ms. Ehlers: – and it's – there *are* criteria. It's very normal for that kind of an area. It's not at all obtrusive. It permits you to have a picnic table, a toilet and –

Chairman Easton: It's here on the screen right now.

Ms. Lohman: Parking. Parking.

Ms. Ehlers: – parking.

Chairman Easton: Yeah, okay.

Ms. Ehlers: And this –

Chairman Easton: All right, we're moving. We're moving forward.

Ms. Ehlers: Really not much.

Ms. Ruacho: Okay.

Chairman Easton: We're moving forward. 37, .130 SRT. Changes to allow special use. Small Scale Recreation and Tourism. So we are removing the ability to have – so we didn't actually remove the religious retreats; we just moved it up two lines?

Ms. Ruacho: Right. What we did was in the Definition section, which you previously – you saw previously but we haven't acted on it because there were some comments. So what we're proposing to do is we're proposing to combine Institutional camps/retreats. They're, in essence, the same thing so – and we didn't define "recreational, cultural or religious retreats," but we do define "institutional camps." So it's just an effort on our part to condense uses, define the uses we do use. So it's, like you say, we're not eliminating it. We're just moving it up and combining it with institutional.

Chairman Easton: And part of this will be revisited when we deal with –

Ms. Ruacho: The definition.

Chairman Easton: – the definition. All right. Any concerns?

Ms. Ehlers: And that – none – and that's why I want you to look at the word "temporary," because that gets used in the definition of "retreat."

Chairman Easton: And we're moving on to 38 to include wholesale nurseries and greenhouses. Small Scale Business. Any concerns?

Ms. McGoffin: No.

Chairman Easton: 39.

Ms. Ehlers: Um –

Chairman Easton: 38?

Ms. Ehlers: Yes, back on .140.

Chairman Easton: Yeah, 38. 140.

Ms. Ehlers: It seems to me that if you eliminate (b) and (c) that you might eliminate some of the long-term existing businesses on Fidalgo.

Ms. Ruacho: If you eliminate (b) and (c)?

Ms. Ehlers: Mm-hmm.

Ms. Ruacho: We believe they fall under new (c).

Ms. Ehlers: Okay, but, you see, we've had some bad experiences with the Planning Department's definition of what some of these things mean. And so you have to be careful how they might be interpreted.

Ms. Ruacho: Right, but – and as I – you know, I don't mean to be redundant, but it's really our goal to try not to state a use in one zone and not state it in other zones where we intend to allow it. If we state it in one zone – we can go two ways. We can either have fifty-two uses in every zone and call, you know, everything separately out that we can think of, or we can really try – which is what the direction we're going, which is to have these more umbrella-type uses where if someone wants to make widgets or if they want to make wine glasses or if they want to make shoes we don't say, you know, business making shoes; business making widgets. You know, we just say –

Chairman Easton: Right.

Ms. Ruacho: – you know, a small manufacturing business or a small retail business – that type of thing.

Chairman Easton: All right.

Ms. Ehlers: And that, I think, should be a finding.

Chairman Easton: Oh.

Ms. Ehlers: Because that is something that is – has been the subject of weeks of discussion over the many years.

Chairman Easton: All right, well, we'll make it a finding then.

Ms. Ruacho: Can you be a little more specific as to the finding?

Chairman Easton: Sure. Why don't you go back and listen to the – why don't you take what you just said and, you know, review the transcript or the video and just form a finding out of that. I don't think it needs to be – unless Carol has some wording in mind.

Ms. Ehlers: No, I think what you said will do very well. That's why I liked it.

Mr. Axthelm: One question is you've got 39 and 40.

Chairman Easton: Yeah.

Mr. Axthelm: And then what she's saying is being put down on 42, but it seems like there's a limitation down at the end which is limited to products that are produced primarily onsite. So is that an additional limitation to those above items that were already accepted? Does that make sense?

Chairman Easton: That's a good catch.

Ms. Ehlers: Mm-hmm.

Ms. Ohlson-Kiehn: But wouldn't they – wouldn't those fall under (a), Business and Professional offices?

Ms. Ehlers: Are you still in the same zone?

Chairman Easton: Well, we're still on Small Scale Business.

Mr. Axthelm: Because you're putting a limitation on Small Scale Businesses here with the 40 – with the limit to products produced primarily onsite.

Chairman Easton: Why are we limiting it to what – that it's produced onsite?

Mr. Walters: I don't think that's a *new* limitation.

Ms. Ruacho: No, it's not.

Mr. Axthelm: No, but when you take those upper two items and you put them down into that, then you make it more – you do make a limitation for those upper.

Ms. Ruacho: Well, (b) was not a product. They weren't – well, I mean I guess they could – these tools. So you would produce these tools. That would be your business. So you would apparently produce them onsite. And if you were a small – so you're a small retail and service business, (b) you produce them onsite to begin with, because that was your business; you either produced them onsite, you repaired them or you serviced them onsite. And then services don't produce anything and that was (c), Provision of services, including professional, management, consulting, construction, and repair. So the only thing we're talking about is the production of specialized tools and equipment which were already produced onsite.

Mr. Axthelm: It seems like that could be misunderstood.

Ms. Ehlers: I think –

Chairman Easton: Let Josh, please. We'll come back to you.

Mr. Axthelm: It seems like that could be misunderstood and routed a different direction and limit it to home-based or products that were developed directly onsite versus – does that make sense?

Ms. Ruacho: I think that's –

Chairman Easton: All right, I'm going to make a decision here. There's way – this is getting outside of what we wanted to do, so I'm going to pull this one out.

We are not going to consider it here. I want to come back to this because I'm concerned about its definition and I want staff to have a chance to put that together, but I don't want to take the time to do it now. So this one will not be a part of the pile, all right? So make a note of that. That is number 42 – no.

Ms. Ruacho: 39.

Chairman Easton: 39.

Ms. Ehlers: 14.16.140.

Ms. Ruacho: Well, not the whole thing. You approved the wholesale nurseries.

Chairman Easton: We did approve the wholesale nurseries. It's just number 39 that we are not – we are not approving the combining of (c) and (d) for consistencies. We will revisit that at another deliberation. All right, moving –

Ms. Ehlers: Before you go, I think staff should look back. I think the Small Scale Business was an overlay zone created because of Growth Management not approving business in many of the areas of the county where it was. And so we have on the – a spot zone in many cases. I know there is on Fidalgo where there are six businesses that are called “small business” because they existed in 1990.

Ms. Ruacho: Those are rural businesses. Small scale you can get now. Rural business is you had to be in in 1990.

Chairman Easton: Okay, so we're moving forward.

Ms. Ehlers: Okay.

Chairman Easton: Number 40, page 11, we are dealing with the BR-CC, also known as the Bayview Ridge Community Center.

Mr. Hughes: We've already done this.

Ms. Ruacho: We already addressed that.

Ms. Ehlers: We just discussed that.

Chairman Easton: We already addressed that. All right.

Mr. Hughes: That's already approved.

Chairman Easton: It's been approved previously in the first motion of the evening. That includes 41 also.

Ms. Ruacho: Yes.

Chairman Easton: So we will – it was also approved. Number 42, to remove “farm management services.”

Ms. Ruacho: We don’t define that use is the reason it’s proposed to be removed.

Ms. Lohman: Isn’t that more of an occupation?

Mr. Hughes: It would go up under the new business/professional offices.

Ms. Ruacho: That’s what we were – as well as other – you know, again, things that someone might think of.

Chairman Easton: Any concerns about 42? Hearing none, moving on. Number 43, which would be to add natural resource support services, which is line 22 on page 12. Any concerns?

Ms. Lohman: Wait. What in the world is that?

Ms. Ruacho: Resource – Natural resource support services?

Chairman Easton: Looks sort of like the BR-R, doesn’t it?

Ms. Ruacho: You want the definition?

Ms. Lohman: You have one?

Ms. Ruacho: We do define it. Yes.

Ms. Lohman: Okay. As long as it’s defined, I don’t care.

Ms. Ruacho: I think Ryan’s heading in that direction. He’s beat me every time.

Chairman Easton: She said as long as it’s defined she doesn’t care, so there we go.

Ms. Lohman: I just didn’t want to –

Chairman Easton: Yeah, that’s good.

Ms. Lohman: Something to pop up that was its own.

Chairman Easton: Yeah, that makes sense.

Ms. Ehlers: There it is on the screen.

Ms. Lohman: I'm good to go.

Chairman Easton: No, you were there before, I think.

Ms. Ruacho: No, we define it two ways. We define it as agricultural support services and forest support services.

Chairman Easton: Okay.

Ms. Lohman: Oh, I see.

Chairman Easton: Any concerns? Any concerns?

Ms. Ehlers: Un-unh.

Chairman Easton: All right, we're moving on. We are at number 44, Business and professional offices. Can you go down a little bit, Ryan, please?

Ms. Ehlers: 44. What page?

Chairman Easton: Oh, I'm sorry. There we are. Page 12, number – line 17.

Ms. Ehlers: Line 17? I thought we just discussed that.

Chairman Easton: We didn't. We discussed the fact that we took one out and that it was included. We didn't discuss the fact that it was also being added.

Ms. Ehlers: Okay.

Chairman Easton: So now we've discussed it. That was fun. Number 45, we have a clerical, typographical error, which is – where are we at?

Ms. Ruacho: It's on line 40, the word "zoned."

Chairman Easton: Got it. Concerns?

(silence)

Chairman Easton: All right. This one seems to be in conflict with something else to me – so the next one, 46. I'm a little – with the – are we dealing with cell towers in another location? At another time? Isn't it one of the topics we're not discussing tonight?

Mr. Walters: I believe that's a wind or a meteorological tower.

Ms. Ruacho: Wind tower.

Chairman Easton: Oh. My apologies – wrong tower. All right, so we are okay with moving cell tower uses to administrative permit levels?

Mr. Hughes: Yes.

Ms. Ehlers: Mm-mm, no one probably cares about that one.

Chairman Easton: Yeah, really.

Mr. Hughes: Well, yeah, but it goes from permitted to now there's some –

Ms. Nakis: Administrative special uses.

Mr. Hughes: At least there's some –

Chairman Easton: Administrative review?

Mr. Hughes: Yeah.

Chairman Easton: Okay, 47. 47, we're deleting the word "and/or clubhouse facilities."

Mr. Axthelm: What section of code are we in?

Chairman Easton: RMI?

Ms. Ruacho: RMI.

Chairman Easton: It does seem like an odd use in RMI.

Ms. Ehlers: Where? Oh, there they are.

Mr. Hughes: Three lines above.

Ms. Ruacho: At the marina.

Chairman Easton: Page 13, line 13. Are you all with me?

Ms. Ehlers: Mm-hmm.

Chairman Easton: You're okay with that?

Ms. Nakis: Is that being moved somewhere else or is that –

Chairman Easton: It's just being taken out.

Ms. Ruacho: It's just not something we define. It's, again – you know, we allow restaurants, we define that or it's a defined term. "Clubhouse facilities," it's not, and then it's back to that same issue. If we want to say clubhouse facilities is the only location we say that; so, therefore, that would mean – if you wanted to get technical – that clubhouse facilities are not allowed anywhere else.

Mr. Axthelm: Now clubhouse –

Ms. Nakis: Except at a marina.

Chairman Easton: If you left it there, but we're not going to leave it there so then it's allowed everywhere without having to define it.

Ms. Nakis: Okay.

Mr. Axthelm: It seems to me a clubhouse is beyond a restaurant. It would be a gathering place situation that may not be a restaurant.

Ms. Ruacho: Right.

Chairman Easton: It doesn't seem to apply.

Ms. Ruacho: Right. We define, I think, like a – I think we call it a "grange hall," – is probably the closest definition/defined use that we have that would be considered a clubhouse.

Ms. Lohman: What about a yacht club?

Mr. Axthelm: Yeah, that's not – thank you.

Ms. Ruacho: Right. We don't – we don't – it's just – it's not a use that we have defined or listed.

Chairman Easton: Okay.

Ms. Nakis: But they could apply for a permit and they could build one there. Just because it's not on that –

Ms. Ruacho: On the list, yeah. They could ask for it to be considered substantially similar to something else in their zone. We have a process that if you want to have it be a use that isn't currently contemplated in the code, there's a process by which you could ask. And if it can be something considered substantially similar, based on impacts, then that's something we can consider

because you couldn't – as the code states – you couldn't contemplate every single use somebody might ever think of.

Ms. Ehlers: That's for sure. So you folks think of a grange hall as the same as a clubhouse __?

Ms. Ruacho: Well, I'm just saying that's off the top of my head. That's the closest thing I can think of to a defined clubhouse.

Mr. Axthelm: Okay, well, I'm going to suggest a "meeting room" or something similar to that like you have.

Ms. Ruacho: Right, but if we wanted to undertake that we certainly can, but what we would need to do is we would need to look at every zone and decide which zones a meeting room would be – where a meeting room would be allowed and where it wouldn't be. Because once we put it in one, it's prohibited in all the rest.

Chairman Easton: Important to remember: Once it's put in one, it's prohibited from all the rest.

Mr. Axthelm: So a restaurant includes a meeting room, so it's covered.

Ms. Ruacho: Exactly.

Mr. Axthelm: Okay.

Ms. Ruacho: That was part of your proposal.

Mr. Axthelm: That makes sense then.

Chairman Easton: Alrighty, thank you. We're moving on then.

Ms. Nakis: Now what was that again? So restaurants here are only allowed in marinas – at marinas?

Mr. Axthelm: No, no, no.

Ms. Ruacho: No, the –

Chairman Easton: No, wherever they're listed as permissible uses.

Ms. Ruacho: Yeah. This is the only instance where it said "restaurants and clubhouse facilities." The rest of the time it just says "restaurants."

Ms. Nakis: Oh.

Chairman Easton: Okay.

Ms. Ehlers: Okay.

Mr. Axthelm: Okay.

Chairman Easton: I think we're at the personal – where're we at now?

Mr. Walters: 48.

Chairman Easton: 48, .175. Changes to allow special use. Where is that?

Mr. Hughes: Hamilton Industrial.

Ms. Lohman: Oh.

Ms. Ruacho: Page 13.

Chairman Easton: Any concerns there?

Ms. Ehlers: Why are you taking these things out?

Mr. Hughes: Because they probably would go under what they're adding.

Ms. Ruacho: Yeah.

Ms. Ehlers: Well, forestry management's not the same as agricultural support.

Ms. Ohlson-Kiehn: Well, Forestry support services.

Ms. Lohman: It's down below. It's down below.

Ms. Ohlson-Kiehn: See, it says, "Forestry support services." They're just taking out the –

Chairman Easton: So we're just removing – okay.

Ms. Ehlers: Oh, I see. Okay.

Ms. Ohlson-Kiehn: So it says "Agricultural support services and Forestry support services."

Ms. Ehlers: Okay. Thank you.

Ms. Lohman: They didn't define it but they left it general.

Ms. Ehlers: They just struck that. All right. I don't ___ all that.

Chairman Easton: 49. Back to the cell phone towers again. .180. We're in the BR-LI, so we're in the Bayview Ridge Light Industrial. We already dealt with this once.

Mr. Hughes: We've already approved that.

Ms. Ruacho: Yeah, you're going to see quite a few times. We had inconsistencies. We have a section in zoning regarding – very specific to cell towers where it lists all the different zones and what the permit level was, and those were inconsistent with the language in the actual zone.

Chairman Easton: Okay. So we're going to correct number 50. We're going to correct the outdoor storage use?

Ms. Ruacho: And this you're going to see a few times as well.

Chairman Easton: That's line 5 on page 14.

Ms. Ruacho: There was several situations where we addressed outdoor storage of materials in quantities *greater* than 50 cubic yards, but we didn't address it in quantities *less* than 50 yards. So in this same zone, if Ryan were to bring up the existing zoning code –

Chairman Easton: No need to.

Ms. Ruacho: – you'd see outdoor storage uses greater than 50 cubic yards is a higher permit level.

Mr. Axthelm: I have a question.

Ms. Ruacho: You bet.

Mr. Axthelm: We've struck the – up above – it was previous to this but basically were the tractor sales, taking the tractor sales out of there? This goes to the agricultural support services question, is that sometimes taking a generic term, "agricultural support services," and saying it's okay doesn't mean next to a farm or a farm you can put a tractor sales.

Ms. Ruacho: On a farm?

Mr. Axthelm: So what I'm saying is but you're taking that – well, yeah, you'd – and it goes to further definitions later on. You say "agricultural support services," you're putting tractor sales *into* it.

Ms. Ruacho: Right, would include that.

Mr. Axthelm: But not all locations will accept tractor sales next to a farm.

Chairman Easton: Well, you only removed it from the Hamilton Industrial.

Mr. Hughes: This is just in – say, specific to the HI.

Chairman Easton: To the Hamilton – to the HI.

Mr. Axthelm: In the Hamilton – okay.

Chairman Easton: It's only specific to HI.

Mr. Axthelm: Okay.

Chairman Easton: Okay. So we're okay with 50 then. We're going to go to number 51, which is to amend the mini-storage use for consistency. Where's that?

Ms. Ehlers: Taking the word "center" out. Page 13.

Chairman Easton: What line?

Ms. Ehlers: 41.

Chairman Easton: Oh, there we go. Okay, removing the word "centers." Hearing no concern, we're back to the tower again. Can I just presume that we're all okay with removing that?

Ms. Nakis: Yes.

Chairman Easton: All right, moving to 53 – another correct the outdoor storage use. Are we agreeable to that? It's the same definition we just agreed to.

(sounds of assent)

Chairman Easton: 54, .195, line 3, we're adding – this is a repeat, too – line 1 we're adding the word "Professional" to the word "Business." And then we're taking "Professional" out of number 3. Sorry. So we delete line 3 and we add "Professional" back to line 1.

Ms. Ehlers: Mm-hmm.

Mr. Axthelm: Mm-hmm.

Chairman Easton: This has got to be some of the most riveting television ever.

Ms. Ruacho: Yeah!

(laughter)

Chairman Easton: I said that for my kids' benefit.

Ms. Nakis: You make them watch it?

Chairman Easton: I'm going to make them. I make my kids watch – for civics.

(laughter)

Chairman Easton: 56. Sorry! TV producers are not too happy with my comments there! Oh, permission to extend our meeting to 9:15? Everyone agreed?

Ms. Ehlers: Mm-hmm.

Chairman Easton: Let's try to dispatch as many of these as we can and we'll close at 9:15. All right. Agreed. Extended to 9:15. Number 56. Did I skip 55?

Ms. Lohman: Yeah.

Chairman Easton: Oh, 55.

Mr. Hughes: 195.

Chairman Easton: 195. Okay? Everybody's okay with that?

Ms. Lohman: Wait. Hold on.

Chairman Easton: That's the –

Ms. Lohman: Top of page 15.

Ms. Ehlers: Top of page 15.

Mr. Hughes: Okay.

Chairman Easton: The top of 15, bottom of 14? All right. 55: Correct the outdoor storage use again. And then we come to number 57.

Ms. Ruacho: 56.

Chairman Easton: 56 was to correct the outdoor storage and no one disagreed with that. 57. Here we are –

Ms. Nakis: Drum roll please.

Ms. Lohman: I just have a problem.

Chairman Easton: We've got to – I've got to take this out. This doesn't make any sense to me. I appreciate your testimony.

Ms. Ruacho: Yeah.

Mr. Holtzheimer: It's fine.

Ms. Ruacho: Yeah, I think everybody –

Chairman Easton: You can fix this with one statement from you. Go ahead.

Ms. Ruacho: I think everybody understands, but maybe not. So the removal of wine tasting from this zone is not the removal of allowing that use. It's one of the situations where we've been talking about. This is the only location that this use is listed; therefore, it's prohibited in every other zone. So we – it's our interpretation and has been. And as Allen was testifying, someone had a question about the winery on McLean Road and that, you know, gets permitted under an ag processing facility and also a tourist-type use, which are both allowed in the Ag zone and in many other zones – anywhere ag processing facilities are allowed.

So by adding this use – it was a very specific issue that came up and this got added – what that did was an unintended consequence to prohibit it in every other zone. So it's caused quite a few problems so what we want to do is we want to eliminate this as a use, number one. There could be many other things you would want to taste other than wine. We have cider tasting, beer tasting – there's all kinds of things. So it's too limited, it only occurs here and, just for posterity's sake because this took me so long – if you think this is riveting, try figuring out every use that's allowed in every zone –

Chairman Easton: Wow.

Ms. Ruacho: – at what level. So we went through this exercise and this is why – this is the result of that exercise.

Chairman Easton: Get a shot of that! That's impressive – holy smokes!

Ms. Ruacho: So this is every use at every permit level in every single zone of every single category.

Chairman Easton: And wine tasting only came up once.

Ms. Ruacho: And wine tasting, and several of these others that we're trying to get rid of today. This is how we determined those were only listed once in the zoning code.

Chairman Easton: So it is your definitive opinion that if we remove wine tasting here we actually don't remove the ability to do wine tasting here?

Ms. Ruacho: Absolutely.

Ms. Ehlers: Does the rest of your department understand that?

Ms. Nakis: Right.

Chairman Easton: We can only hope. All right. So those at home that are still riveted by this television, we are *not* removing the ability to taste wine in this – in any part of the county tonight. You can taste wine anywhere in the county.

Ms. Ruacho: That ag processing as a use is allowed.

Chairman Easton: There you go.

Ms. Ruacho: So if you look in your zone or is you go to this handy-dandy – what we call the “zoning use matrix” –

Chairman Easton: Oh, wow.

Ms. Ruacho: – and you go to Ag Processing Facility, any zone that that use is listed you would be able to undertake this use.

Chairman Easton: Okay, is there anybody who's concerned about this going forward as an approved use? Or change?

Ms. Ehlers: No, but I suggest that you – I suggest you take a good look at the definition to make sure that it's added so that again –

Chairman Easton: We're not defining it.

Ms. Ehlers: I'm not being – well, that could be a finding, yes. I'm not being facetious when I say, Make sure your entire department understands what you're doing.

Chairman Easton: No, I understand that. We're not defining the word “wine tasting,” though.

Ms. Ruacho: No.

Chairman Easton: Because it's too limiting.

Ms. Ruacho: And, yeah, let me clarify. I misspoke as to which one it is. It's called an "Ag Accessory Use."

Chairman Easton: Ah. That makes sense. Okay.

Ms. Ruacho: And it allows –

Chairman Easton: Is that allowed in Rural Reserve?

Ms. Lohman: Yes.

Ms. Ruacho: Yes.

Chairman Easton: Good. All right.

Ms. Ruacho: "Activities associated with tourism which promote local agriculture, provided that adequate parking, specified ingress/egress are designated and permitted." And then if you wanted to make your own wine – so the wine tasting part would be the tourism part – if you wanted to make your own wine, that would be the processing facility part.

Chairman Easton: All right. Any concerns?

Ms. Nakis: No.

Chairman Easton: Then we move forward.

Ms. Ehlers: We've done something.

Chairman Easton: We're – not quite yet.

Ms. Ruacho: Allen's giving us the thumbs-up after that one.

Chairman Easton: You're getting ahead of me.

Ms. Nakis: Don't get in a hurry. We're half-done.

Chairman Easton: Okay, 58. We're going to correct the order of the uses. That's just organizational, right?

Ms. Ruacho: Yeah. We didn't necessarily have to do a, you know, code amendment for that but...

Chairman Easton: Okay, 59: Correct the outdoor storage use again.

(silence)

Chairman Easton: 60. What line is that?

Ms. McGoffin: 330.

Ms. Ehlers: Where are we?

Chairman Easton: We're on page 16 – whoa, where'd we go? – 16.330 – under 14.16.330, we are adding – we're adding adult day care, we're adding minor utility; marina, primitive; parks and community.

Ms. Ruacho: Now and I might need to – we might need to amend that language.

Chairman Easton: Which part of it?

Ms. Ruacho: Did we mean adult group care facility?

Ms. Ehlers: Yeah, I think you might.

Ms. Ruacho: I think we need to – we would recommend – the way we define it now is “adult group care facility” instead of “adult day care,” I believe.

Chairman Easton: Yeah, “adult group care facility” is the – under the Hearing Examiner special use.

Ms. Ruacho: Yeah.

Ms. Lohman: So that's just –

Chairman Easton: Oh, okay.

Ms. Ehlers: So you want –

Chairman Easton: Do I need to do that in the form of an amendment?

Ms. Ehlers: Well –

Chairman Easton: Probably.

Ms. Ehlers: So you want to take the adult group care out of Hearing Examiner and into Administrative –

Chairman Easton: No.

Ms. Lohman: No. We used the wrong word.

Chairman Easton: No, we just – I just found – I found that definition under something that said Hearing Examiner. Sorry – disregard that.

Ms. Lohman: It should be ____.

Chairman Easton: Okay.

Ms. Lohman: ____ don't care.

Ms. Ehlers: No, but what you're saying is, though, that it's an administrative use and that there's no need for a process.

Chairman Easton: No, no. Not –

Ms. Ruacho: It's an administrative process. Permitted outright would be the lowest permit level we have.

Ms. Ehlers: Okay.

Chairman Easton: Okay. So do we need to make a change before – to this? Someone? Anyone? Yes? All right, I need a motion to re-align line 11 so that it reads "Adult group care facility." Someone please move that we change this to "Adult group care facility."

Ms. Lohman: I so move.

Chairman Easton: It's been moved by Annie, seconded –

Ms. McGoffin: Second.

Chairman Easton: – and by Mary. All those – oh, discussion?

(silence)

Chairman Easton: All those in favor? Aye.

Ms. McGoffin, Ms. Lohman, Mr. Hughes, Ms. Ehlers, Ms. Ohlson-Kiehn, Ms. Nakis, Mr. Axthelm and Mr. Mahaffie: Aye.

Chairman Easton: Opposed?

(silence)

Chairman Easton: Abstentions?

(silence)

Chairman Easton: Passes nine-zero – the amendment. We'll pass the whole thing together at once. All right, here we go. Let's try to finish these.

Ms. Lohman: Skip 62.

Chairman Easton: Skipping 62. Okay, we'll come back to 62 later. 63, Amending the accessory setback use – use setback from 15 to 5 feet.

Ms. Lohman: In Rural.

Chairman Easton: And we are in?

Ms. Lohman: Bayview Ridge.

Ms. Ruacho: Hang on, Jason.

Chairman Easton: I'm sorry?

Ms. Ruacho: The 340, you guys disposed of that already. What you're talking about is in addition to that.

Chairman Easton: Oh, so we don't need to skip 62. We already dealt with 62?

Ms. Ruacho: You already dealt with 62.

Chairman Easton: Gotcha.

Ms. Ruacho: In your earlier motion you did 14.16.340.

Chairman Easton: All right, let's go to 63 then. We're changing the setback requirement –

Ms. Ruacho: Already did it.

Chairman Easton: We did 63 also?

Ms. Ruacho: Yep, and 64.

Chairman Easton: All of 340. Right. Sorry. Let's drop down to .400 then, number 65, .400, Correct erroneous references. Since no one objects, we move on. 67.

Ms. Ehlers: Oh, wait. Let's see. Where are we?

Chairman Easton: We're on page 17 and we are moving to .410.

Mr. Axthelm: And 63?

Chairman Easton: Yeah, we just did – 63 was already done.

Mr. Axthelm: Okay.

Chairman Easton: It was included in stuff we passed earlier tonight.

Mr. Axthelm: Okay.

Chairman Easton: We dealt with 65 because it was an erroneous reference and no one objected. We're on 67.

Ms. Ehlers: Let's see, that's –

Chairman Easton: Changes to allowed and special uses. We're on page 18.

Ms. Ehlers: No, wait a minute. Let's back –

Mr. Hughes: The white ones we're not doing.

Ms. Ruacho: Right.

Chairman Easton: Carol, you should be on 18 – page 18.

Ms. Ehlers: You're right.

Chairman Easton: Line – starting with line 5.

Ms. Ehlers: No, Dave is the one that caught me.

Chairman Easton: Or line 3.

Mr. Hughes: That's scary if I'm kind of getting – thinking like you.

Chairman Easton: Yeah. I'm not going to say it... All right, why'd you highlight that? Is that what we're dealing with?

Ms. Ruacho: Yeah, that's what we're –

Ms. Lohman: That's where we're at.

Ms. Ruacho: – talking about now.

Ms. Lohman: Item (d) at the top.

Chairman Easton: Any concerns?

Ms. Ruacho: And then number (4)(b).

Ms. Ohlson-Kiehn: How come “and trail” is removed?

Ms. Ruacho: The way it's referred to in the state statute it just – it talks about roads – the exemption.

Ms. Ohlson-Kiehn: Okay.

Chairman Easton: Okay.

Ms. Ruacho: Just trying to get the language consistent with the statute consistent amongst the zones where this –

Chairman Easton: 68 – we're moving to cell tower again. Done. 69, Language edits for consistency in all NRL zones. Page 18, line – starting on line 24.

Ms. Ruacho: It's the same thing.

Chairman Easton: That's the same thing we just did. Any concerns there?

Several voices: No.

Chairman Easton: All right. We on 72 now?

Ms. Ruacho: I'm on number 70.

Chairman Easton: 70. I'm getting excited. Changes to allowed and special uses.

Ms. Ruacho: Same thing.

Chairman Easton: Same thing again.

Ms. Ehlers: That was the same thing, so then we get to Rural Resource.

Chairman Easton: Rural Resources-RL, change number 72.

Ms. Ehlers: 430 – changes to allowed –

Chairman Easton: Okay.

Ms. Ehlers: Why is it limited to 3 acres?

Ms. Ruacho: That's the current limitation. If you can see there, it already said, "comma on 3 acres or less" at the last part, so we just moved that forward because it was just a little bit awkward to end with it rather than begin. If you've got a limitation, it's better to begin with the limitation than throw it on the end.

Chairman Easton: Okay.

Mr. Hughes: I've got a question mark. I've got to figure out why I put that down there.

Chairman Easton: Oh, on this one?

Mr. Hughes: Yeah.

Chairman Easton: Okay.

Ms. Ehlers: Boy, do I have a question on that later.

Chairman Easton: You have a question on that now or you want to pull it out?

Ms. Ehlers: No, I just have a question. I'd like to know why if you can only extract gravel and rock on 3 acres why you can label millions of dollars of property as "mining" –

Chairman Easton: Oh, this is a totally different conversation, yeah.

Ms. Ruacho: This is just –

Mr. Axthelm: With striking "trail," does that limit it so like – there seems to be a lot more trails going in and stuff, so does that limit that?

Ms. Ruacho: This is the extraction of the gravel for that purpose to where you don't need a mining permit to do that.

Chairman Easton: What's the pleasure of the Commission? Do you want to extend to finish this out or do you want to stop?

Ms. Ehlers: Go ahead.

Ms. Lohman: Finish.

Chairman Easton: The most vocal people have said we'll finish. We shall finish!

Ms. Ehlers: If we can.

Chairman Easton: If we can.

Mr. Hughes: I think since we're just – because there are several of these zones that have this that maybe once it's explained to us then the rest would go smoother.

Chairman Easton: What do you need explained to you?

Mr. Hughes: Well, I'm – see, I have a question mark from when I looked at it earlier and I'm just –

Ms. Lohman: Carly, I –

Ms. Ehlers: Which page?

Mr. Hughes: Does this preclude anyone from ever getting an MRI (sic) on their land again?

Ms. Ruacho: No. What this is that we're dealing with in all these different resource zones is we have an exemption for mining – that we wouldn't consider mining that'd need a special use permit for if you're extracting gravel and rock for the purposes of forest road construction or maintenance.

Mr. Hughes: On your own property?

Ms. Ruacho: Right. But in – or in the same zone. So you don't need to be in the MRO and you don't need to get a special use permit for mining if you're doing it for these specific purposes on these specific criteria.

Mr. Hughes: Okay. But you could still proceed and get all that if you wanted to use it for commercial uses.

Ms. Ruacho: If you wanted to actually mine as a commercial operation and get a ____.

Chairman Easton: 74.

Mr. Hughes: Okay.

Chairman Easton: Language edits for consistency. I'm sorry. Now let's go to 73: Remove use – redundant with ag processing facility.

Ms. Ehlers: 73?

Ms. Ruacho: So it's our belief that all those items listed there – sorting, bagging, storage, wholesale processing – would be allowed under ag processing.

Chairman Easton: Okay, any concern?

Ms. Ehlers: Mm, okay.

Chairman Easton: Language edits. Next one's 430 (2)(k) and (4)(d). We did this before. Okay, that's – we did that, okay? Any concerns there?

Ms. Ehlers: Un-unh.

Ms. Lohman: It wouldn't include sand?

Ms. Ruacho: Sand.

Ms. Lohman: I'm thinking of like during the flood when all that sand ___ and some farmers had all this sand they had to remove. Are you going to require a special use permit or could they fall under that?

Ms. Ruacho: That's just – I mean you mean because the river brought it in?

Ms. Lohman: Yeah.

Ms. Ruacho: No. This is specific extraction so you can construct a road.

Ms. Lohman: I didn't want to expand it to include _____.

Ms. Ruacho: No, no, no. That's not a use; that's just cleanup.

Chairman Easton: 430(3)(e) and (k). So we're moving the definition of "greenhouse." Is that what we're doing? And we're redefining it and using a different code reference?

Ms. Ruacho: Yeah, just combining the two – what was listed under (e) and what was listed under (k) – just combining the two into one.

Chairman Easton: Okay.

Ms. Ehlers: Why don't you – some of the resource lands, the land is not super wonderful.

Ms. Ruacho: But this has always been the provision, that it says – we’re just – instead of listing it twice, we’re listing it once. But the requirement –

Chairman Easton: Okay. 440(30(a).

Mr. Walters: (3).

Ms. Ruacho: Sorry, (3). That should be a (3).

Chairman Easton: 440(3)(a): Any concerns there?

Ms. Ehlers: Let’s see. “No new mining uses shall be allowed...” – oh, I like that.

Chairman Easton: All right, Carol likes it. 440(8)(b). Yeah, I can live with that. 450 URP-OS: Urban Reserve Public-Open Space.

Ms. Ruacho: We’re just removing “open space” because open space is not a use.

Chairman Easton: Yeah, that would be a little weird.

Ms. Ruacho: You cannot have open space on your property!

Chairman Easton: .500. What are we doing there? Oh, we’re re-lettering? And we’re adding the interpretive/information centers and museums.

Ms. Ruacho: And removing “Docks.”

Ms. Ehlers: We’re rearranging interpretive centers.

Chairman Easton: And we took the word “Docks” out.

Ms. Ruacho: Right. We don’t consider that a use.

Chairman Easton: .600.

Ms. Ehlers: Well, wait a minute.

Chairman Easton: Sorry. We don’t consider docks a special use?

Ms. Ruacho: No, it’s just a structure.

Ms. Ehlers: So it’s okay?

Ms. Ruacho: Right.

Ms. Ehlers: Okay.

Chairman Easton: .600: Clarify the unclassified use provision. Oh, boy.

Ms. Ehlers: May I request that the language that's struck be left in because it's the only way the normal people in the county understand what you mean?

Mr. Walters: That's why the lawyers oppose this.

Chairman Easton: That was awesome!

Ms. Ehlers: There are those who think that's the way things are done!

Chairman Easton: Seriously? That's why the lawyers oppose it?

Mr. Walters: No.

Chairman Easton: That's funny.

Ms. Ehlers: I really like the – the language was carefully written in the early days to explain to people who didn't know what they were doing what was intended.

Chairman Easton: We're going to remove this one. We're going to discuss it at a later time.

Ms. Ehlers: Okay.

Chairman Easton: And I recommend that the attorneys come prepared. 81, .720(12). We are adding the word "Aviation Related," or AVR. And we're also adding something to do with an ag permit level. Where's that at? The reference here on the effective change says we're adding a Hearing Examiner permit level, but I don't see that in the code.

Ms. Ruacho: To the Hearings Examiner permit level.

Chairman Easton: Oh, I see.

Ms. Ruacho: Instead of ___."

Chairman Easton: Any concerns there?

Ms. Ehlers: No, that makes sense.

Chairman Easton: .900(1)(b)(v) and (E). Adding the phrase “The proposed use will not cause...” All right, that’s just clarification stuff. And (v). Where’s (v)? Oh, you struck the word “elements” in (v). Any concerns there?

(silence)

Chairman Easton: Okay, we’re moving on. Number 87: .320. We are not talking about that tonight.

Ms. Ruacho: Number 87?

Chairman Easton: Nope.

Ms. Ruacho: I’m just _____ it, if you don’t mind.

Chairman Easton: It’s clarification regarding cluster requirements. The Chair would like to keep clusters clustered, so we will discuss that at a later time.

Ms. Ehlers: That makes good sense.

Chairman Easton: 14.24.110. This is revisions to come into compliance with state law, correct?

Ms./Mr. _____: Do we have to?

Chairman Easton: There you go. There’s a conversation stopper!

Ms. Ohlson-Kiehn: Did we skip 88?

Chairman Easton: Oh, I’m sorry. I skipped 88. Let’s go back to 88: .30(2)(e). Adding corrected – let’s see – adding interpretive and information centers?

Ms. Ehlers: Adding the word “information.”

Chairman Easton: Okay, moving on. Anybody have concerns about revisions for compliance reasons?

(silence)

Chairman Easton: Excellent. The last one will be number 92: 14.42.030(2), correct the RCW reference. Any concerns?

(silence)

Chairman Easton: The Chair will entertain a motion to approve all of those that we have staged for approval in the fashion of just a motion for those that have been agreed upon to come to a vote.

Ms. Nakis: I'd like to make a motion that we approve all of the yellow highlighted items that we agreed upon.

Mr. Walters: To forward.

Chairman Easton: It's been moved that we move all those yellow items that have been agreed to be moved upon, that we approve them.

Ms. Ruacho: Recommend approval.

Chairman Easton: Is there a second? Recommend approval. Is there a second?

Mr. Axthelm: Second.

Chairman Easton: It's been moved by Elinor, seconded by Josh. All those – oh, discussion?

(silence)

Chairman Easton: Thank you for your patience. You're a great group of people. And calling the question: All those in favor, signify by saying "aye."

Ms. McGoffin, Mr. Hughes, Chairman Easton, Ms. Ehlers, Ms. Nakis, Ms. Lohman, Mr. Axthelm Ms. Ohlson-Kiehn and Mr. Mahaffie: Aye.

Chairman Easton: Opposed?

(silence)

Chairman Easton: Abstentions?

(silence)

Chairman Easton: Let the record show nine-zero.

A couple of issues to bring up in general from the Chair and then we'll turn it over to staff, if they have anything.

One, you all received a letter from the North Puget Sound Association of Realtors, a former employer of mine. I highly recommend the speaker. I've worked with him in the past. He's been referred to by a lot of people in the past

as one of the grandfathers of Growth Management – really balanced and a really helpful attorney with a lot of experience, especially their Shorelines Management Act. Our update (is) coming up. So please keep that in consideration. It's something that I think would be helpful.

The Shoreline – I think this is what Carol was referencing earlier – the – Skagit County has extended – is looking for Commissioners – or volunteers – excuse me – to help with the Skagit County update of the Master Program, the Master Program Advisory Committee.

Ms. Ruacho: Shoreline Master.

Chairman Easton: Shoreline Master – excuse me. Let me start over. The deadline for the Skagit County Shoreline Master Program Advisory Committee members who are interested in the community or interested in applying has been extended till Monday, April 18th, at 4:30. So if you know someone who's interested in helping in that capacity, pass that on to them. *Briefly.*

Ms. Ehlers: The list that was in the paper and the ones that are usually highlighted are in the environmental and business groups. I should like to encourage the saltwater shoreline and the fresh water lake shoreline people to take part because with the recent changes of the setback from 50 feet to 200 feet and the implications that might have for eminent domain, I think it is a subject that is – should be – dear to anyone's heart.

Chairman Easton: It is also – the Chair just wants to let you know that during the meeting we did hear from the Director that he does believe that postponing the things that we've discussed about postponing that don't need immediate action is a fine way for us to go from a timeline point of view. All right? So we will anxiously await the announcement of when the next – when the public hearing will be to finish the issues that relate to the Burlington-Edison School District. We will meet again on April 19th. Come prepared to deliberate on everything that's "else." Any questions? Annie?

Ms. Lohman: I am not available April 21st.

Chairman Easton: Oh, if we had to go over to Thursday? I don't anticipate having to go on to Thursday.

Is there anything that staff needs to tell us first before we go?

Ms. Ruacho: So Bill just is handing out your proposed schedule from now until August. As you mentioned earlier, normally we do try not to meet in July and August. That's just not going to be possible this year. We have kind of an odd schedule for July already because the first Tuesday in July was on July 5th. So it was so close to the holiday week-end that we noticed your regular scheduled

meeting for July 12th. Based on the schedule for the flood damage prevention ordinance changes that Tim talked to you about earlier, we were hoping, if you are agreeable, to change that meeting to July 19th. So your regular meeting in July would be the 19th instead of the 12th.

Chairman Easton: Okay. So this will be our schedule unless you hear otherwise. Anything else?

Ms. Ruacho: And then just a quick pitch for the Planning Department listserve. So things like the extension of the advisory committee for the Shoreline update, if any of you are not on the Planning Department listserve to receive e-mails for important things that come out from the Planning Department, I'd highly recommend it. If you want to be on and you're not on, you can see me after the meeting and I can get you the link to that that's quick. Just click on it – click on the link, it signs you up, and then you receive e-mails from us after that.

Chairman Easton: You can send us the link?

Ms. Ruacho: I can send – yeah, I could send the whole –

Chairman Easton: Why don't you send the whole Planning Commission the link.

Ms. Ruacho: You bet.

Chairman Easton: Thank you.

Ms. Ehlers: May I ask that when we come on the 19th that you give us a list of things that we – beforehand – that we've approved so we can be sure that we can cross-check to take them out?

Chairman Easton: Is that possible?

Ms. Ruacho: You bet.

Ms. Ehlers: Well, some of the yellows we didn't agree – we decided not to –

Chairman Easton: There's a handful of yellows. There's a couple of yellows that we didn't do.

Ms. Ruacho: I can make you a list of what you approved and what you still have left to approve.

Chairman Easton: Perfect. And we expect some kind of staff response, Bill. I'd really like a staff response to the issues that relate to the cluster and the questions about extending plat time – basically the issues that Mr. Requa brought up.

Mr. Dowe: Okay.

Chairman Easton: That's part of the reason why I've delayed us deliberating on that was to give you ample time to be able to respond.

Ms. Ehlers: Well, Requa *and* the others because other people commented on those, too.

Chairman Easton: Right. I just mean those issues in general. The topics that are time-sensitive that we have to get to on the 19th. That covers it.

Ms. Ruacho: And then just we have time already scheduled on Tuesday, May 3rd, for deliberating on code amendments, and so if you don't get done on the 19th – I mean, we're going to take up the time-sensitive ones on the 19th but –

Chairman Easton: Right, those'll be the first ones.

Ms. Ruacho: – but if we need more time, we have time allocated on the 3rd.

Chairman Easton: We can't move all of this to the 3rd, right?

Ms. Ruacho: No.

Chairman Easton: Okay, then we'll be here on the 19th. We'll do the time-sensitive first and go from there, and if we need to do it we'll do it on the Tuesday.

Ms. Ruacho: Right.

Chairman Easton: I just want to make a note to staff: If deliberations are done, I need – I'd like some detailed ideas of how long pipeline safety's going to take. Because I don't – if I have to meet – if we have to be here in July and August, I don't want a twenty-minute May meeting. So we need to talk about – I want to talk about – through that with you guys to make sure that we're using our time wisely. So start working up how much time pipeline's going to need.

Ms. Ruacho: We could – I don't like to in case you guys want to, you know, think about it and have questions, what have you, ask them before, but I could do the presentation in front of the public hearing if you want to – if you don't need your meeting for deliberations on code amendments in May.

Chairman Easton: Let's work offline about that. I'm open to that, unless somebody objects. I don't think this is really a –

Ms. Ruacho: This is a serious issue.

Chairman Easton: Right.

Ms. Ruacho: But your deliberations are scheduled for the following month so you would have time to think about it before you deliberated on it, so it's something that we could do.

Chairman Easton: Yeah, I want you to lean towards that. Let's lean into that and find out from the pipe – who's doing pipeline?

Ms. Ruacho: Me.

Chairman Easton: Sorry.

Ms. Ehlers: Poor soul.

Chairman Easton: With that (gavel), we're adjourned.