

**Skagit County Planning Commission
Work Session: Shoreline Master Program Update
June 3, 2014**

Commissioners: **Annie Lohman, Chair
Josh Axthelm, Vice Chair
Kevin Meenaghan
Keith Greenwood
Tammy Candler
Robert Temples
Dave Hughes
Matt Mahaffie (absent)**

Staff: **Dale Pernula, Planning Director
Ryan Walters, Civil Deputy Prosecuting Attorney
Betsy Stevenson, Senior Planner**

Public Commenters: **Carol Ehlers
Ed Stauffer
Erik Andersen, Planning Commissioner Applicant
Ellen Cooley**

Chair Annie Lohman: (gavel) I call to order the June 3rd, 2014, meeting of the Skagit County Planning Commission. If you could all – the only person that we’re missing is Matt Mahaffie and we do have a quorum tonight – so if you could review the agenda and see if there’s any corrections or additions. Okay, seeing none, we’ll move right on to Public Remarks. So come on up. Make sure that you tell us your name and your address, and I’m not going to read the little paragraph that’s printed on the agenda. You guys all look like veterans.

Carol Ehlers: I think everyone here is a veteran. I just wish there were more people here, because this is the way you learn what the laws are. I’m here tonight to raise the question of – to answer some questions that have been raised in the past. A question of where the Shoreline Management Act came from: In 1971 – and you’d *know* this if you had read the section in the Comprehensive Plan of 2007, because that’s where I got it. And if you don’t read that section there’s going to be an argument when this process is over.

But in 1971 the legislature passed the Shoreline Management Act and in 1972 there was an initiative raising the question as to whether it should be put into effect – Initiative 43B – and that’s why the law exists. The Shoreline Management Act, as was said last time, is to manage – not to destroy people who have successfully managed it for many years, but to manage. And in many parts of Puget Sound it has not been managed. There was some talk at one point when they lumped Snohomish, Island and Skagit County together of the thousands of houses that were on pillars and stilts in the water of these counties. And I asked our shoreline man where these thousands might be in Skagit County, since I had been all over the county and hadn’t seen them, and he said, Well, there’s some in La Conner and there’s a couple over on the north side of Samish Island. And there aren’t many on Whidbey, so the thousands are in Snohomish County, and fortunately we have now been separated in public discussions from Snohomish

County. That's fortunate in our recognition of geology above shorelines as well as anything else, after the recent experience.

But I'd like to remind all of you that a shoreline is not a shoreline is not a shoreline. The river ones are different in their nature, in their capacity, in what you can require, in their requirement for flood insurance. And the streams are maybe similar as compared to the coast, let's say, of the county between Chuckanut Mountain and the south part of Padilla Bay. Go out there and look and see what the shoreline is like. The way the discussions take place you'd think it was all the way it is at Bayview, where you've got this gorgeous view all the way from the road down into the beach. Go up to the restaurants that are up at Chuckanut Mountain and see how different just in that one stretch the shoreline is. And then if you know geology, go look to see what this – in the maps that are done by the Conservation District – go look to see the nature of the shoreline. It's a convenient illustration this week, but it's the 70th anniversary of D-Day. The Allies tried to invade in '42 but they didn't pay attention to the nature of the shoreline, and the troops that landed died or were captured. We don't celebrate their sacrifice. The British spent a full year hunting for a shingle beach where you could do on the beach what you needed to do – not put people at risk, but actually allow heavy equipment to safely move and people to walk easily.

Josh Axthelm: Carol?

Ms. Ehlers: They found it. We call it Utah, Omaha and the others. I've been there. It's easy to walk on that beach. What frightens you when you look at that beach is what that cliff is like. And that cliff is the same kind of cliff that I see all around the saltwater shorelines in this county.

Mr. Axthelm: Carol, it's – time's up.

Ms. Ehlers: Okay, but remember you have to pay attention to the nature of the land, and I'm not sure that you are.

Chair Lohman: Next?

Ed Stauffer: Good evening, Commissioners and guests. I'm Ed Stauffer. I live in Alger, in rural Skagit County. I got a new clue in my quest for the definition of "no net loss of ecological function" I'll share with you. But just thinking about the Planning Commission: For over a year there was a vacant chair from Commissioner Dahlstedt's district, and the reason it was vacant is because the Commissioners were at pains to meet their mandate under the Planning Enabling Act to appoint citizen-members of this committee who would be able to inform the Commissioners on issues affecting the citizens of the county that the Commissioners felt were under-represented. And they were looking for Mr. Greenwood for that period of time that the forestry interests were not represented. And they wanted a good person and they found one. So that's what you people are – is you're here to back up the Commissioners in meeting the needs of the population of Skagit County and to ride herd on our hired officials to make sure that they're on task and doing the right thing. I went to a meeting in Sumner, a joint committee hearing. I'll put this on the overhead for you. I'll just give you the reference. I think I would like to advise the Chair of the committee it might be a good idea to get in touch with Senator Erickson of the Energy, Environment and Telecommunications Committee and Senator Pam Roach of the Government Operations Committee. They just on April the 17th held a joint committee work session with representatives of the EPA on the Shoreline Master Plan Act, triggered by over sixty complaints which have been filed statewide to date with the State Attorney General's office for misfeasance and malfeasance on the part of the State Department

of Ecology. At the end of that hearing, Senator Roach is quoted – and you can get a copy of that hearing on the state TV – addressed to the representative of Ecology: “I have asked you all the correct questions. I have listened carefully to all your answers. All of the other members of the Senate committees have asked the questions and also listened carefully to your answers, and I must conclude that the actions of the State Department of Ecology regarding the Shoreline Management Act to date have been totally arbitrary and capricious.”

That’s something that I think you should know because I’m hoping that you will be able to spend your time working on issues that we need you to work on. One thing I’d like to know is if you’re apprised or if you have anything to do with the annual work plan of the County. We’re now looking at a revision of 14.44 Skagit County Code that’s been proposed to the Board of County Commissioners which changes and revises enforcement and penalties of land use regulations. To me that’s something that you should be intimately aware of and involved with.

As far as the no net loss of environmental function definition, at that hearing I was given a reference to check with the Environmental Protection Agency and there it was. The Environmental Protection Agency coined that phrase and sent it along to the jurisdictions such as ours along with the grant money to implement. And in congressional oversight committees at the federal level I asked them to explain what was meant by that goal statement, and they admitted that it had no meaning. And that’s it. Thank you. I’ll quit looking.

Chair Lohman: Next? Anybody else from the public wish to make remarks?

Erik Andersen: Hi. My name’s Erik Andersen and I’m a –

Chair Lohman: Excuse me. Let me interrupt you. Could you come right up here to the mic?

Mr. Andersen: You bet. Sorry.

Chair Lohman: There you go.

Mr. Andersen: I’m a new face – first time here. I’m a resident of Fidalgo Island, unincorporated Skagit County. And my name’s Erik Andersen and I just wanted to introduce myself. I’m a geotechnical engineer. I work in infrastructure and ecosystems restoration for municipalities, special purpose districts, other public and private agencies, and I am interested in the vacancy on this Commission. And if – I’d like to join you and help you fulfill your missions. So I just wanted to say hello and indicate I’ll be submitting an application, and I hope to get to know all of you. Thanks.

Chair Lohman: Thank you. Anybody else from the public?

Ellen Cooley: I’m Ellen Cooley and I live at 16340 Lookout Lane in Bow. I’d kind of like to echo something that Ed said. It seems like we keep coming down to these meetings and discussing the Shoreline Master Program and it’s just endless, and I’m concerned about the volunteers spending so much time on what apparently some people think is getting too much attention. So thanks for your attention you do spend and your time.

Chair Lohman: Okay, seeing nobody else from the public, we’ll move on on the agenda to item number 3, the Bayview Ridge Subarea Plan 2014 Update. Dale, you’re up.

Dale Pernula: Okay, I gave a presentation on the proposal for Bayview Ridge in March, but I thought I'd go over it again a little bit, update it a little bit, and talk about a couple of meetings that will be coming up real soon. First of all I want to hand out a mailer that we sent to property owners – I believe it was probably sent yesterday or today so that you should be getting it real soon. It's for a meeting that's going to be held on June 26th.

A little bit about the recent history of Bayview Ridge: The new Subarea Plan for Bayview Ridge was adopted by the Board of County Commissioners on December 13th of 2013. And then on December 10 of – just a week later – we received a letter from the Burlington-Edison School District saying that they were unable to find a location – suitable location – for an elementary school in Bayview Ridge, but that they didn't want to hold up development any longer, even though they still – they said they still need a school site.

Then on January 10th the Port of Skagit adopted a resolution requesting Skagit County to do a number of things. One was to adopt new AEO zones and regulations consistent with the 2011 WSDOT Airports and Compatible Land Use Guidebook, and adopt additional industrial and land use designations between the airport and existing residential development. Now a compliant AEO map would substantially expand the area within Zone 4, which would in turn further restrict residential uses.

On the board what I have on the first page – and it's on the handout that you have – this is the eastern part of Bayview Ridge, and it shows the existing Plan – the Plan that was adopted in December. The area that's shaded is the area that went from BR-R to BR-LI, or Light Industrial, is 110 acres. Then to the east of that there still remains a lot of residential land in blue that's undeveloped, as well as the area to the north, BR-URv.

To see if we could comply with the request of the Port, we started looking at the map to see if there was any Light Industrial-designated lands that could not be utilized for industrial purposes. We found a couple of very big areas – some significant areas – at both ends of the runway – of the main runway – that the Port indicated are not developable due to wetlands or other constraints, resulting in about 172 acres of industrial allocations that we're looking to move elsewhere. On the original map that I think I sent you with the packet it was designated as BR-OS, or Open Space; however, we've changed that designation to AVR, or that would be Aviation Related. And on the board and in your packet, the map shows it as AVR – the darker blue – AVR, the area at each end of the runway. Because we are taking those industrial allocations and moving them elsewhere, we were able to define roughly the flat area up on top of Bayview Ridge that could be developed for industrial purposes and that was currently designated Residential, and we found that that area was roughly the same amount of land – about 170 acres. So the proposal would be to expand the BR-LI to include that additional 171 acres of land.

The other compatibility issue would deal with additional residential development in Bayview Ridge, mostly on the slope to the northeast. Being in an urban growth area, it has to be at least four dwelling units per acre, and the way the Plan had it was four to six dwelling units per acre; however, Zone 4 and Zone 6 recommend that densities be either no greater than one dwelling unit per 5 acres or fifteen dwelling units or more per acre. So the only way we could reduce the densities for that area that we could not rezone Industrial would be to remove it from the urban growth area. So that's the proposal: to remove that area that's shown in light yellow in the northeast part and designate it Rural Reserve.

In addition, the map in this lower right-hand corner of that second page shows the current AEO zones and the proposed AEO zones. You can see how each of those, particularly Zone 4 that affects this area, is being increased significantly.

So on May 15th of this year, the Board of County Commissioners adopted a resolution docketing this proposal. Now what's coming up real soon are a couple of meetings we just scheduled today: on June 18th, a mandatory consultation with the Aviation Division of Washington DOT. It's scheduled to be held with aviators, airport managers, et cetera, and it will be held in this room at 10 a.m. on June 18th. We did this last year – I believe it was in September – but that was on our old Plan.

Probably the most important meeting coming up, though, is the one that that handout – that mailer – is talking about. It's June 26th. It's a Bayview Ridge community meeting. It'll be held at the school, as it was last year – Bayview School. It'll last from about 6 p.m. to 8 p.m.

And so my questions to the Commission are: What would you like to see in the Plan? And in particular, what would you like to see the staff present at the meeting with the Bayview residents?

That's all I have, unless you have some questions.

Chair Lohman: Members?

Kevin Meenaghan: Dale, as it currently stands, the area to the northwest and the southeast is Light Industrial and we're – the proposal was to make that Open Space and now we're changing that to Aviation Related?

Mr. Pernula: No. Originally those areas that are shown in the dark blue until a month or so ago was designated as Open Space and the Port said it's really not Open Space. It's going to be utilized for some aviation-related purposes, probably not industrial development, although they do have approximately 20 acres of land there that they think they can still develop. And we still have about 20 acres of unallocated industrial development that can occur in those areas. So with that district we would write into the Plan the allowance for up to 20 acres of Industrial development that's not related necessarily directly to the aviation purpose of that zone.

Mr. Meenaghan: Right. Is it designated Open Space right now?

Mr. Pernula: It is not. Right now it's zoned Light Industrial and that Light Industrial – which, for the most part, can't be used there – is being moved to the private sector, to privately-owned properties.

Chair Lohman: So for clarification, the dark blue, AVR, of that 20 acres –

Mr. Pernula: Yes, and it's mostly at the northwest portion. There's a couple of 10-acre – roughly – pieces of land that are not wetlands, that probably can be and should be developed Industrial.

Mr. Meenaghan: So another question here then: Are we downzoning any of these areas? We're downzoning –

Mr. Pernula: Definitely. The entire area in the northeast slope – I believe it's approximately 235 acres – would be downzoned. Currently it's – well, let me take a look at it.

Mr. Meenaghan: It's Rural Reserve? Or is it Light Industrial?

Mr. Pernula: Part of it is Bayview Ridge Residential, which permits densities of four to six dwelling units per acre, or Bayview Ridge Urban Reserve, which is like a future phase but has the same density. So there is definitely a downzone of those properties.

Mr. Axthelm: Now it appears to me like it's based on the – like, if you have it on property lines – you have it shown on property lines basically where that change happens?

Mr. Pernula: I did, trying to approximate as close as I could where there was a break in the land. That doesn't mean that in the future we couldn't make some adjustments to these lines. They're not perfect.

Mr. Axthelm: Yeah. Okay.

Chair Lohman: So these are just for discussion?

Mr. Pernula: They're for discussion, but if this Plan's adopted as it's written here those would be the lines. So, you know, I can show you the topographic maps. I don't have them ready to put on the board right now but I could show you the topographic maps upon which those lines were drawn. I drew them first without looking at property lines, then I made some adjustments because some pieces of land would be cut off from other portions of properties and it didn't make a lot of sense.

Mr. Axthelm: Okay. It seems to me now would be the opportunity to make some adjustments as far as the wetlands, because if some land could be used for industrial that's included in this it might be nice to have that in there now, but then also knowing exactly where the wetlands are. Because that's what it is is wetlands, right? Is that the reasoning?

Mr. Pernula: That's the primary reason is wetlands, but I understand that they also have – you know, some of it's right at the end of the runway. I don't think they really want to develop some larger buildings in some of those areas.

Mr. Axthelm: Yeah. No, I think it's kind of nice –

Mr. Pernula: It's primarily wetlands.

Mr. Axthelm: It's nice. It's up against the residential there, too, so it creates kind of a natural buffer.

Keith Greenwood: Dale, in the Light Industrial area as on the proposed map, it appears to me there might be some areas that are already developed in that area that's being proposed for zoning as Light Industrial. Is that possible? Something that's already developed as residential? I'm looking at an older map of the Subarea Plan and it appears there may be some. Maybe it's the accuracy of the other map.

Mr. Pernula: There might be one or two residential units in there. I am not familiar with any in particular.

Mr. Greenwood: Does this incorporate all of the proposed upgrades or improvements or runway lengthening proposals that the Port has anticipated?

Mr. Pernula: Yes; however, some of those proposals will result in those AEO zones going way beyond the boundaries of Bayview Ridge, particularly to the northwest. It goes a long distance to the northwest.

Tammy Candler: That was my question as well. Do you think that'll be addressed at the meeting on the 18th? Is that something that will be discussed?

Mr. Pernula: If you wish, I can show the overall AEO zone maps. Let's see – yeah, the one that we have and the one that's on the flier only covers Bayview Ridge, but you can see that it's going to extend quite a ways to the northwest.

Chair Lohman: You asked what you would like us to bring to the meeting. I think you need to bring a bunch of maps – your topographical map and your – so that you can walk the folks through your reasoning. I think that would be really helpful.

Mr. Pernula: Okay. There're other issues as well. Do you want to talk about oh, traffic or buffers between the industrial uses and the residential uses, landscaping, traffic? What kind of issues would you like to have addressed?

Chair Lohman: Well, you really still haven't – you're still going to have the Peterson Road situation, and on this scenario originally you had an idea of going out to Josh Wilson, and now I don't see an alternative road. At some point you're going to have to have some kind of solution.

Mr. Pernula: We do have a generalized road, not shown on this map but on another map, that shows a connection between the two roads – between Peterson and Josh Wilson. And I can tell you, though, that it's not easy to find a suitable location for that road. But we do show a generalized road between the two.

Chair Lohman: Anybody else on the Commission?

Mr. Greenwood: What would be the allowed uses within the AVR? Is there an anticipated use pattern there?

Mr. Pernula: I would have to pull out the zoning code. The zoning code does allow a number of Aviation Related uses, but then it also says that all the Light Industrial uses are permitted. In that's in the dark blue, we're only going to allow those non-Aviation Related industrial uses for a total of 20 acres of that area. I should say that's what we're proposing because that's what makes the most sense for the area.

Mr. Meenaghan: One more question – so we're going to – so if this was approved the way that we're kind of laying out here, you're reducing the number of residences allowed in this UGA – residential building development that could happen in this UGA?

Mr. Pernula: Significantly, yes.

Mr. Meenaghan: And aren't we required as the County to provide for a certain population growth?

Mr. Pernula: Yes.

Mr. Meenaghan: And does the County then – if we reduce this UGA and the ability to have residences here – does the County have room elsewhere to grow that population that we're required to do?

Mr. Pernula: Well, I think that we're right in the middle of updating for the 2016 Update. We're going to have to make those adjustments there. Either into – probably into other UGAs. That's probably where they would go. Now the proposal was to have a total of an additional 3800 people live here, roughly; however, there still would be some infill for a couple hundred more, plus at the lower densities there would still be a few. So it would be a fraction of that 3800 additional people.

Mr. Axthelm: Dale, I think I misunderstood this. I was thinking it was being changed to BR-OS, but it's actually existing BR-OS right now, right?

Mr. Pernula: BR-OS? No. Right now it's zoned Light Industrial. BR-OS is just what we threw out as a possibility a few months ago and the Port said, No, we want it to be AVR, and we agreed.

Mr. Axthelm: Okay. Okay, I see it.

Chair Lohman: So that was just an early proposal?

Mr. Pernula: That was just an early cut, but they said it's really not Open Space; it's really Aviation-Related zone. And we agreed.

Mr. Axthelm: Okay. So with that, the one concern I have is making sure that the residents that live next to that zone are protected. Are they able to develop it right now?

Mr. Pernula: As I said, for the most – right now it's zoned Light Industrial, all of it. However, for the most part, a very large portion of it's wetlands and some of it's at the end of the runway so it's got a couple of difficulties.

Mr. Axthelm: Okay. No, that's fine then.

Mr. Greenwood: How about the PUD? Is that something that's going to be pending?

Mr. Pernula: The PUD is pending right now. You know, we went through that process. We developed the PUD code, and that was to develop residential development and mixed use development in this area. By eliminating the vast majority of the residential uses up there and really not having mixtures of uses, it's probably not going to be relevant here. We may be able to apply that somewhere else but not at this location, if this is approved.

Robert Temples: Dale, I've got probably less of a question and more of a – just clarification. So this meeting on June 18th is to bring in the Department of Transportation to address any of the issues they have in regards to this Plan?

Mr. Pernula: Yes, along with airport operators, aviators, anybody who is directly involved in the aviation business will also be invited. That's what we did last year and that's what we're doing this time.

Mr. Temples: Thank you.

Chair Lohman: Anything else?

Mr. Pernula: That's it.

Chair Lohman: Okay. Are you going to be publishing the June 18th meeting on your Bayview Ridge section?

Mr. Pernula: Yes.

Chair Lohman: Okay. And the other one, of course, too?

Mr. Pernula: Yes.

Chair Lohman: Okay. All right –

Ryan Walters: So last time we did the Subarea Plan update, you had a lot of comments about the narrative text in the Plan and that kind of thing.

Chair Lohman: Yes, but as it related back to the PUD.

Mr. Walters: Well, as a general matter, I thought, as well.

Chair Lohman: Right, right.

Mr. Walters: Anyway, our plan is to clean all of that up this time.

Chair Lohman: So is the – for clarification – the PUD portion, is it in hiatus or is it still rolling forward?

Mr. Pernula: It's in hiatus and it's likely not to roll forward unless this proposal to go to something other than residential happens. There's no need for it.

Mr. Greenwood: Did you get a response from the Commissioners pertaining to your March 13th memo whereby you laid out a few options to them? Did you get any indication from them?

Mr. Pernula: I laid out some options and they selected the option that would make the changes I outlined tonight.

Mr. Greenwood: Okay.

Chair Lohman: I'm curious on the June 26th meeting with the – what the reaction's going to be.

Mr. Pernula: I am, too.

Chair Lohman: Okay, so moving on to the Shoreline Master Program Update. Betsy and Ryan, you're up.

Betsy Stevenson: Okay. We held a discussion at the last meeting with the Forest Advisory Board and kind of went over the forest practice stuff, so we got some good feedback from you on all of that. So thank you. That was all we chose to go over since there were so few of us here, so we're going to kind of take up where we left off, if that's okay.

The memo should be dated May 29th for the meeting tonight. It lists the section of code up there that we're talking about, and then if you move down just a little bit further it starts talking about the Comprehensive Plan policies that we changed. So I would start there, if that's okay, on the first page of the memo with the Recreational Development. And you can find that on the originals on page 35 and 36, I think, of your document. So we made some minor changes to those. They're 6F-1.2(a) and (b).

Mr. Temples: Betsy, is this reflecting some of the discussion we had at our last – I'll call it – informal meeting?

Ms. Stevenson: Uh, no.

Mr. Temples: Okay. From before that, huh?

Ms. Stevenson: Yeah. We start both of these in our existing text from, I think, from existing policies with Unique and Fragile Shorelines, and nobody really knew for sure exactly what that meant so we took those out. The next one, 6F-1.4 and 1.5 were ones, if you remember, that came over from the Public Access section that you thought might fit better here, so that's what we did and we included those as changes.

Mr. Greenwood: I just wanted to highlight, Betsy, in my reading of the Unique and Fragile Shoreline Areas at the very top where it describes "Accretion beaches, marshes, estuaries, and wetlands that are susceptible to damage from more intensive recreational development should be protected and preserved for less intensive forms of recreation." That almost to a T describes what they're looking for in the Natural designation objective itself. Those types of situations and shoreline conditions that are – can be harmed by man or would not be compatible with man's use, and I'd like to keep that in mind as we decided last meeting that we would be looking at the Natural environment where it fits – perhaps a little more refined.

Ms. Stevenson: Okay.

Chair Lohman: Just a clarification: At the last meeting because there wasn't a quorum you couldn't make a decision. You just –

Mr. Greenwood: There were no decisions made, but there's a recommendation based upon that.

Chair Lohman: There you go. I just wanted to make sure that that was –

Mr. Greenwood: Well, we decide a lot while you're not here! It just doesn't stick!

Mr. Temples: We were planning all kinds of things while you were gone.

Chair Lohman: Well, because it's on tape I wanted to make sure that it wasn't misinterpreted.

Mr. Temples: Gotcha.

Chair Lohman: I guess maybe it's my humorous bone – when I was reading this and you were talking about recreation, and then the next thing is sewage disposal. And it just leaped out and it seemed kind of funny! I know what you're getting at – that if you're going to have these facilities that you need to kind of take care of business, but it seems almost kind of – maybe we need "Amenities" – maybe a general title, because there's other things too, isn't there, besides that? 6F-1.3.

Mr. Greenwood: Are you thinking maybe just change the order perhaps? Talk about 1.4 and push Sewage Disposal down a little ways or something. Does that soften it a bit? Make it easier on your stomach as you're reading?

Chair Lohman: Partly it's the title of that section, 6F-1.3, is Design. And maybe I was stumbling on – you're really kind of delving into the amenities part of it, aren't you? Because it isn't just that. You've got (a), (b), (c), and on.

Ms. Stevenson: Okay. We can see if we can't rework that a little bit. I was going to say to make it flow a little better, but that's worse! Never mind! I'm sorry! So, okay.

Chair Lohman: Anything else under Recreation? Shall we dive into the regulation code then? Page 135, I believe, is the code section.

Ms. Stevenson: Where're you going now?

Chair Lohman: Code – the second half – the code.

Mr. Greenwood: The code for Recreation – is that what you're –

Ms. Stevenson: Is that how you're going to do it? Okay.

Chair Lohman: Isn't that what you're doing?

Ms. Stevenson: That's okay, if that's where you want to go.

Chair Lohman: Page 135.

Ms. Stevenson: I was just going to go through the Comp Plan changes and then start with the code sections – with Industry – if that's okay.

Chair Lohman: All right.

Ms. Stevenson: Just kind of the way the memo goes. Is that all right?

Chair Lohman: All right then. We can do that.

Mr. Axthelm: I have one – so I jump back real quick (to) Recreation: the difference from the structural and intensive. Did we cover that more? What's the difference there? I'm looking at

the code. It says – or not the code. Sorry, the book. It says – 6F-1.2 – it says “susceptible to damage from structural recreational development.”

Ms. Stevenson: Yeah, we changed that.

Chair Lohman: I have we struck that last time.

Ms. Stevenson: Yeah, we did.

Mr. Walters: We did. That’s on the first page of the memo. It’s the revised policies to address that issue. There was somewhere else that it existed that we came across it and we bookmarked it and fixed it here, too.

Mr. Greenwood: And have we clearly defined in the code section the difference between active and passive so that people will know the difference?

Ms. Stevenson: I think it is defined in there, but I’ll look real quick to make sure.

Mr. Greenwood: I’m sure someone will ask.

Ms. Stevenson: Yeah, I think you find both passive and active shoreline recreation.

Mr. Greenwood: Okay.

Ms. Stevenson: Thank you.

Mr. Axthelm: Thank you.

Ms. Stevenson: Okay, following the memo, I guess, if it’s okay –

Chair Lohman: Yes.

Ms. Stevenson: – the only other policy that we really changed was for Circulation, which is on page 39 of your full document. And this is just a proposed revision for 6G-1.2, item number d., which shows in track changes there in the memo. Uh-oh.

Mr. Pernula: I don’t see it.

Chair Lohman: I’m not –

Ms. Stevenson: Did you not get a page 2?

Mr. Meenaghan: I don’t have any of the even pages.

Ms. Stevenson: Oh, no. I did catch that we had the wrong one printed up to start with. It only printed the odd pages?

Chair Lohman: I didn’t have Circulation on the thing at all.

Ms. Stevenson: Okay, I’m sorry.

Mr. Axthelm: I printed it.

Ms. Stevenson: Wow.

Chair Lohman: It's not in the list on May 29th up here.

Mr. Temples: I printed it ___.

Mr. Axthelm: I printed it also. I have a copy. Do we have enough?

(several mostly unintelligible comments)

Mr. Pernula: I have a full copy if anybody would want one.

Ms. Stevenson: I'm really sorry, guys.

Mr. Walters: Do we want to put it on the overhead?

(more unintelligible comments)

Mr. Axthelm: Betsy? You did send it to the – on the Internet correctly, so the public has that. It's just a matter of *us* having –

Ms. Stevenson: The copies that I made tonight that were in front of you at your seats are – for whatever reason, I only copied one – it was a two-sided and I must have just said one-sided to two-side or something.

Mr. Axthelm: So it was available. I just –

Mr. Temples: Which page do you want us to look at?

Ms. Stevenson: Page 2, if you have it.

Mr. Temples: I do.

Ms. Stevenson: Okay. Anyway, this is a change to the Circulation policy, which is on your document on page 39, okay? So it's 6G-1.2 under Location. Anyway, now it reads "Parking areas for all types of vehicles and for all forms of shoreline activity should not be permitted over water and should be adequately set back to allow for shoreline dependent activities." I wasn't exactly sure that was very clear so we just proposed to change that and it changes it a little bit more than just in terms of trying to clarify it. It actually makes it a little bit different. We changed that to say "Parking areas for all forms of shoreline activities should not be permitted over water and should be located outside of shoreline jurisdiction whenever feasible." So you're trying to move it a little bit further away so that you have room for any of the shoreline dependent activities under the first scenario and the second scenario that we're proposing in the way of the changes. If you can, just get it out of shoreline jurisdiction altogether. So, I mean, it's just kind of something – a different choice, I guess.

Mr. Axthelm: Which means 200 feet back.

Ms. Stevenson: In – yes – normal circumstances, yes. We’re just throwing it out there. There’s no real –

Mr. Greenwood: Well, it kind of fits with the code language that’s proposed as well, which lists parking within shoreline must be and then it lists the musts, and under the musts one of the musts is outside of the shoreline jurisdiction. I’d like to have you consider the language that might be after “should be” to state “confined to areas which do not pose a significant adverse impact on the environment.” And that should – you know, when you do an environmental impact checklist or query you look at traffic included in the design location so that you make sure you put it in the right spot. I think that – to me, that’s more of a policy goal than to specify that it has to be outside, because then we have to start making exceptions and that’s where I struggled with this afternoon, was trying to reconcile those exceptions for handicapped access and maybe putting it in the right spot.

Ms. Stevenson: Okay. Good point. We actually have had one of those scenarios not that far off in the past.

Mr. Greenwood: And I could picture some. I mean, where we’ve got the beach on one side and the lagoon on the other side you’re kind of stuck, but you want people to be able to access both of those.

Ms. Stevenson: Yeah. Okay. Then it just – “whenever feasible” gives you a little bit of an out, but you’re right. Again, it’s not – so okay.

Mr. Axthelm: Here’s one of my concerns, and probably this fits into the feasible, is that – let’s say you have a boat ramp. And usually the boats and the vehicles are parked close to the boat ramp. In this situation, like Conway, for example, where you have a boat ramp that’s over the dike, you would now have to locate the parking 200 feet away from the dike. So I just want to make sure that there’s some flexibility in that feasible – is because that to me is not feasible! That’s a long ways. I mean, that puts it – what? – 400 feet away from the river.

Ms. Stevenson: Okay. So it means going back to the original language would work better perhaps.

Mr. Greenwood: I kind of like it.

Ms. Stevenson: Yeah.

Mr. Greenwood: I know that ‘should’ and – I’m not having much problem with the ‘should.’ It’s maybe the implementing language. I mean, it’s less than desired but I think you want to make sure that you put it in the right spot regardless, and if we push too hard to have it 200 feet away people will see resistance to putting it in the right spot.

Chair Lohman: So scratch the memo? Are you wanting to scratch the memo idea then?

Ms. Stevenson: Just revert it back? That’s fine.

Chair Lohman: Is that what you’re suggesting, Keith?

Ms. Stevenson: I think he is so that you don’t end up with a lot of exceptions that you’re trying to address.

Mr. Greenwood: Let me just look at that again.

Mr. Axthelm: And I like what you were saying with the other one. It makes sense, you know. When you put the word “feasible” the concern I have is that then it pushes it too far in that situation. In other situations, they really should be back farther.

Ms. Stevenson: Yeah, okay. Maybe we should just leave it the way it is.

Mr. Greenwood: I think that’s probably adequate. Can I re-read it for clarification?

Ms. Stevenson: Yeah, of course.

Mr. Greenwood: “Parking areas for all types of vehicles and for all forms of shoreline activities should not be permitted over water and should be adequately set back to allow for shoreline-dependent activities.” I like that better. Yep.

Ms. Stevenson: Okay.

Chair Lohman: Is that the wishes of everybody? We’re all nodding yes.

Mr. Axthelm: Here’s my question in saying that, though: If it says “adequately set back,” is that going to automatically kick in the 200 feet?

Mr. Greenwood: Well, the “adequate” becomes up to what the interpretation and the code. When we look at the detailed code section I think we’ll have a different pill to swallow that we need to make sure we keep –

Mr. Axthelm: Because of the change in terminology, that’s what concerns me. Okay, now we have this 200 feet in there. Is that “adequately set back” going to kick in? _____ okay, now it *has* to be 200 feet period.

Mr. Greenwood: Well, it’s more likely to kick in if it says “outside” – “You should locate it outside.” And if you get into the – when we get into the Title 14 it’ll say it’s not a preferred use, and then it says if it’s not a preferred use then we don’t want it there, and then you have to make an exception to put it back in. So I’d kind of like to have the policy be reflective of a more open policy, I guess.

Mr. Axthelm: Okay. Yep.

Ms. Stevenson: That makes sense. Thank you.

Mr. Axthelm: Thanks.

Ms. Stevenson: So it’ll just go back. I’m really sorry about the copies, guys.

Dave Hughes: You sent me everything I needed.

Chair Lohman: Well, that’s what happens – it’s when you look on the computer you _____.

Mr. Axthelm: Not all of us have a printer available.

Mr. Walters: More are printing.

Ms. Stevenson: According to my memo now we're ready to move into Industry, which you all have the first page of it! And we made some changes in terms of how we organize things and we wrote some stuff, so we felt again that it would be easier just to make you a copy of the whole section than to try to sort out what we changed or didn't change. So this starts on page 124 of your whole SMP document – what you have if you like to try to compare where we were and where we are, at least now, in terms of proposing the language. But we reformatted it kind of the way we have some of the other sections.

Mr. Greenwood: As far as format goes, when we produce a document how will they exist for the public to review? Will they be separated in some way whereby the policies are in the Comprehensive Plan – right? Currently they're then transposed to be policy followed by the code section, the way I see it, and it makes it kind of easy to follow. If they're in separate documents, it makes it a little difficult to jump. I'm not saying we need to have them necessarily there, but maybe as a front so that they're closer to one another. I don't know how they'll be presented.

Mr. Walters: For the final product that the end-user – the public and staff – will see after this is all adopted, the policies will be in the Comp Plan and the development regulations will be in the code. So you probably –

Mr. Greenwood: So there'll be no reiteration of the policy when you're looking at the code.

Ms. Stevenson: Right.

Mr. Walters: Correct. So just as you today don't really see the Comp Plan policies when you go to find out what the code says, you won't see that for the Shoreline Plan either. The Shoreline Plan development regulations will appear in a chapter of Title 14 just like all the other development regulations are in Title 14, and the policies will be in the Comp Plan just like all the other Comp Plan policies.

Mr. Greenwood: Well, currently Title 14, section 7, has the policies restated.

Mr. Walters: And that's because we just picked up the entire Shoreline Plan, having not ever really revised it since 1973, and dumped it in there. But that will be different with this.

Mr. Greenwood: I guess I'm just wondering if that's the user-friendly approach that the public wants to see. I know that there's code and you have to follow the code, but if you lose touch with the policy then it could be difficult to see that you're interpreting – whether you're a regulator or the regulated – whether you're interpreting the policy correctly in the code.

Chair Lohman: But the –

Mr. Walters: Certainly that –

Chair Lohman: Excuse me.

Mr. Greenwood: Sure.

Chair Lohman: But you could argue that same thing for almost every element in the Comp Plan.

Ms. Stevenson: Right.

Mr. Greenwood: Perhaps, perhaps. But the way it is currently, I think, like I was saying, was that the policies are reiterated. And if there's a way that we could keep them kind of close so you don't have to go to different web pages – I don't know. I just found in my review I was jumping around to a lot of different documents to even understand what was and what is and what's proposed.

Mr. Walters: Yeah, so certainly that's a consideration, you know, all the time.

Mr. Greenwood: Just a comment.

Mr. Walters: Right.

Mr. Greenwood: Okay.

Mr. Walters: But I think it highlights the importance of getting the code right, because the code is the law and you have to follow the code, and the code determines what your land use entitlements are, what your permit rights are. The policies do not. The policies drive development of the code. So you never get denied a permit based on a policy. You get denied a permit based on a code. You don't get the right to develop based on a policy. You get the right to develop based on a code. So, yes, the consideration is there, but that's sort of how we do it.

Mr. Temples: Betsy, I've got a question.

Ms. Stevenson: Okay.

Mr. Temples: On the bottom of page 3 in the memo, item number (2), it says "Application Requirements" then it says "Reserved." What's that about?

Ms. Stevenson: We haven't really come up with what, in addition to the general requirements for applying for a permit under the industrial section, if there is something else that we want to see there, so there are some places where we've just put "Reserved" in.

Mr. Temples: Oh, okay.

Ms. Stevenson: Basically it's –

Mr. Walters: And there may never be anything.

Ms. Stevenson: Yeah, that could be.

Mr. Temples: Okay – "under construction," so to speak.

Ms. Stevenson: We don't get a whole lot of applications for industrial development – exactly.

Mr. Temples: Thank you.

Mr. Walters: But the idea of using the word “reserved” is just to indicate that that section will always be number (2), so development regulations wouldn’t ever become number (2) because you didn’t have any additional application requirements. Maintain the same structure for predictability.

Ms. Stevenson: Yeah. Okay, good point. Much better.

Chair Lohman: Okay, did anybody see anything in this section?

Ms. Stevenson: I will note, and it does say here under the discussion that we had at the last meeting about forest practices with the log storage, it does say that we’re planning to modify that and that’s on page 4 – if you have it – under Development Standards, item (3)(c). We did have some discussion. I need to do some homework and get some additional work done with Dunlap and some other folks and just see if and where there are some water log storage places. So we haven’t done that yet so these changes haven’t been made yet. It still looks the same, but we know that we need to do some work on it.

Chair Lohman: Not in the memo. Jumping back to the book, you mean. Right, Betsy?

Ms. Stevenson: Actually in the memo, too. The language that’s in there still reflects what we had before and we didn’t make the changes yet. There were some concerns with some of the language in terms of water quality standards are being met and different things like that. So we just really need to work on that a bit.

Chair Lohman: Okay, so you’re reserving Log storage.

Ms. Stevenson: It’s still going to be modified – yes, exactly. We didn’t want you to think we didn’t hear you at the last meeting. We just haven’t had a chance to do that yet.

Mr. Axthelm: I’m not seeing the –

Ms. Stevenson: Okay, on page 4 –

Mr. Axthelm: No, I’m not seeing the definition for industrial development or industry, so what was industrial development? Does either of those apply to, like, a diking district or something – to maintain it? Okay.

Ms. Stevenson: There is a definition in the Definitions section for industrial development.

Chair Lohman: Okay.

Mr. Greenwood: Does it replace or just is it a portion of the existing regulations pertaining to commercial development? Are they one and the same, or is there –

Ms. Stevenson: There’s a different section for commercial development.

Mr. Greenwood: Okay, so where does industrial development fit in our current code? Is there one?

Ms. Stevenson: Ports and Industry?

Mr. Greenwood: Okay, so it's under Ports and Industry.

Ms. Stevenson: Yeah.

Mr. Axthelm: I think it might – my comment – I'm thinking is that on – let's see, it's (b)(ii)(A). Then you have – at the back of it it says "...such as providing public access and ecological restoration." I'm thinking – to me I'm thinking something about maintenance. Is there anything that needs to be maintained just to keep access for maintenance? I was thinking of the dike situation, you know, to maintain a dike or – I thought they might have the same situation with industry because there's something like a pump or something they have to maintain – that this would limit the access.

Chair Lohman: Do you have an example?

Ms. Stevenson: I'm having trouble tracking with you, Josh. I'm sorry.

Mr. Axthelm: I'm not – I was thinking generally so I'm not thinking a specific industry.

Ms. Stevenson: If it's not a water-oriented industrial use then we're indicating the only times that it would be allowed on the shoreline.

Mr. Axthelm: Is for "public access and ecological restoration."

Ms. Stevenson: Mm-hmm.

Mr. Axthelm: Okay. Well, I guess that makes sense then.

Ms. Stevenson: I'm not sure. It may not still. I'll just put a note here. We can try and clarify that.

Mr. Greenwood: How have we addressed the portion where in the policy it describes public access? We should make public access opportunities consistent with public access goals in industry. How have we addressed that in the code? Do we have something dealing with public access?

Chair Lohman: Where are you reading?

Mr. Greenwood: I'm putting the Comp Plan policy with the code section. Are there no –

Chair Lohman: Okay, tell us what page you're on.

Mr. Greenwood: Okay. I'm looking at 6-4-(d), Industry, Policies. Under Public Access it says –

Mr. Temples: Page 31?

Mr. Greenwood: Well, if it says page 31 on the Comp Plan that might be an older version. It's the one that we're charged to review but –

Chair Lohman: But the memo doesn't have the policy for Industry, so jump back _____.

Mr. Greenwood: Right. Because there are no changes to it?

Mr. Axthelm: 64 is what you mean, right?

Mr. Greenwood: Yeah.

Chair Lohman: 6D dash 4, page 31 in the draft.

Mr. Greenwood: Yes. I just noted in the 6D-4, Industry, under Policies, letter e. says “Public access. Port facilities should make available public access opportunities consistent with Public Access goals, policies, and standards, providing such access...” And I think we had some conversation about: Is there a requirement or is it just a point of discussion that they *should* provide public access opportunities?

Mr. Temples: Why should they?

Ms. Candler: I have a note. I think you suggested change – or somebody did – to promote instead of provide. Is that where you’re talking about?

Mr. Temples: If you’re having industry you most likely wouldn’t want public access.

Mr. Greenwood: Well, if – and Ryan could correct me on this, or clarify for me – if it’s a should-make-available that doesn’t make it a requirement; it makes it an if-you-can-do-it, you-do-it. If you can’t, then you explain why you can’t.

Chair Lohman: If we use *our* definition of “should.”

Mr. Greenwood: Is there another one? Is there another definition of “should”?

Mr. Walters: Ecology’s definition of “should.”

Mr. Greenwood: Oh. What is theirs?

Chair Lohman: Mandatory.

Mr. Walters: Yeah.

Mr. Greenwood: Oh.

Mr. Walters: Different from the normal English definition.

Mr. Greenwood: So what do we want? What did we –

Mr. Pernula: We want ours.

Ms. Candler: Well, it seems like – maybe it was Annie – somebody was concerned that that required, you know, an action to do it – right? – so they were suggesting “promote.” I can’t remember who was.

Chair Lohman: I think the whole issue surrounding public access, we spent a ton of time and there was new language proposed and we spent a whole ton of time on that, and I think we came to the idea that we need to revisit it again and flagging stuff like this.

Mr. Greenwood: Okay, so we didn't – did we settle on language for it, do you think, Betsy?

Chair Lohman: No, no, we did not.

Mr. Walters: No; however, your point raises maybe a larger issue and that is that the policies use "should" all over the place.

Mr. Greenwood: Right.

Mr. Walters: I think at some point in their development we came to the conclusion that "should" – that we shouldn't use Ecology's definition of "should." We need to go back and revise everything.

Mr. Greenwood: So if we leave it as "should" and we use *our* definition and they think we're using theirs, we have a problem, right? Or *they* have a problem.

Mr. Meenaghan: I think *they* have a problem.

Mr. Walters: I don't know. That might turn out good for us.

Mr. Greenwood: I'm thinking it might.

Mr. Walters: Yeah. But in the regulations we were very clear, and their "should" doesn't appear in the regulations unless we really meant it.

Ms. Stevenson: We just kind of refer back to the Public Access section here under (3)(d) – kind of make sure that you're taking a look at it and you're not impacting opportunities for public access.

Mr. Greenwood: Right.

Ms. Stevenson: And I think that with the policy, I actually think this policy is written fairly well.

Mr. Greenwood: I do too, so long as we interpret it.

Ms. Stevenson: It's an opportunity.

Mr. Greenwood: Right.

Ms. Stevenson: It doesn't say that you have to. The Port of Anacortes has done some great things with some public access things, even within their Port facilities, where it's safe for people to be down by the water, where they can watch everything that's going on, but they're out of the way and they're hopefully going to get hurt. So you'd like to leave that in there, because if you don't have something in there a lot of people won't even consider it. So at least when there's a chance, you know, it provides something. We wouldn't require it but we'd like to at least see if there's an opportunity. Sometimes it actually is some mitigation for other things, too. That's why we referenced it here under the Environmental Protection section and the Public Access

section for additional potential requirements – that you kind of have to go through that process that we set up in the Public Access section where, yeah, we'd like to have you do it but there's a whole bunch of exceptions where you don't have to. So you would have to go through that same standard.

Mr. Greenwood: So we've talked about that – “encourage” rather than –

Ms. Candler: But that's – the difference – we're talking about “should,” but I think the difference we talked about previously was the difference between the word “provide” and “promote,” not the “should” distinction.

Mr. Greenwood: That's true. Okay.

Ms. Candler: So I don't know if we want to re-address that or not.

Mr. Greenwood: Well, if I were to read Ecology's definition of “should,” they say “means that the particular action is required unless there is a demonstrated compelling reason, based on policy of the Shoreline Management Act and this chapter, against taking the action.” Is that the way you were explaining it, Ryan? It sounds the same. You were probably doing something else then.

Mr. Walters: Yeah. What specifically is your question?

Mr. Greenwood: Oh, just that if that's the – what definition of “should” are we going to live with, I guess?

Mr. Walters: Well, I am in favor of using the normal English definition and not Ecology's definition, which – they went with “should” being mandatory so that they don't have to say “is required unless not feasible” every time they want to express that concept. So there's some logic to it but still...

Chair Lohman: I think we should push back because that's not a logical definition. You're not going to find that – a regular guy is not going to find that definition.

Mr. Greenwood: Except that it's in the WAC.

Mr. Temples: Not everybody would look in the WAC.

Chair Lohman: Yeah, but the WAC is an interpretation.

Mr. Walters: I think they'll find it. They won't know to look for it _____.

Mr. Axthelm: But we use it to our advantage, so if we change the definition –

Mr. Walters: Yeah, I advocate *not* redefining “should.”

Chair Lohman: Well, avoid its use then.

Ms. Stevenson: And we haven't changed it in our definition so we need to do that if we're going to have it in there. ___ define it at all because it still refers to the Ecology definition.

Mr. Walters: Right, yeah, because it's currently like that. So I think probably one of the options is just to not use "should" in the policies either and write the policies generally enough so that, you know, if there's a mandate there's a mandate, but it's general and the specificities are in the regs. Or if you don't want to mandate a particular action but you do want to mandate consider it, then you say you have to consider it. I feel like we can avoid the problem.

Mr. Greenwood: Right, like "must consider." "Must consider" is a lot different than "should."

Mr. Walters: Right, but it is going to mean we're going to have to go back – I mean, it's one of the things on the ever-lengthening punch list of stuff to do. You know, go back through all of those and look to see where that should be fixed.

Mr. Greenwood: That's a good thing for you to do because you like that stuff!

(laughter)

Chair Lohman: I really like Tammy's idea that maybe the wording should be "Port facilities are encouraged to make available..."

Mr. Walters: Mm-hmm. And I think what we're going to have to do is decide on some language and then go back through and change it in, like, every case.

Chair Lohman: Yeah.

Mr. Walters: Try to make it consistent everywhere.

Chair Lohman: Because I don't want people to get snagged on "should." That's stupid.

Mr. Walters: Right. Yeah. And I think we concur.

Ms. Stevenson: I'm not going to use "should" or "stupid" in this document – how's that for a deal? We'll throw them both out!

(laughter)

Ms. Stevenson: But you're right and I appreciate your care in that – that if we use it in the way we intend and somehow Ecology uses theirs, we don't want to do that.

Chair Lohman: No.

Ms. Stevenson: Better just not to use it at all. I completely agree. So my wordsmith will have to help me figure out ways to come up with – you know, "must consider" is a possibility – just some different ways to say that.

Chair Lohman: "Must" is kind of a –

Ms. Stevenson: Yeah.

Mr. Axthelm: At some point we're not going to agree on a definition with them.

Ms. Stevenson: Right.

Mr. Axthelm: There's going to be some words that we define differently than they do. So just, I guess –

Mr. Walters: Well, and that's why we get to write our own Master Program. You know, we get to write what meets the conditions and needs of this community, but there are some standards that we have to meet. It's just we all have to demonstrate how we're meeting those standards, and if we're meeting them in a different way, I think that that'll be fine.

Ms. Stevenson: I think so, too.

Mr. Axthelm: Okay.

Mr. Temples: Well, if this is meeting requirements of our county in a better fashion, and then it turns around and they say – the reviewer says, No, that's unacceptable; it's got to be "should," well, then at least we've given it our best shot. And we'll see what they say and then we may have to change it.

Ms. Stevenson: Well, we certainly don't want to get in a position where we mean "should" in the way that we mean it and then they take it as a regulatory "should." We don't want to go there.

Chair Lohman: Right.

Mr. Walters: Right.

Ms. Stevenson: We'll just use a different word if we have to.

Mr. Walters: We want to avoid that.

Ms. Stevenson: Yeah.

Mr. Axthelm: Okay.

Ms. Stevenson: So I've got under the Public Access policy then.

Mr. Greenwood: Okay. So there's no public access portion of this in the code under Industry.

Ms. Stevenson: No, we just – right, we just refer to the section and then you have to go through that.

Mr. Greenwood: Okay.

Ms. Stevenson: Anything else in Industry? Okay.

Chair Lohman: Moving on to Instream Structures on page 5 on your memo.

Ms. Stevenson: And I think it's on page 127 in your document, if you like to go back and forth.

Mr. Greenwood: I do. And how are we covering instream structures currently in the code? Where does it fit?

Ms. Stevenson: Yeah, it kind of is all over the place. We didn't really define it that way, so you sort of have to –

Mr. Greenwood: Okay. Is that an Ecology thing that came through their guidelines?

Ms. Stevenson: Yeah, it's something new out of the new WAC guidelines. So, like, it would have come in maybe under Utilities for different kinds of things, you know, that would have gotten lumped together that could have portions that might be instream structures. There are a lot of other sections in there that there might be something that would be an instream structure. We just didn't call it out specifically or separately. That's not a very good answer but it's kind of where we are.

Mr. Greenwood: Okay.

Chair Lohman: So it's a required section?

Ms. Stevenson: Yes, in that it's one of the listed areas that we're supposed to address so we chose to just keep them in the same kind of headings that they gave us because it makes it a little bit easier for them to kind of keep track of what we're doing. I don't know if that helps – if it makes it more confusing to separate it out or if it makes it easier?

Chair Lohman: Well, in a way there's certain things that it's a redundancy, although you point that out in number (1), item number (1), with the docks, floats and stuff. But then where I kind of stumble is when you're talking about things like flood control and drainage district structures like pumps, pump houses, tidegates and stuff like that, because it also potentially could be utilities because the County's own Drainage Utility _____. So which one's controlling?

Ms. Stevenson: A lot of times you have to review something under several different sections, and I think you'd have to do that here, too. You know, if it *is* an instream structure but it's a utility, you'd look at both and see what applies. The definition is pretty specific of what you're looking at, but you're right: It includes flood control, it includes irrigation, it includes all those different things. Transportation utility – I mean, you could be looking at lots of different sections and having to use what applies from several different sections.

Mr. Greenwood: It almost appears to me that we need to clarify that this section of Instream Structures pertains to those that are not covered elsewhere – does that make sense? – so that there isn't redundancy. Because we've made a lot of basic footnotes or direction pointers that say if you want to find it about this you go look here and you look over here for something else and then – so utilities has a portion and farming has another portion. It might be for – like I said – for water diversion for water utilities.

Mr. Temples: I think that's a good point because on page 21 of your memorandum right there on 14.26.495 is Utilities which is pretty clearly defined. I mean, it has a section.

Ms. Stevenson: Yeah, and we do mention that under number (7), the last one – “Instream structures may also” – if it's part of a utility project because it may be only a portion of it – would also need to comply with the Utilities section.

Mr. Temples: Would there be any benefit at all – and I'm just talking out loud here – that maybe some of these items that are pointed out in this first section are – you know, in parentheses or

something – in reference to that particular item that goes into more detail? Would there be any benefit to people reading this? Or am I just –

Ms. Stevenson: Help me. I'm not sure what you're –

Mr. Temples: Well, if there is mention of utilities in the beginning of – but then it shows up later as a whole item, as a reference point it'd be better just to put a parenthesis after that description and then say, you know, __ see 14.26.495.

Mr. Walters: So in the revision in the memo there *is* such a pointer to 495.

Ms. Stevenson: Under (a)(ii).

Mr. Walters: And that is sort of a technique that we developed later on in Part IV here, but plan to go back and add wherever we can to earlier sections in Part IV.

Mr. Greenwood: What are the types of instream structures are we envisioning that this would cover that we couldn't just take the section that applies to utilities and stick in Utilities, or stick into Floats and Marinas if it's appropriate there? Because it seems pretty general – the development standards. It seems like it covers the whole ball field there of things that we want to consider for every project. I just don't see the need for it to stand alone myself. That's all.

Chair Lohman: I'm struggling, too, because you have a list of things that you have to do – public access, flood protection and all of this – but at the beginning you say if there's a – the Applicability part, but then you have the list so – I get that, but then you have certain structures that you're covering under the Ag section, under the Utilities section. So how many places are you going to bop the person on the head for the same thing?

Ms. Stevenson: I guess I see some sense in this because a lot of times if you go to the Utilities section it may or may not cover enough. I mean, it may cover the dam or something but it may not cover some of the other structures, or it may cover a part of the proposal but it doesn't necessarily address what's actually going to be in the stream itself, so there may be some additional requirements. But Ryan just pointed out to me that some of these things we do address under the General Provisions section at the beginning in terms of review, and maybe it *is* stuff that you would look at for just about every project. And we could pull some of them out of here; some of them maybe not. The watershed functions; the hydrogeological, hydraulic and hydrologic processes – those may be specific to something that's actually going in the stream.

Mr. Greenwood: Which is what this is: It's an instream structure. So anything you put in the water –

Ms. Stevenson: Right.

Mr. Greenwood: – you would have to evaluate it for it, especially if you divert something, and there's no way anyone's going to let you do it.

Ms. Stevenson: Right, but that's why I think it's important to have its own little section. But maybe some of this stuff is repetitive and needs to be either in the General Provisions or just _____.

Chair Lohman: But at the same time, in the ag sections you have strong language about drainage, particularly page 20, 41, 95, 117 – and I have the advantage because I wrote this down! – in your draft, and I think you need to protect the ability of us to continue our drainage, our flood control, and maybe have a reference back to that that it's allowed and it's controlled in these other sections as well. Because that's going to be an ongoing instream structure, whether it's an existing one or if we have to add additional going forward.

Mr. Walters: What section are you referring to?

Chair Lohman: The Instream Structures.

Mr. Walters: Right, Instream Structures – are you pointing out –

Chair Lohman: I'm pointing out that in the ag sections that we have strong language that protects our drainage infrastructure and flood control.

Mr. Walters: In the ag sections?

Chair Lohman: In the ag sections.

Mr. Walters: At the beginning of Part IV?

Chair Lohman: And I had wrote down the page numbers. So it would be on 20, 41, 95 and 117.

Mr. Walters: Oh, so just various other ag sections throughout the document.

Chair Lohman: Right.

Mr. Walters: Okay.

Chair Lohman: And I think you need to tie it in to here so that you – because you did, sort of, with Utilities, so if there's something else that has a more comprehensive section it would tie it back.

Mr. Walters: So in Applicability

Chair Lohman: So that there's no question.

Mr. Walters: We'll add a line in the Applicability section that explains those connections.

Ms. Stevenson: Is that ____?

Chair Lohman: Mm-hmm.

Ms. Stevenson: Okay. I'm sorry, I just – it's making sense what you're saying but I'm not necessarily tracking, so let us ask some questions to make sure. But, okay, so we'd add another one there.

Mr. Greenwood: Are we thinking then that the instream structures is a catch-all to make sure that we cover those – you're thinking there're some additional items in here that might apply to all of them but not necessarily be covered in each section?

Ms. Stevenson: Exactly. Thank you. That's what I was trying to say!

Mr. Greenwood: I think you said it and I just didn't hear it.

Ms. Stevenson: Oh, I don't think I did!

Mr. Temples: I'm going to raise a question because every time I was reading this, and I drove by it again tonight: How does this apply to existing – if it does at all – abandoned instream structures, like the bridge at Highway 9 abandoned by the railroad?

Mr. Walters: Well, it's pre-existing. It doesn't have to get a permit.

Mr. Temples: Okay. There's nothing in our – I guess – is there any way of making that go away or is that just not even a – don't even go there? I'm just asking.

Ms. Stevenson: The discussion has come up before.

Mr. Hughes: That's our flood control.

Ms. Stevenson: There's a lot of issues. There're some concerns about taking it out and how that impacts some of the other infrastructure downstream. So that's not something we're going to solve through our Shoreline Update.

Mr. Temples: I mean, it's – you know, log debris all around the base of it and everything. I saw it tonight when I drove by.

Ms. Stevenson: Like I said, it protects a lot of the infrastructure that's still being used downstream. It's true. I mean, that's been the discussion, and who's going to be responsible for taking it out, and it's –

Mr. Greenwood: The cost and the historical nature and the fishing nets that are hanging on it that use it – I mean, there's quite a –

Mr. Temples: Well, it's interesting. We have a trailway now from the old abandoned railroad on one side and another one on the other side and they all dead end, and there's no way of – I just thought I'd ask.

Mr. Walters: So the other thing – to address the larger point about some of the repetition, we did identify – again, relatively recently – that there are many, many sections that – you know, that came from the original consultant draft that are just very repetitive. And so we've been working on some new language that would just direct you back to the General Provisions section and call it good. You know, like especially this no net loss concept is repeated in many different sections, but it's a general requirement so why repeat it every single time? You have to look at the General Requirements section and then you don't have to repeat in every specific use section. So we're working on that. We'll probably have to go back and do a bunch more after we're done with this round.

Mr. Axthelm: I like that, because we talked about – I think it was the BiOp. When we were doing that we were referencing the open Space Plan and we were actually putting some of the – or you were putting some of the text in there from that. You know, let's just reference back to

that so you don't have – then when you change the Open Space Plan it automatically changes the other. Otherwise if you take that text and put it into it you have to deal with that. Then you have to change it, you have to change it all in the different codes. It makes sense.

Chair Lohman: Anything else on Instream Structures?

Mr. Greenwood: I would just look really hard at the Instream Structures and make sure that those who are familiar with the dikes and diversions have the proper code language to accommodate that use so it's not a prohibition. And if there's opportunities to improve it, everybody wants to do that, but you guys know that better than I. I think more about diversions upstream in the shorelines on rivers and streams that qualify as shorelines. And, you know, there's a lot of projects that, you know, take water out and put it back in and they use it for hydro and they use it for drinking, and if we make it prohibitive then the only ones you'll have are the ones that you already have which may not be in the place you like, but because they're pre-existing that's what you'll always have.

Mr. Axthelm: So here it says "instream structures," and then you say "new channelization projects." Now would channelization be the dikes – be considered the dikes, unless it – no.

Chair Lohman: What would that be?

Mr. Axthelm: What's an example of channelization projects?

Ms. Stevenson: That's a good question.

Mr. Walters: If it is, in fact, a project that channelizes a water body, then maybe we should just say that – use the actual verb form. Is a dike a new – a replacement dike wouldn't channelize. It's already channelized.

Mr. Axthelm: Well, not necessarily because what you would do is if you're raising that dike then you have to put – which is what we seem to be doing throughout the county – then the fill can only go on one side of the dike and can't go on the other.

Ms. Stevenson: Now, see you're – what you're thinking in terms of channelization is by using dikes to channel the river and I wasn't even thinking in terms of that. I was thinking of actually perhaps excavating a new channel or a side channel, or where you're diverting water out of the stream and bringing it around in another channel. So what you're saying makes a lot of sense and I hadn't even thought of it that way. But I am not sure how well this fits here either, so we'll come up with either something better or take it out completely.

Mr. Axthelm: I can understand if you're cutting off – you know, if the dike has a section that goes, let's say, outside the area and they straighten it out and take a big chunk of area that the water can go, then that would be an issue. But if you're simply just raising the dike level and letting that fill go on both sides of the dike then I think that would be appropriate, or should be acceptable. Because a lot of those easements are based on a line, not necessarily a distance.

Ms. Stevenson: I need to go back and see what this means first. "New channelization projects" – maybe it should say "instream structures" or whatever, because I'm not sure what that means.

Chair Lohman: But what about a structure somewhat along the lines of what Stanwood put in for that flood control thing during that flood. It looks up – I can't think what it's called. Do you know? _____? Would that be what they're talking about too? Would that fall under that?

Mr. Hughes: A floodgate-type setup?

Ms. Stevenson: I'm not sure what you're asking.

Chair Lohman: Would it allow a new flood-type structure – flood control structure to relieve – to get rid of the water, like they have down there in Stanwood? It's kind of like a – they're able to raise it or it's a flap or something to let the water out.

Ms. Stevenson: Where it either goes through a dike or gets into the saltwater? Is that – I'm not sure...

Chair Lohman: Because we certainly don't want a –

Ms. Stevenson: Yeah. No, one of the things that we're supposed to be looking at is flood protection. It would be something that was an instream structure.

Chair Lohman: But it would be in the – well, it wouldn't be technically in a stream.

Mr. Hughes: Could be; could not be.

Ms. Stevenson: Yeah, it could be either way, I guess.

Chair Lohman: It could be a side channel.

Ms. Stevenson: Well, yeah.

Mr. Temples: And like you say, it sounds like you need some clarification.

Ms. Stevenson: I mean if you read language in here that you think is preventing that, then we need to change it, I guess, because that's not the intention necessarily. We just need to make sure that if you have some sort of an instream structure that may be a component of something that fits into one of the other categories that leads – the part of it that's instream, those impacts of just being in the stream and either diverting water or doing something hydrologically or whatever with that is being addressed somewhere. And that's, I think, where this has value. But if you feel like there's something in here that's not allowing you to do something that you feel *is* allowed in another section then we need to change it.

Chair Lohman: Well, I want to make sure that that's not what we're doing inadvertently.

Ms. Stevenson: Right. Right.

Mr. Greenwood: Yeah, because I'd want to know what a channelization project is. If you have a bridge, for example, and you're confining its movement to a limited basis where its migration zone might be a little bit wider perhaps, if that qualifies as channelization then the interpretation then could quickly be it's damaging several things.

Mr. Temples: Well, it could go as far as, you know, on top of that is something as simple as a culvert somewhere and the culvert's too small, and to improve the quality of fish movement and everything we need a bigger culvert.

Mr. Greenwood: And that's a good scenario that you just described whereby we have to provide for fish passage so we might upgrade to a fish passage structure which may not be a bridge. It may be, you know, squash pipes with gravel and that sort of thing, and that's a channelization if it fits in this category.

Ms. Stevenson: Maybe we should just delete that because it looks like it's (1)(b)(i) there that's causing the problem.

Chair Lohman: Yeah.

Mr. Greenwood: But that's the only thing underneath "When Allowed," isn't it?

Ms. Candler: (inaudible)

Mr. Greenwood: Oh, okay, I'm sorry. I missed that.

Mr. Axthelm: Me too.

Mr. Temples: So if we're going to allow it, then what is it?

Mr. Greenwood: That's the only thing that is under "When Allowed."

Ms. Stevenson: This is a prohibition and it's not really something that's being allowed, yeah.

Mr. Greenwood: So when it's allowed is whenever.

Ms. Stevenson: But I mean if that's the language that we're talking about now – that section specifically – then maybe if I can't tell you what a new channelization project is – and there's a lot of reasons why these things could happen, but it would still have some benefit that we need to kind of override is what you're saying, we either figure out a better way to say that or just get rid of it.

Mr. Axthelm: I'd say look into it first because I can understand where some situations where you don't want to make the water flow faster through a certain point or impact the environment, so it's important. It's just how it's worded and how it's put here is confusing.

Ms. Stevenson: And I would like to have faith in some of the other sections that we would catch that before it gets to that statement right there, so I think the prohibition might cause more grief than what we might, you know, be able to protect that we should have caught and should have addressed in the General Provisions section or one of the other sections – the Environmental Protection section – already. So I mean, I'm going to put in my notes at least that we talked about deleting this and that I'll look again a little bit to see if there's some value of something being there. And I'll go back and look through the WAC, too, in the Instream Structures section and just see if there's any hint of why that might be there. So, okay. Thank you.

Mr. Axthelm: Thanks.

Chair Lohman: Anymore on – where were we? – Instream Structures in the memo?

(silence)

Chair Lohman: Okay, moving on to Jetties and Groins, page 6 of your memo, and in the book it will be page 128 – in the draft. Such silence. Anybody see any red flags?

Mr. Greenwood: I'd like to look at the policy, if I could, pertaining to the Comp Plan as it relates to jetties and groins. That's under Structures – is that correct?

Mr. Meenaghan: It's on page 22.

Mr. Greenwood: 22? Okay.

Chair Lohman: Can you speak louder – the page number?

Mr. Meenaghan: Yeah, 22. Sorry.

Mr. Greenwood: So that'd be 6C-9. I don't have any comments on that.

Chair Lohman: I thought they appeared to match up pretty close. But I don't really know anything about that.

Mr. Greenwood: Were there any changes pertaining to professional engineers, licensed engineering geologists, references, that anyone saw for Jetties and Groins?

Chair Lohman: Are you talking about item (5)(a)?

Mr. Greenwood: Yeah, that's in the section that we got for review, but now there's a new – is it (6)(a) still? No, there isn't any.

Mr. Temples: Yeah, there's a – on page 7, item (2)(b): "Designs prepared by a registered civil engineer with expertise in such design."

Mr. Greenwood: I like that better than what was in the original draft.

Mr. Temples: You sort of reiterate that at the very bottom item, you know? "Additional" geotech, hydrology, "biological studies as determined by the Administrative Official." That sort of picks up other ends of it too that's not there.

Mr. Greenwood: And that might be pretty open-ended that somebody else might have a little heartburn over that it's kind of like additional studies as identified. That's pretty open-ended. Is that common to have something quite that open – up to the Administrative Official?

Ms. Stevenson: I think occasionally. Depending on the location of one of these, you may need some additional things, I guess – if that makes sense. We've kind of spelled out some of the things that you would need regardless, but I think that just is, Hey, there might be more, depending on what your proposal is and where it's located.

Mr. Greenwood: How about something along the lines where it talks about additional studies – rather than having – let's see – may be necessary to make a determination of nonsignificance,

or something along those lines is what I'm thinking or more often what I run into. Something along the lines of – you know, if it's – because they could make a decision. You know, you have so many days to make a decision. You make a decision based upon the information in front of you and enforce the decision, but if you drag it out with, Do another study, do another study then it could take forever. And I know a project in particular that's a good project that is a technique used to drag feet and not get it through and sometimes have time restraints with them. It just seemed a little too open-ended there. It seems like it needs to be demonstrated that that's necessary for making a determination.

Mr. Axthelm: I think if certain requirements aren't being met then that should go into effect, but if those requirements are being met then they shouldn't have to go through that extra – the extra studies. So where do you draw that line?

Chair Lohman: Isn't that kind of already sort of alluded to in (k)? I mean, you're talking about how it's going to affect –

Mr. Walters: Well, and (k) is a real requirement whereas (l) may not be required.

Mr. Axthelm: (l) is open-ended.

Chair Lohman: But then why are you requiring (b) then? It's almost like if you've already required that it be prepared by a civil engineer with expertise, you've already designed the project.

Mr. Walters: They may have ignored the surrounding properties.

Ms. Stevenson: The civil engineer may or may not have any knowledge at all of what's going to happen up- and downstream of that thing. That takes a whole different set of skills.

Ms. Candler: But I like what Keith is saying. He just kind of wants the protection there where there has to be some – so it can't be arbitrary. It really needs to be demonstrably necessary, or something like that, right?

Mr. Axthelm: Mm-hmm.

Mr. Greenwood: Right.

Mr. Walters: Well, the language currently says "necessary to sufficiently analyze," and I guess the problem is it's not going to be up to anybody else but the Administrative Official. If the applicant doesn't think it is necessary, then the applicant can appeal.

Mr. Greenwood: Well, I'm just thinking if there's something missing – because (k) talks about other properties and (l) refers to hydrologic, geologic and biological shortcomings perhaps or impacts. (a) through (j) don't make mention of geologic, hydrologic or biological. Maybe we should just include that in the impact assessment on surrounding properties and the environment and call it good.

Mr. Walters: Well, yeah, but then you *would* be requiring a study that maybe you don't have to.

Mr. Greenwood: Well, it doesn't require a study but addressing it, right?

Ms. Stevenson: Maybe the last sentence in (k) – you know, we were trying to make it sort of optional depending on the site – and maybe the last sentence there – “The assessment must be prepared by a qualified professional and provide site-specific and scientifically rigorous information to fully document the need for the jetty or groin” – we were just trying to say, Hey, depending on where it’s located, you may have to do some additional work. It may not be required every time – we didn’t want to require it of everyone – but there may be times, depending on where you’re proposing to put it – that you would have to look at a geotech ____.

Mr. Greenwood: Well, but don’t – when you do a SEPA analysis for a project, if it doesn’t apply you say it doesn’t apply. You could put “n/a” if it doesn’t apply. But I guess I’m concerned about the open-ended nature of additional studies – especially studies. Usually the requirement is using *existing* studies rather than requiring an *additional* study. Is that your experience? Because, you know, let’s just say I think you’re affecting migratory birds so study it for another five years and see how it works. I don’t know if that’s – that might be appropriate in some situations but not others, but I can’t imagine that – it’s usually the best available science is the threshold, not additional studies, and this looks like additional studies.

Mr. Walters: Well, it could probably incorporate the language to allow use of existing studies, but there might be some situation where you need to perform a very site-specific additional one. But I don’t think there’s any intent to exclude existing studies where they’re applicable.

Mr. Greenwood: Well, I think you’d have a hard time proposing some additional study covering some – I mean, people do, Okay, evaluate the effects on the climate change. I mean, I get that a lot. You know, Tell me how your project is going to affect the climate. Well, okay, let’s go down and find someone who will tell you an answer and they’ll give you an answer but...

Mr. Walters: Well, and that could happen anyway under SEPA. I mean, additional studies might be required.

Chair Lohman: Maybe some consideration on better language there.

Ms. Stevenson: Okay.

Mr. Greenwood: I mean, we saw a – we got a presentation from Fish and Wildlife. He was quite against breakwaters and jetties and groins and that sort of thing, and I can see the impacts of those and you certainly want to justify maintaining one or putting one in, but they’re out there for sure.

Mr. Axthelm: Well, I’d like to make sure that they give credit to the licensed professional. So like a situation here like you have the registered engineer with the expertise in such design. He’s the one that’s the stamping – or the one that’s in charge of this, has the authority in that sense. But you have a person in the County who is responsible for the county and checking it but doesn’t necessarily have all the training that the civil engineer might have.

Mr. Temples: Probably even a better way of describing that would be “state-certified,” as in registered.

Chair Lohman: I don’t know –

Mr. Axthelm: Well, that’s already there: the “registered civil engineer.”

Mr. Temples: Yeah, but some jurisdictions don't accept it if it's out of state.

Mr. Axthelm: Oh. I think that's – that *should* be understood, I would assume. Though that should be understood when you say "registered" then that means it is a Washington state ____.

Chair Lohman: Yeah, but they have some kind of criteria.

Mr. Greenwood: I would leave the SEPA analysis question to SEPA, right? If we have that level of requirement, it's that type of a project, then that should be covered, so I wouldn't think that the Administrative Official would need to make that statement that these additional things would be required. I'd just as soon strike it, but... That's just my recommendation.

Mr. Temples: Yeah. Actually I kind of like the idea. It's like having a trump card – *if necessary*.

Mr. Greenwood: Who do you want the trump card in the hands of?

Chair Lohman: But then they change the expert when you get to removing a structure. If you look on page 8 of the memo at the top, (b), they say it's a "professional engineer or licensed engineering geologist."

Mr. Temples: Huh?

Mr. Greenwood: Next page, number (ii).

Mr. Axthelm: That's if existing.

Chair Lohman: Mm-hmm.

Mr. Temples: That is – I like the wording on that one much better on page 8, (b) number (ii). The fact it says literally a "licensed" engineer. The only way you can be licensed and recognized – as you said, it takes away the assumption that it is licensed in the state.

Mr. Greenwood: Well, a civil engineer's for the design –

Mr. Axthelm: We don't really cover the licensing or registration in the general Definitions, I suspect? I would think that would cover it and say you have to be Washington-registered, or Washington-licensed. If it isn't, you just change it like that and it takes care of it.

Mr. Temples: Keith and I were just kind of discussing. I kind of like this concept: You showed at one spot here where you refer to as a "licensed engineer." And you actually said "licensed engineering *geologist*." I would simply be consistent and say "licensed engineer" or "licensed certified professional engineer."

Mr. Walters: So we have a definition of "qualified professional," and maybe we can circumvent some of these issues by just using "qualified professional" because it then breaks it down for wildlife as someone who has to have a degree in biology, zoology, ecology, fisheries or related field; a qualified professional for a geohazard has to be a professional engineering geologist, and then it says "licensed in the state of Washington."

Mr. Temples: Thank you.

Mr. Axthelm: Perfect.

Mr. Walters: And it has it for a couple others, so maybe we look at that definition or tweak that definition but maybe use the term in place of some of these other terms.

Mr. Temples: Well, thank you for clarifying that.

Mr. Axthelm: So I think I'd change that on (2)(b) and on (3)(b)(ii).

Ms. Candler: I do have a suggestion for section (l) in terms of changing language. Because of the way the Application Requirements sentence is written that says "...jetties and groins must include..." and then you go down to (l) "Additional...studies as determined by the Administrative Official..." Maybe we need to add "if necessary" or "as needed" or "only if needed" – something that doesn't make it a must so that that Official feels like they *must* look at doing some more studies.

Mr. Walters: Yes.

Ms. Candler: It doesn't take it where you want to be but I think it's better than assuming they're needed or necessary.

Mr. Walters: I think that's –

Ms. Stevenson: Did you say "as necessary"?

Ms. Candler: Or if – "if necessary"?

Mr. Walters: If. If.

Ms. Stevenson: Okay.

Mr. Greenwood: Or "when applicable"

Ms. Stevenson: That was way too easy!

Chair Lohman: Thank you. That was very good.

Mr. Axthelm: And if it's a qualified professional and they don't agree with it they will have some backing to say, This isn't needed because I have already done this. So, realistically, it should be taken care of in that way.

Ms. Stevenson: If it's a determination made by the Administrative Official, it's appealable to the Hearing Examiner so it does allow you a process so it doesn't stall out.

Mr. Axthelm: Yeah.

Mr. Greenwood: Okay.

Ms. Stevenson: It's not something that you can just kind of go back to to have them do more and more studies, and, you know, they can say –

Mr. Greenwood: That's what I'm used to.

Ms. Stevenson: Good. Sorry that got –

Mr. Temples: Thanks, Tammy.

Chair Lohman: Okay. You know, once again, we're going to see this again so this isn't going to be the last time ever. Okay, moving on to Mining.

Mr. Greenwood: Do we have situations where we have mining going on in the county within shoreline jurisdiction currently or are we just covering bases?

Ms. Stevenson: I think we have had. I don't know if there's anything currently happening or not.

Mr. Greenwood: Anything come to mind as far as recent or, I mean, within the last hundred years or –

Ms. Stevenson: Are you thinking of something like rocks and gravel and things like that? You're thinking like gold and other things like that or just anything?

Mr. Greenwood: Well, I don't know. I don't know what kind of mining takes place at – it seems like this section – not to say it needs to be removed because somebody may find something that's really valuable out there. But it's quite prohibitive and discouraged, and I was just thinking the only place where it really talks about it being acceptable is on points, gravel points, I think, that can be refurbished or they continue to contribute in some way. I'm trying to think of – it talks about reclamation, but I just wish I knew what other types of mining may or have been proposed within the shorelines of the state. What else would people mine for? Gold within the river?

Ms. Stevenson: Whatever becomes valuable enough. And, you know, the shoreline area includes a lot more than just in the water.

Mr. Greenwood: Right, it's within 200 feet of it.

Ms. Stevenson: Or floodway.

Mr. Greenwood: Well, and I can imagine going up into the watershed, too. You could easily find some material there.

Mr. Temples: I thought it was interesting that they excepted recreational mining. That's –

Ms. Stevenson: (unintelligible)

Mr. Temples: But where does it go from recreational to something bigger?

Mr. Axthelm: I don't see the necessity of (c) where it does not apply to dredging or authorized navigation channels because it's not even – it has nothing to do with mining anyway. If you're talking about dredging you're not talking about mining.

Mr. Greenwood: And isn't there a whole section on dredging?

Mr. Temples: Yeah, I remember seeing that.

Mr. Axthelm: Yeah.

Chair Lohman: Can we strike it?

Ms. Candler: I don't know what's in that one. Is that about mining?

Mr. Temples: In the WAC?

Ms. Candler: (unintelligible)

Mr. Axthelm: Now if you're talking dredging in association with mining that's a different story, because that *is* mining. It's dredging for the purpose of mining, not dredging for the purpose of –

Mr. Walters: I think we talked about this and I thought Betsy had concluded that someone might consider it mining if you were dredging for the purpose of extracting the materials, rather than dredging for the purpose of increasing the channel depth. So that's why we wanted to make it clear that this doesn't apply.

Mr. Axthelm: Okay. So you're dredging – authorized dredging – but then you may be taking that material and using it somewhere. This allows you to do that.

Mr. Walters: Yeah. If you were dredging for the purpose of navigation I guess it's maybe unlikely that you're dredging for the purpose of obtaining the material.

Mr. Axthelm: Yeah.

Mr. Walters: But I think your question is, Could you, in fact, use the material? Maybe we ought to look at that separately.

Mr. Temples: Is there, like you just pointed out earlier, is there – quote – a definition of mining? We're kind of thinking we know what it is but, you know – I mean is it specifically to remove minerals or – versus dredging which is removing –

Mr. Walters: So we don't have one in the Part VIII Definitions section.

Mr. Temples: I'm just wondering is something extra just to be highlighted is simply say, you know, the removal of mineral content or – of course the other part of mining for some people are things like crystals and other types of rock formations, so it's a little tenuous but it still – just to make it different than dredging per se.

Mr. Walters: I sort of think we might need some additional language there to clarify that further.

Mr. Temples: Just a thought.

Mr. Greenwood: We're not proposing any changes to the policy pertaining to mining as currently proposed?

Mr. Walters: No.

Mr. Greenwood: Okay.

Chair Lohman: And the Fish and Wildlife, their Gold and Fish Pamphlet – they call it recreational mining?

Ms. Stevenson: Yes.

Chair Lohman: Okay.

Ms. Stevenson: Yeah, I can do a little more background work on that. They actually, I think, put together a habitat conservation plan for mining – Fish and Wildlife did several years ago – so maybe that would help a little bit to clarify some things. And those are kind of put together to address the impacts to those things kind of overall so that each person who comes in to have a mining operation may or may not have to address all of them again. It gives them a little bit more –

Mr. Temples: Well, and it also gives them a specific requirement that they have to provide. I mean: What are you mining for?

Chair Lohman: Okay, anything else on the Mining section that caught anybody's attention? Again, this will not be the final ___. Okay, moving on to Recreational Development, page 13 in your memo – right? – and in your text it'll be on page 135.

Mr. Greenwood: And what Comprehensive Plan element is that?

Mr. Meenaghan: 6F.

Mr. Greenwood: 6F.

Chair Lohman: Page 35.

Mr. Greenwood: Okay. Thank you.

Ms. Candler: What's the intention on subsection (2)? "When Allowed" has got a parenthetical there. What's the intention of that ___?

Mr. Walters: So we're planning to develop some language that we haven't developed yet that simply refers people to the matrix. And then if there's any additional considerations beyond what's in the matrix they would be listed there.

Ms. Candler: So just a regular – okay.

Mr. Walters: So there will be some sentence that says something like "Go see the matrix, and then go see the sequel. No! *Don't* see the sequel! So go see the matrix and the uses allowed in the matrix will be allowed or, you know, require whatever permits. But we want to preserve the section so that all these sections are parallel, and if there are any additional provisions that can be listed in that section.

Ms. Candler: So there will probably be an (a) with a reference to the matrix, 14.-whatever or 6A.

Mr. Walters: Yeah. Yeah, because we don't have any additional. Although I think the plan still is to go back and look at the matrix after we're done going through all this text. So there may in fact be stuff that we need to add in this section after we start looking at the matrix.

Chair Lohman: Because we just talked about, under Circulation, parking. I think that we should probably be consistent with what we attacked earlier on parking with this, because right in here – it is on page 13 of the memo, item number (4), Development Standards – “outside of shoreline jurisdiction, where feasible” is what's suggested. And where we went to that, we went back to the original on the other section, so maybe we should have the same language. Any thoughts on that idea?

Mr. Greenwood: I think we should be consistent there. That's where the parking is most likely to be necessary. And I can't imagine a parking development that isn't qualified for development standards.

Chair Lohman: But, I mean, that was just – the one element was parking but I think you could use the argument for the other – certain – not all of that list, but part of that list.

Mr. Greenwood: But it does say “such access” – I'm looking at page 135; maybe I'm looking at the wrong section.

Mr. Temples: No, that's it.

Mr. Greenwood: “New roads, access, and parking for automobiles, trucks, campers,” and such “...must be located and designed consistent with SCC 14.26.490, Transportation and Parking.” So if we reference the Transportation and Parking portion, we should be consistent.

Mr. Axthelm: And here there's that “or” – “or” and then “landward of water-oriented uses unless it can be shown that such facilities are essentially shoreline dependent.” That's a little confusing how that reads.

Chair Lohman: Well, and there isn't a code section about circulation.

Mr. Greenwood: No, I know. Transportation and Parking, right?

Mr. Meenaghan: Right.

Mr. Greenwood: Are we going to keep that title – “Circulation” – Betsy? Or are we calling it “Transportation and Parking”?

Ms. Stevenson: “Circulation” is what's in the Comprehensive Plan.

Mr. Greenwood: Our current one or in our revised-by-the-consultant?

Mr. Walters: We thought about this. Betsy wanted to change it and I said don't worry. The Planning Commission won't care about that.

(laughter)

Mr. Greenwood: As before, I _____.

Ms. Stevenson: No, Kim Mower asked about that.

Mr. Walters: No, I think actually – I *think* that it may be called “Circulation” in the Shoreline Management Act and that that’s why it’s called “Circulation,” but we can go back and check. If there’s no reason to leave it “Circulation,” then it would make more sense to call it “Transportation.”

Mr. Temples: Betsy, I did have a question. In the February 4th draft on page 135 there’s quite an extensive outline here of – it talks about floodway, shoreline defense design. There’s a lot of stuff here – when I go to what’s in the new memo and yes, it’s been kind of reorganized, but a lot of stuff is not there any longer. Am I just – I mean, it’s been altered quite a bit.

Ms. Stevenson: Yeah, a lot of this information that was in the February 4th draft went into that General Provisions section, so that’s where some of – that’s where you’ll find some of this. This is looking very familiar, like it’s kind of out of our existing code as well. So it is reorganized a little bit.

Mr. Temples: This is kind of cleaning it up, so to speak.

Ms. Stevenson: Yeah, there was a lot of repetitive language in each of the sections that we thought needed review –

Mr. Temples: I saw that before.

Ms. Stevenson: – and that’s where we pulled it into the General Provisions.

Mr. Temples: Okay, thank you.

Ms. Stevenson: No, good question. But we thought you’d be ecstatic that we got it down to, you know, two pages, or even less than two pages!

Chair Lohman: I think we are but we –

Ms. Stevenson: It’s too late to be thinking ecstatic tonight.

Mr. Greenwood: Ryan, what were you thinking – going back to Circulation and the title – where was it called “Circulation”? In our existing Comp Plan or in Ecology’s guidelines?

Mr. Walters: I’m not worried as much about the existing Comp Plan. What I was thinking is that it might in the SMA be called “Circulation.” I can’t remember exactly where (but) somewhere it says you’re supposed to have these elements addressed in your Comp Plan and wherever it says that I would prefer that we name it the same thing so that when Ecology goes looking for it they can find it.

Mr. Greenwood: Well, I would think the same with regards to our people in the county who have to look for the code section. If it doesn’t – there’s no code section on Circulation then they’d be confused, too, which policies correspond to it. And in our existing Comp Plan, which is what we are revising pertaining to shorelines, it calls it “Transportation Facilities.”

Mr. Walters: Betsy found it here. So in the WAC under Master Program Elements, under 173-26-191, it does call it “Circulation” there.

Mr. Greenwood: But that talks about trails and all kinds of other stuff too besides just roads, if I'm not mistaken.

Mr. Walters: Well, yes, but –

Mr. Greenwood: It's pretty nebulous there.

Mr. Walters: But it – I think the reason to call it "Transportation" or "Parking" in the development regulations is that those are regular words that people might use.

Mr. Greenwood: Right. And so is "transportation." "Circulation" deals with – people think of blood circulation and a lot of other things.

Mr. Walters: Right.

Mr. Greenwood: Besides people don't commonly use "circulation" on the street.

Mr. Walters: Right. I mean, we could – it's not really that big a deal – we could call it "Transportation" and it would probably cover everything that's listed there under "Circulation."

Mr. Greenwood: I'd be happier. And people would understand it, I think.

Mr. Meenaghan: It's like "should" and "must."

Mr. Walters: And it could be called "Transportation" in the Comp Plan policies and then Ecology will find it. So it just – if you were looking through the WAC and looking through our Comp Plan policies you might not immediately put it together, but maybe that's not that big a deal.

Chair Lohman: Okay, anything else on Recreational Development?

Mr. Axthelm: You have fertilizers and pesticides and herbicides in here, but is that covered somewhere else?

Mr. Walters: Where are we looking now?

Chair Lohman: Page 14 of the memo.

Mr. Axthelm: Yep. I mean because it's addressing the pesticides specifically to recreation, but if they're already covered somewhere else in the code that takes care of the pesticides then it seems to me more appropriate there.

Chair Lohman: Are you talking like possibly a golf course?

Ms. Stevenson: Yes, specifically – for sure. Or ball fields and things like that sometimes.

Mr. Axthelm: Yeah.

Ms. Stevenson: So I don't think it's addressed in this detail anyplace else.

Mr. Walters: And that might be because you just wouldn't be using it.

Mr. Axthelm: Okay. You're trying to pick up specific things here –

Ms. Stevenson: Right.

Mr. Axthelm: – that might be potential violators.

Ms. Stevenson: And I think a lot of this language is out of our existing code and it actually comes in pretty handy in that section because you might not think about it otherwise.

Mr. Axthelm: Yeah. Okay. It's all right. It's not bad at all. It's just a matter of redundancy.

Ms. Stevenson: Mm-hmm. I mean, a lot of times when we talk about herbicides and pesticides it's just you apply it in accordance with the state requirements by a, you know, certified applicator or whatever. So this is a little bit more specific than that.

Mr. Greenwood: You know, and I think it's a pretty clear statement. It doesn't seem very onerous really. A 25-foot buffer seems almost arbitrary but it's not very wide so I'm not – and it does –

Mr. Axthelm: Well, and then it still is – it still gives a –

Mr. Greenwood: Right. Because we're within 200 feet of – we're talking about the area within 200 feet of a shoreline, so just some additional. And it talks about BMPs, it talks about using it consistent with the manufacturer's specifications. Just so you know, there are many pesticides that are actually approved for application in water, and there are those who actually treat aquatic, exotic, invasive plants from a boat along the Skagit River. So this, you know, maybe it is most appropriate through those who are looking for regulations pertaining to my recreational development, but there are pesticides that are for sure to be applied to water without harm.

Mr. Axthelm: So the one place – going back a little bit – was the Applicability, (1)(b). It's citing "...home subdivisions of land, resorts, motels..." but there's no reference to, like, a single-family. Usually single-family gives more leeway for the recreation, I believe. There are certain things that are allowed because it's not a commercial thing; it's a single-family versus multiple dwellings.

Mr. Walters: So it would also not apply to a single-family. I think it calls out second home subdivisions because they're like vacation properties. They might get called recreational developments. Some people call them "rec lots" – that kind of stuff. I think that's why it calls out second home subdivisions, but it also would not apply to single-family.

Mr. Axthelm: Okay. Well, in that (b) the last statement on there says "...but does apply to recreational uses associated with such development." Where with a residential you're allowed to use that land recreationally as a single-family, not as – so that – if you just simply put in residential or single-family in there it wouldn't work because you have to exclude that last statement. So I just – maybe another – (a), (b), (c), have (c) in there as single-family period.

Ms. Stevenson: It wouldn't apply to that. (b) is –

Mr. Axthelm: No, I'm just saying this (b) says "This section does not apply to" single homes.

Ms. Stevenson: Right.

Mr. Axthelm: No, I'm sorry, the *second* home.

Ms. Stevenson: Right.

Mr. Axthelm: But what you need is a line in there that says this section does not apply to single-family, period – and associated recreational uses, or whatever.

Mr. Walters: Well, I think it would apply to single-family if you were putting also in with your single-family house a park and camping club, golf course, or the other things that are defined within recreation development –

Mr. Axthelm: But that's not single-family.

Mr. Walters: – because they wouldn't be single-family, right?

Mr. Axthelm: Yeah.

Mr. Walters: I mean, very strictly none of those things are recreational development by themselves. A motel or a hotel isn't recreational development by itself, but it might be associated with a golf course or a campground or something like that, and that's why it's called out there – to make it clear that this doesn't apply to that, but if you put in a golf course then this would apply. If you put in a golf course associated with your hotel or motel.

Mr. Axthelm: Okay. It's just if you have a piece of property that's on a shoreline you – having the ability to use that for recreational uses as a single-family is important.

Mr. Walters: Yes. So I think the distinction is recreational development, which is defined. So this says "recreational use" and maybe that's the problem. It maybe shouldn't say "...but does apply to recreational uses associated with such development." Maybe it should say "...recreational development associated with those uses" – whatever.

Mr. Axthelm: Thank you. That's – if that's the case –

Mr. Walters: "Recreational development" is the defined term.

Mr. Axthelm: – that takes care of it.

Mr. Walters: Yeah.

Mr. Axthelm: Yeah, I'm – having the ability to use your land for recreational uses, you use it very low impact and so it shouldn't be an issue on a single-family situation.

Mr. Walters: Right, no.

Mr. Axthelm: Yeah. I'm good.

Chair Lohman: Okay, anything else under that section?

Mr. Meenaghan: I have one comment or question on the Comp Plan, section 6F-1.2 is called “Unique and Fragile Shoreline Areas,” and I think that we changed the sub-paragraphs under there in a previous session. My question is on page –

Ms. Stevenson: In the middle? Yeah.

Mr. Meenaghan: Okay, yeah. So does that title still stand – Unique and Fragile Shoreline Areas? That’s still there.

Chair Lohman: I thought we struck it.

Mr. Meenaghan: Or did we – did we take that completely out?

Mr. Walters: Well, we took out the words “Unique and Fragile” in the policy but I think we left – I *think* we intended to leave it in the title just because we didn’t have anything else to call those two different things.

Mr. Meenaghan: Okay. And my point would be if we leave “Unique and Fragile Shoreline Areas” in the title, what is the definition of that? Because I look at every shoreline in this county and I go, well, they’re all unique and fragile, if you ask me.

Mr. Walters: Yeah, we can probably look at some other language and also double-check to make sure we didn’t – in that other place where this existed or whenever it is we hit it before – that we didn’t change it already.

Mr. Meenaghan: Yeah.

Mr. Walters: But also, because it’s *just* a title we wouldn’t really need a definition because there isn’t a policy that uses the words that are in the title, and typically titles are not considered binding by themselves. But, still, we might want to change it anyway for clarity.

Ms. Stevenson: Some of them don’t have titles.

Mr. Greenwood: I think we want to be specific about what is unique and fragile, because not every shoreline is either unique or fragile.

Mr. Meenaghan: By definition.

Mr. Greenwood: Or by reality, too.

Mr. Meenaghan: Yeah.

Mr. Greenwood: I don’t want to say if you’ve seen one, you’ve seen them all because that’s not the case, but there’s a lot of miles of shoreline there. Because we’re dealing with net loss of ecological function, not, Hey, that’s kind of special. And if everything’s special then you never do anything, you know.

Mr. Axthelm: A shoreline can be important but it may not be unique.

Mr. Greenwood: Yeah, unique – there’s even a definition for that!

Chair Lohman: Good catch. Okay, any more on Recreation?

(silence)

Chair Lohman: Okay, moving on: Shoreline Habitat Enhancement – page 15 in the memo and page 138 in your draft code.

Mr. Greenwood: I have a question on page 15 of the memo, under Development Standards, point (a). It says: “All shoreline restoration and enhancement projects must protect the integrity of adjacent natural resources, including aquatic habitats and water quality.” How do we hold them to that? Is that something enforceable? Do we do that? And what would be covered under natural resources? Because I’ve seen some restoration enhancement projects that actually affect other natural resources by diverting them or allowing them to meander, if you will. Would that include loss of –

Mr. Hughes: Farm land?

Mr. Greenwood: – protected ag land, whether that’s timber or –

Ms. Stevenson: So maybe it should stop at “natural resources” and not go on to say “aquatic habitats and water quality.”

Mr. Greenwood: No, actually I kind of like it. I highlighted it because I like it but I’d like to make sure that they include that in their standards for doing it. Maybe there’s something else that needs to be included in that. It does talk about in (c) – I highlighted “properties” – “The applicant must demonstrate that no significant change to sediment transport or river current will result and that the enhancement will not adversely affect ecological processes, properties, or habitat.” And I think that’s what a lot of times they’re designed to do. Maybe not “adversely...ecological processes,” but it certainly has an adverse effect on some properties and habitat.

So, again, I don’t have a problem with it being in there. I was just kind of curious what we envision there. If we were thinking we could or would enforce that or hold them to that standard?

Mr. Temples: Also in the memorandum, page 15 through page 17, where they’re dealing with the Shoreline Habitat and Natural Systems Enhancement Projects. Again some of this looks like it’s gotten shortened up, but I noticed that in the February 4, the section – the next section, which is 485, has disappeared. Was that intentional?

Chair Lohman: Which is what?

Mr. Walters: Oh, yeah, 485.

Ms. Stevenson: We aren’t there yet.

Mr. Temples: Huh?

Ms. Stevenson: We aren’t there yet.

Mr. Temples: In this memo, I mean, it goes from 480 to 490.

Ms. Stevenson: I know. We haven't covered it yet.

Ms. Candler: It's just not completed yet.

Ms. Stevenson: We haven't covered it yet. It's going to take us some time and it's going to – so we picked out some of the easier ones to batch together for tonight.

Mr. Temples: We're not dealing with that right now. Okay.

Ms. Stevenson: But thank you for catching that.

Chair Lohman: But in the original you had – on page 138 – you had maintenance and monitoring a minimum of three years, and I remember having a discussion before this draft about that and it's not in the memo version. Have you struck that requirement?

Mr. Walters: It's in (b).

Ms. Stevenson: It's under (4)(b).

Chair Lohman: Oh, you reordered it. Okay, I'm sorry.

Ms. Stevenson: No, that's fine. That's good. It's okay.

Chair Lohman: Okay – sorry.

Ms. Stevenson: When you move stuff around it's hard to find it. And no. That's been an issue with these things and I think we discussed it. There's a lot of money in grants out there for doing restoration work and there's no follow-up with the monitoring and maintenance. And we're spending all this money to do this stuff, and is it really working? Is it really doing what it's supposed to be doing? And they said, Oh, geez, we didn't get any grant money for that. And this gives us the leverage to say, Sorry – you know, if you want your permit you're going to have to do some monitoring and maintenance. We want to make sure that you're taking care of it after you put it in and it's not just spend the grant money, do the work, and we're out of there.

Mr. Greenwood: I like that because when the gentleman was here from Fish and Wildlife and he – I asked him if we were making improvements and do we have a net loss currently. And he says, Well, some might argue that we do and we're still going backwards, even with the projects that we're putting in. I don't want that to be the case. I don't want to be putting money toward something that they're not even giving you credit for.

Chair Lohman: But what about adjacent properties? You need to be able to make sure that you're not impacting, and you can't tell if nobody's on patrol. But I had an addition because it was pointed out to me by somebody that in the ag section of the zoning code, 14.16.400, Habitat Projects, they have a Hearing Examiner special use requirement. So I think we need to put language – and I sent Betsy a suggestion of language to insert as an additional item. So that would be (h) – (f), (g), (h) – right? – in this draft memo version.

Mr. Walters: So I suggested that what we substitute for that language is something like: Per 14.16.400, a Hearing Examiner special use permit is required.

Ms. Stevenson: Yeah.

Chair Lohman: Same idea.

Mr. Walters: Right.

Ms. Stevenson: Right.

Chair Lohman: Maybe we could send that idea out to the rest of the Planning Commission, too. That was the only things that I saw in this section. Anybody else?

Mr. Axthelm: I was looking at your minimum of three years. One of the concerns I would have if you just put that statement is that if something isn't working, if it's not doing what it was designed to do, it may mean that it has to be longer. So for protection – you know, for somebody going in there, throwing something in, and then they just maintain it for three years – just long enough – and then walk away and it all falls apart. That – making sure that there's a protection there.

Mr. Temples: Almost like it needs to be reviewed after two years and somehow, if necessary, re-reviewed or –

Mr. Axthelm: Is there a time period when it should maintain itself without having to be – you know, saying, Okay, a minimum of three years.

Ms. Stevenson: Three to five is usually what we require, at least for plantings and things like that that they have to keep an eye on it and make sure there's a survival rate and that sort of thing. Some of these don't have a lot of that involved with them. In terms of a restoration project, it may, you know, be large wood or different things like that. But I still think it's important to have something. I'm not sure how to address Well, okay, so now the monitoring is showing that it *isn't* having the effect you thought it was going to; what's the next step?

Mr. Axthelm: Where's the financial limitation or the time limitation on that?

Ms. Stevenson: Yeah.

Mr. Axthelm: I don't have an answer for that.

Ms. Stevenson: Yeah, I don't either.

Mr. Axthelm: But that's my – one thing I would be concerned about.

Ms. Stevenson: Yeah.

Chair Lohman: I can't remember where to find it –

Ms. Stevenson: Is your concern that if it's not working what do we do kind of thing?

Mr. Axthelm: Yeah, yeah. Not related, but my example is when they put in the mechanical filtration systems for septic systems is that sometimes you'll have a big – in Idaho, they would have a big subdivision go in, put in a big septic system, and then turn it over to the City or County or actually they wouldn't do anything with it. And then when the urban growth area moved out, all of a sudden it doesn't work. All these people have to fix their system. And it's

now the responsibility of the County to do it because there was nothing in there to protect the County from it. So in this situation, if somebody puts – does some improvements, where's their limitation?

Ms. Stevenson: Yeah, a lot of projects require their state and federal permits and their timeframe for monitoring can be longer, too – not that we need to pass the buck necessarily. Is some kind of a performance bond something that you think? I don't know. We can do that with critical areas. I'm not sure if that's – or is that too much? I'm just throwing it out there.

Mr. Greenwood: I'm thinking that there's some liability that hangs with the project anyway. If there's something that goes wrong with it – maybe it just doesn't work as well as you thought, but then you're just reporting that it didn't work as well as you thought. But if you actually cause some adverse impact, you're liable for that if you cause damage.

Ms. Stevenson: Okay.

Mr. Walters: Your liability is probably a separate issue from whether it's performing the way you predicted it would.

Mr. Greenwood: Right. Well, except that people won't generally have heartburn until it does cause some damage to someone else.

Mr. Walters: Right, but as far as the County's permit process would probably – if we're requiring monitoring and maintenance then within that three-year – or longer because it's minimum three-year – within that window, if it's not performing then you should be doing maintenance to correct it. And so long as that's a condition of the original permit, I think that that's enforceable. I don't think that we're going to be coming back and telling you to do something else afterward, but as a condition in the original permit I think that'd be fine.

Mr. Greenwood: Right.

Mr. Axthelm: I guess if you had a major flood event or something like that that wipes out, you know, and then you can't – there's nothing *you* can do about that. That's nature.

Mr. Greenwood: And usually once you've installed it to specifications you've kind of fulfilled your obligation and then it's –

Mr. Axthelm: Mm-hmm.

Mr. Walters: Yes, except for this monitoring requirement.

Mr. Greenwood: Right.

Mr. Axthelm: So only three years isn't so bad. I mean, after three years it's _____.

Ms. Stevenson: Yeah.

Mr. Axthelm: Okay.

Chair Lohman: I kind of think it's a fairness issue, because in some of the vegetation requirements for just a regular Joe Homeowner you have some fairly onerous, it seems like,

monitoring and performance standards there. And so I just think let's be fair and consistent with everyone. So any others?

Mr. Greenwood: Share the pain? Is that the philosophy – share the pain?

Chair Lohman: Well, if you're going to require it here you should require it straight across.

Mr. Greenwood: Well, I think it fits here. I mean, most of these projects, like Betsy said, are grant projects, and if they don't have some monitoring we get no feedback and there's no responsibility.

Chair Lohman: Okay, next section, if we're finished. Are you sure we're ready to move on? Okay, Transportation and Parking.

Mr. Greenwood: Not Circulation.

(laughter)

Ms. Stevenson: We got that changed.

Mr. Greenwood: Just checking.

Mr. Walters: No, think now – think on that a little bit more.

Mr. Greenwood: I shouldn't have brought it up! Betsy got the change already – forget about it!

Mr. Walters: How about if the element in – or the section in the Shoreline element is labelled "Transportation, Parking, and Circulation"? Because then you hit the normal words that people will use, but then we can also address anything other than transportation and parking that also fits within circulation and cover all the bases for the WAC requirement.

Mr. Greenwood: Well, what else would be under Circulation, then?

Mr. Walters: Well, the other things that are listed in the WAC. I'm not –

Mr. Greenwood: Blood pressure monitoring?

Mr. Walters: No – wherever that was here.

Mr. Greenwood: Trails and such? I think that's what I remember in the Comp Plan.

Mr. Walters: Yeah. "Transportation routes, terminals, and other public utilities and facilities" all correlated with the Shorelines element.

Mr. Greenwood: I'm good with that. I think that helps.

Mr. Walters: I actually don't see trails in that one.

Mr. Greenwood: Oh, okay.

Ms. Stevenson: It's not.

Mr. Axthelm: Circulation? Is there a word that would go with that? Maybe vehicular?

Mr. Walters: It may not be necessary, based on the actual policies that are listed there – which I'm not looking at right now – maybe it won't be necessary, but just in case it is.

Ms. Candler: Has someone ever seen where they use that word? Could you direct me to _____?

Mr. Walters: Circulation?

Ms. Candler: (unintelligible)

Mr. Walters: It's in the Comp Plan polices, CP 6G.

Ms. Candler: Oh, it's under – okay, gotcha. I thought we were talking about the 14.26.490. It's not in there, is it?

Mr. Walters: No.

Ms. Candler: Okay.

Chair Lohman: I spotted something in here. Page 17, Development Standards, (a)(i). You talk about "Roads and railroads located within the 100-year floodplain must not measurably increase flood levels..." I know our road on the street I live on – the road I live on – it's progressively gotten higher in the twenty-five years that I've been there. So does this apply to the county, too?

Mr. Pernula: I think you already have some floodplain management regulations that require this as well.

Chair Lohman: I know when they chip-coated a year or two ago I know they didn't grind any off. They just added more.

Mr. Walters: The general question is: Do these standards apply to Public Works? And, yes; however, I think my question is, Would Romanette (i) here just be covered by 14.34, our Floodplain chapter, and, if so, why do we need to restate it?

Ms. Stevenson: It's in the existing Shoreline Program. That's the only thing I can tell you. It got pulled off there.

Chair Lohman: Well, it got drug in because of the 100-year floodplain – that reference – but I thought we said we weren't going to be using the 100-year floodplain in addition. We were only going to do the floodplain in that Skagit – that one isolated area, correct?

Mr. Walters: And it's driven by 14.34 anyway, although Betsy thinks it might be in the existing Shoreline Plan, so that may be where that text came from. But I tend to think we can just drop that paragraph.

Mr. Temples: In this particular section, which is Transportation, Circulation, Parking – whatever we're going to call it – I noticed it discusses new roads and it talks about railroads. Nothing

specifically says anything about trails or trailheads, or is that covered somewhere else? In other words, is that not a transportation?

Mr. Walters: Trails may not be transportation. They are sometimes recreation and not considered transportation.

Mr. Temples: Okay. Also, in the memo on page 18, the very bottom talks about “Unpaved existing roads...parking areas may be paved, provided such facilities comply with all other” application “requirements.” Then it goes on “Some roadways or paved parking areas must be designed to incorporate low-impact development practices,” blah-blah-blah-blah. I know when I was working down in Snohomish County the other big issue was unpaved roadways that were paved were deemed as increasing the impervious area and had to be accounted for and provide drainage and everything like that. And I don’t see anything like that here. In other words, if you increase your impervious area you had to account for it.

Ms. Stevenson: We consider gravel surface impervious, so just because you go to paving doesn’t change it from pervious to impervious.

Mr. Walters: But the general question of – Do roads have to be counted toward your impervious surface? – is yes. But also –

Mr. Temples: So a gravel road would be considered impervious whereas a dirt road is not.

Ms. Stevenson: That might be too, now, because it’s compacted enough. I don’t know the answer to that.

Mr. Temples: Okay.

Mr. Walters: Well, and actually not in this Plan so much but in stuff you’ll see –

Mr. Temples: I ran into it in countless projects in Snohomish County so I was just asking.

Mr. Walters: Well, and in stuff you’ll see probably next year we’ll probably be moving away from the term “impervious” to “hard surfaces” because that’s the new terminology for the NPDES permit.

Mr. Axthelm: Is gravel still considered a hard surface?

Mr. Temples: Uh-huh.

Mr. Walters: Yeah, I don’t – “hard surface” is more all-encompassing than “impervious surface,” and then it gets another standard. I don’t know all the technical details on that off the top of my head, but, yeah, it’s expanding what gets regulated in terms of –

Mr. Axthelm: They’re just changing the name! It’s the same thing!

Mr. Walters: Well, they retained “impervious surface” as its own term –

Mr. Axthelm: Really?

Mr. Walters: – but then they add “hard surface” to cover more. So I think “hard surface” includes pervious pavement so that you can address both of those concepts with one term.

Mr. Temples: One company – I can’t think of their name, but they produce an impervious asphalt.

Mr. Axthelm: Why don’t they say “semi-pervious”?

Mr. Temples: It is not cheap but it’s an option.

Mr. Walters: Well, you might be seeing some of it here soon.

Chair Lohman: But back to the question I asked you about the reference to the 100-year floodplain: Were you just going to strike that? Is that what you were suggesting?

Ms. Stevenson: The road section is covered under 14.34, the flood ordinance. The railroad, not so much.

Mr. Walters: So we’ll have to look at that.

Chair Lohman: But then back again – it’s kind of a two-part question – the 100-year floodplain reference, because at the very beginning of the chapter where you said what we were going to cover it’s the County’s option if you want to include the 100-year floodplain. And I understood it to be that you said you weren’t going to except in that very specific Skagit floodway.

Ms. Stevenson: You include the floodplain area as it extends 200 feet from the edge of the floodway, and that would be considered shoreline jurisdictional. Anything else that’s within the floodplain we have the option of including as shoreline if we choose to. By definition that area is.

Chair Lohman: Right. But here you didn’t exercise that option. Here you –

Ms. Stevenson: But the Shoreline Program only applies where you have jurisdiction.

Mr. Walters: Well, right. It’s still limited. That statement would still be limited by the jurisdiction statement at the beginning of the Plan.

Ms. Stevenson: Right. Right.

Mr. Walters: Betsy is surmising that that language comes from the original Shoreline Plan.

Ms. Stevenson: Yeah, it does. It does.

Chair Lohman: Thank you.

Mr. Walters: Betsy’s *asserting* that that language comes from the Shoreline Plan.

Ms. Stevenson: Sometimes I might be surmising.

Mr. Greenwood: Is she *insuring* or *ensuring*?

Mr. Walters: She's not *assuring*. It's just what the WAC uses repeatedly.

Mr. Greenwood: You know, bringing that up, since we talked –

Ms. Stevenson: I don't even know anymore.

Mr. Greenwood: I know. Now I'm going to bring up a "must" and a "should" scenario here. Under Development Standards on page 18 (ii): "Bridge abutments and necessary approach fills must be located landward of associated wetlands or the OHWM..." And I think that should be more the case where it's a "should," even if it's a DOE "should," because "must" is not always appropriate. A wetland at a water crossing is very often very, very – well, it's associated. It's very common and you could have a 300-foot bridge versus a 50-foot bridge if you're not going to put any fills in there. And bridge installments are designed and approved by all these other means – I think it covers it under another element here – without appropriate state, local and federal permits, altering flows and banks. So I think I would change that from "must be" to "should." Is that okay? "Bridge abutments and necessary approach fills should be located landward..."

Mr. Walters: So I would want to usually avoid "should" but use like "must" unless not feasible or something like that.

Mr. Greenwood: Okay. That works for me. But if "must" is a required element then you don't even have an option there – usually when it says "must."

Mr. Walters: Right – as written. Yeah, yeah, yeah.

Ms. Candler: It needs a qualifier.

Mr. Greenwood: You need a way out because it's not a situation that's very common.

Mr. Walters: So that's the legal writing perspective and now Betsy may have some wetland perspective.

Mr. Greenwood: I mean, it's not to say you want to just go in there and have an impact where you're going, but you want to do what you're needing to do in an appropriate way. I can picture – again, I'm thinking about the shorelines that I'm more familiar with. I'm not talking about crossing the Skagit River; I'm talking about crossing a 20 cubic feet per second stream, and it's not the same.

Ms. Stevenson: No, I guess that's where we – I'm trying to protect the resource. Maybe you need to make your bridge wider to get past the associated wetlands next to the stream.

Mr. Greenwood: Well, we always try and look for the best place to put it. And again, that might be the same scenario where we say, Okay, let's use the pre-existing structure, even if it's not in the best place because the new standard might be worse than just revising the existing structure. And then you end up with a road in the wrong spot.

Ms. Stevenson: So how can we give some thought to – it needs to be a "must" or some sort of an "except."

Ms. Candler: I know you guys are really against using “should” but it’s – the definition that we have on page 196 is exactly fitting, I think, what you’re trying to say.

Ms. Stevenson: Right, but that’s a word we’re trying not to use!

Ms. Candler: A “particular action is required unless there is a demonstrated, compelling reason, based on policy of the” SMA “...against taking the action.”

Mr. Greenwood: Maybe we have it just in one place.

Ms. Candler: Do we *have* to take the “should” out? Why can’t we –

Mr. Greenwood: This will be the only “should” we have.

Mr. Hughes: Carol, how many hours did we talk about “should” and “shall”?

Mr. Axthelm: Well, no. We can try to avoid using it but there are some instances when it is applicable.

Chair Lohman: We could put an asterisk by it.

Ms. Candler: And so long as we’re defining it I’m not sure that they could try to say it’s their definition – as long as we’ve defined it in here.

Mr. Walters: Well, we’re proposing to dump –

Ms. Stevenson: We’re going to change that. We want to take that out.

Ms. Candler: You’ll take that out. Okay.

Mr. Walters: We have not gone through all the definitions yet – saving that as the last step – and –

Mr. Axthelm: We can’t avoid every instance of a definition that conflicts with them so we have to be allowed to provide our own definition. And if it’s one word – as “should” – then so be it. I just – I know you’re trying to avoid the conflicts, but I don’t think it’s going to happen.

Mr. Walters: Well, I think in the case of “should” we can avoid the conflict.

Ms. Candler: We’re going to add ten words every time to try to avoid using one word.

Chair Lohman: But the last part of that, it talks about an “if” scenario, isn’t it? “...provided mid-river bridge piers are permitted.”

Mr. Greenwood: No, that’s not an “if.” That’s an additional element that allows you to make a longer bridge.

Mr. Pernula: What it – no, it allows you to make a shorter bridge by putting – what it’s saying is don’t fill in the wetlands associated with the river because you’re allowed to put piers in the river itself. You can put piers, you can have a shorter bridge with those piers but it should bridge over that wetlands that’s associated with the river itself.

Mr. Walters: So a longer bridge overall but shorter spans?

Mr. Pernula: Shorter spans.

Mr. Greenwood: Yeah, that's a design feature but it's still a longer bridge.

Mr. Pernula: Sure. It'll be a longer bridge but the spans, you know, that's what's going to cost.

Mr. Greenwood: I think when you start talking about the wetlands and you start talking about the ordinary high water mark I think you're starting to get into a pretty wide zone that isn't necessarily going to be adversely affected by choosing the proper location of your bridge and designing it so that it doesn't – I mean, I see a lot, you know, and if you've got a wetland associated that doesn't mean it's going to be affected by having the fill right there.

Ms. Stevenson: If you fill it, it's going to affect it!

Mr. Greenwood: Well, and you're envisioning you've got a quarter-acre wetland that you fill full of dirt, and I'm talking about a wetland that might be many acres because it's associated with.

Ms. Stevenson: If it's a many-acre wetland that's associated then you ought to be looking for another place for your bridge or using piles in there rather than fill or an abutment. Don't you think?

Mr. Greenwood: Not in the cases I'm thinking of.

Chair Lohman: Maybe we should circle that one and come back to it.

Mr. Greenwood: Well, at least let us demonstrate that it's, you know, appropriate to place it, you know. And if it's "must," that means it's never.

Mr. Walters: Yeah, I guess –

Mr. Greenwood: So let's let it be case by case.

Mr. Walters: In a case by case it would be helpful to have some standard by which it would be appropriate. Maybe this would benefit – be benefitted by a drawing or a particular example of – in the situation where you're running into this problem.

Mr. Greenwood: Sure. Yeah, I can do that. I know of a place right now where we have an existing bridge that we just enhanced – it's the one Betsy's looking up – whereby you had an additional tributary stream that ran parallel to the road, but the existing crossing where it ties into the stream crossing itself, it would have been – you'd have a bridge that's over a hundred – I'm trying to think of how long that thing would be – to back it way up, it just didn't make sense in that case to – you know, you've got a major channel that you're crossing and then you've got a tributary channel running along down to it – down to the same point. You start to back way up and it gets to be the Golden Gate Bridge then after that.

Mr. Walters: So then would you block the tributary or would you be – how would you be getting across the tributary?

Mr. Greenwood: We armor it so that it doesn't end up cutting into the fill and then it goes into the main channel like it always has. That's an existing feature, but it's a scenario that's pretty common if you're within 200 feet of shoreline. I'll come up with some pictures maybe for next time. Will that help? I'd be happy to do that. They might not be civil engineer-designed drawings, but...

Mr. Meenaghan: Licensed.

Mr. Greenwood: Licensed, not registered.

Ms. Candler: As long as it's a qualified professional!

Mr. Greenwood: Qualified professional – okay. _____.

I'd also like to question item (viii), it looks like – v, vi, vii, viii – I think that's an arbitrary statement.

Ms. Candler: (unintelligible)

Mr. Greenwood: “Mechanical means...” on page 18, under Development standards – “Mechanical means are preferred over the use of herbicides for roadside brush control. If herbicides are used, they must be applied so that chemicals do not enter shoreline water bodies.” I think if they're used they should be applied so the chemicals do not enter shoreline water bodies in violation of their label and standards. But to make a statement like that –

Chair Lohman: They're not allowed to enter any water bodies.

Mr. Axthelm: I think the previous section had a statement in there with Recreational on how – on applying the pesticides or herbicides.

Mr. Greenwood: I think so. I think that's a better standard because I know what mechanical means do, and in many cases it makes it worse. So chopping off the heads of brush makes it grow more vigorously.

Mr. Axthelm: But there it said –

Ms. Candler: Page 14, “...chemical free swath at least 25 feet in width...”

Chair Lohman: I don't think that's – I don't think it'll work.

Mr. Axthelm: No, no, no – but there's an exception to that that was in there. That's what I'm talking about.

Mr. Walters: So Betsy points out that that language that's in (viii) is in our existing Shoreline Plan. That's just an explanation where it comes from. It doesn't necessarily mean that we can't change it or anything.

Mr. Greenwood: Right.

Mr. Walters: The Recreational exception or language, though, I think maybe it's not as applicable because it's sort of targeted at, like, golf courses and that kind of thing where you just don't have to have a golf course all the way up to the edge of the stream or river. So here –

Mr. Axthelm: No, no. ____ exception "...unless another BMP achieving equivalent results can be incorporated on near-shore" water applications "is deemed necessary and applied consistent with manufacturer specifications."

Mr. Walters: And maybe that last bit –

Mr. Axthelm: It doesn't have to be exactly that, but something that is there –

Chair Lohman: Why do you need the language at all anyway?

Mr. Greenwood: I don't think it's necessary but –

Chair Lohman: Why can't you strike that item?

Mr. Walters: I think it might be possible to strike it because it is an ongoing issue that's not necessarily really going to be effectively handled by a permit.

Mr. Greenwood: Right.

Mr. Walters: What do you think, Betsy?

Chair Lohman: Can I make a move to strike?

Mr. Greenwood: I'd second it.

Mr. Axthelm: So on the next one, it has the unpaved existing roads. At the end of that statement it has "...must be designed to incorporate low-impact development practices, to the extent feasible." Now it's my understanding that we have not adopted the low impact development.

Mr. Pernula: We are required to adopt some low impact development standards by January of 2016. I plan to have somebody who prepared a draft ordinance make a presentation to the Planning Commission probably later this summer. We'll start in the review this fall and probably next year.

Mr. Axthelm: So what – that's probably another subject. I'll ask it then.

Mr. Walters: Although those regs strictly probably don't have to apply outside the NPDES permit area, whereas this requires – the problem with this requirement here, I think, largely is that it has very little definition. I mean, we're looking at low impact development regs that will be much more detailed than one sentence. So this probably wouldn't have very much effect because there's not very much defined, but it would apply outside the NPDES permit area. It would apply anywhere there's a shoreline.

Mr. Axthelm: I just – my concern is something that we haven't adopted yet is now part of a requirement.

Mr. Greenwood: I would agree.

Ms. Candler: I would agree.

Ms. Stevenson: A lot of stuff in here –

Mr. Axthelm: It's the same thing as referencing the Open Space Plan. Okay, if we haven't adopted it we really shouldn't be referencing it.

Mr. Walters: Well, I would disagree with that because what we will be adopting as part of our NPDES permit compliance requirement will be allowing and promoting low impact development standards. But low impact development exists as a concept separate from that so it doesn't actually – this sentence doesn't make reference to those future NPDES permit regs.

Mr. Greenwood: It points to what then?

Mr. Axthelm: No, but what you said is *allowing* them.

Mr. Walters: I think that's the problem. It doesn't really point to anything. Low impact development – I mean, there may in fact be a definition in the Definitions chapter, but it's just a pretty vague term all by itself.

Mr. Axthelm: I guess it's kind of like open space. There's a – we've referred to open space before in a different definition and they changed that definition. This is the same situation. Is that what you're talking about? Or are they referring to the program, Low Impact Development Practices?

Mr. Walters: No. See, what I'm saying is that this is not referring to any specific low impact development program. It's only referring to low impact development as a general concept and that doesn't get us very far toward actually doing low impact development practices.

Mr. Axthelm: Okay. What I'm saying is that it makes it look like we're referring to that program.

Ms. Candler: We could put the word "general" low impact development. We could put the word "general" in there.

Mr. Axthelm: That makes sense. That would take it out of that direct reference.

Ms. Stevenson: Yeah. We are requiring low impact development techniques be used in flood areas in the – special flood hazard areas. So it's in our existing code now for those certain areas.

Ms. Candler: So if you add the word "general," though, people aren't going to try to look for the list of things that they need to do somewhere in the code.

Chair Lohman: If you made it a generic –

Mr. Walters: Yeah. I mean, we can do that.

Mr. Axthelm: It's something to watch out for because it could happen. If that's in the code referring to that and then we bring in a program, that gets – those terms get mixed up.

Mr. Walters: Right. The program that we eventually will adopt will be much more specific anyway. And this refers to paved parking areas, and I think generally people think low impact development in paved parking areas means pervious pavement, but it doesn't.

Ms. Stevenson: Rain gardens _____ lots of things.

Mr. Walters: Yeah, also rain – yeah – I mean, it might refer to – it *only* refers to a very general concept and it doesn't require pervious pavement. It doesn't require rain gardens. I mean, maybe it requires very little. There's just not very much definition there.

Chair Lohman: But you have that word "must" in there, too.

Mr. Axthelm: Yep.

Mr. Walters: Yeah.

Ms. Stevenson: Just incorporate then if it's feasible – to the extent feasible.

Chair Lohman: Okay.

Ms. Stevenson: People can usually design something.

Mr. Walters: I would say this is not a very enforceable section here.

Ms. Stevenson: Right.

Mr. Greenwood: I would recommend then that we use the opening sentence as our enforceable language – where it says "Unpaved existing roads and parking areas may be paved, provided such facilities comply with all other applicable requirements of this SMP." And so then you're trying to – and you're not pointing to something that doesn't exist under a "must."

Chair Lohman: So strike the rest?

Mr. Greenwood: So just strike the second sentence and go with the first one. It's a little bit vague, too, because it just points to everything in the SMP, but that's kind of what we're holding it to anyway.

Mr. Walters: Right.

Mr. Greenwood: No net loss of ecological functions, access, all the other stated objectives of the SMP.

Mr. Walters: Yeah, I wonder if we might be able to find just some whole better language from somebody else's plan that makes more sense than this. Because I don't really feel like section – or the first sentence there conveys very much except for the very first phrase, which is, yes, you can pave unpaved roads.

Mr. Greenwood: Right. So maybe we strike the whole thing but if we point to something that isn't approved yet or isn't defined, then that's too open-ended.

Mr. Walters: Right and, as I say, it's not that it's not approved yet. It's that it's not defined. It just –

Mr. Greenwood: Well, until we adopt it it's just a dictionary term, right? Or it's in an encyclopedia or somewhere. How do we define it there? If it's required in flood areas how do we define it?

Ms. Stevenson: Using our low impact development techniques. We kind of have a list. But I don't have my whole code.

Mr. Greenwood: Well, then, I think we need to have that list or incorporate it here. The County has a list of low impact development practices? Then it does point to something.

Ms. Stevenson: Yeah. We're requiring people to do them so we have to give them some idea of what might be appropriate.

Mr. Greenwood: Is that a homework assignment then – we could find what those are? I would like to know what they are.

Mr. Walters: But we don't – it's not defined in Title 14 – but we don't want to include a list of low impact development practices in the Shoreline Plan.

Mr. Greenwood: No, but even if we just know what the County's requirements are I think we could point them to where they are.

Mr. Walters: Well, the requirement will be the language here. Betsy's list of low impact development techniques is just a list of what staff like or feel meets the definition.

Ms. Stevenson: Well, it's just to give people some idea of what they can do to try to comply with that.

Mr. Walters: Yeah.

Mr. Greenwood: But it must be some sort of pamphlet or brochure or something.

Ms. Stevenson: I think it's just a list but I can pull it up.

Mr. Greenwood: I mean, I've seen _____ swales and things like that for runoff. There's a lot of those out there and they're published by different groups. I don't know if that's what it's pointing to.

Mr. Walters: I don't think it's particularly pointing to any list because the list isn't an adopted list.

Ms. Stevenson: Right.

Mr. Walters: It's just – it's not a require – this requirement here just doesn't have a lot of definition and I don't think it's going to get a lot of definition until we do a whole lot more work to figure out what low impact development is.

Mr. Greenwood: Okay. Well, that'd be helpful because if you say you *must* do this and they say, What list, and there's not a list but Betsy's got it, that doesn't sound good.

Mr. Walters: Well, there is – there's – yeah.

Ms. Stevenson: You can do whatever you want, propose whatever you want, but people say, Well, what is that? What am I supposed to do?

Mr. Greenwood: I know. I know. See, you happen to have an understanding of what it is, but the person being regulated needs to know what that is, too.

Mr. Walters: And once we move forward with our NPDES compliance package there will be a whole lot more definition to it. But then the Shoreline Plan can't refer to that because the Shoreline Plan will *maybe* already be adopted by 2016 and we won't be going back and amending it to incorporate that.

Mr. Greenwood: Well, we'll catch up with it the next time then. Once we have low impact development standards, then we can incorporate it when they become adopted.

Mr. Walters: Yeah.

Chair Lohman: I think we should reword, strike all or part of it.

Mr. Walters: Yeah, we have a note here to –

Ms. Stevenson: – try to rework it.

Mr. Walters: Yeah, completely.

Chair Lohman: Okay, let's move on in this section. Anything else?

Mr. Axthelm: Which – where are we at, Annie?

Chair Lohman: I know it's in the Parking. _____, item (d)(ii)(C), "Locate outside of shoreline jurisdiction unless no feasible alternative location exists." But then (iii), where it talks about setbacks, I'm not sure if that's consistent with the chapters we just did.

Mr. Axthelm: Almost like it's a double reference to parking yet it's a different set of standards.

Chair Lohman: Yeah. Because when we talked about recreation and the other thing –

Mr. Greenwood: Yeah, we talked about parking before. We were talking about the policy portion, and this is where I was indicating that consistency will be important, and it's not.

Chair Lohman: But it was even mentioned in the Recreational Development. I think we need to go back and make sure that when we talk about parking it's the same everywhere.

Mr. Axthelm: These are similar to zoning code where –

Ms. Stevenson: It may not be the same everywhere, though.

Mr. Walters: Are we suggesting that recreational developments may have stricter?

Ms. Stevenson: Or industrial developments or commercial developments. I mean, each of those parking things may be slightly different.

Mr. Walters: Some uses may have –

Chair Lohman: Yeah, but you don't call out those differences then.

Mr. Axthelm: And so many of those things are similar. You know, it's like the zoning code. You know, you have the zoning code and you have a parking section, and each of those sections refer back to it.

Mr. Walters: Yeah.

Mr. Axthelm: I mean, would that help? Because it seems like there's so much stuff here and that it's being rewritten. A lot of it says the same thing but it becomes confusing.

Chair Lohman: Well, and then even further, under (D) up above there. I think we need to maybe think about this section a little more.

Mr. Axthelm: And there's ADA references in different places but it's kind of broken up in different locations, although it's usually in exceptions but...

Mr. Walters: Which D are you referring to?

Chair Lohman: Capital D.

Mr. Axthelm: (d)(ii)(D).

Mr. Walters: Yeah, so I think (D) can be consistent with (C) – locate outside of the jurisdiction entirely unless you don't have another feasible alternative. And then – so that means you have to prove that you don't have a feasible alternative. If you don't, then you move on to (D) and you still need to locate outside of the shoreline buffers, unless you get a variance.

Chair Lohman: Yeah, but the buffers are –

Mr. Greenwood: I don't think it flows very well through there. I struggled with this for some time, looking at this parking facilities and how it flows, even from top to bottom where we say, "New or expanded parking areas must" and then we specify accessory, minimize impacts – visual impacts – and then locate outside, and then we get into the next one: and *must* locate outside the buffers unless a variance. So we're actually saying the only – it kind of reads as if the only time you can have a variance is if you have these special situations. I just don't think it flows very well.

Mr. Walters: Yes.

Ms. Stevenson: That's true. That's the intention.

Mr. Greenwood: That's the intent?

Ms. Stevenson: That's the intent.

Mr. Walters: So you have to locate outside the jurisdiction unless you don't have anywhere else you can do it. And then if you – so then you get to go inside the jurisdiction. Then you have to still locate outside the buffers.

Mr. Greenwood: So the only feasible alternative – the only time you have – the only time it can be in the shoreline jurisdiction – a parking area – is if it has an ADA issue or topographic restraint or outside the high water mark.

Mr. Walters: Uh, no.

Mr. Greenwood: Because that's the way it reads. That's the way I read it.

Mr. Walters: No. No, I don't think it reads that way. You locate outside of shoreline jurisdiction. You're supposed to locate outside of shoreline jurisdiction.

Mr. Greenwood: Okay.

Mr. Walters: If you're a parking lot, we just don't want you within 200 feet because parking lots don't really need to be within 200 feet.

Mr. Greenwood: But we already talked about that – that in many cases you do, and it doesn't have to be just for wheelchair situations. But it might be one where you've got a boat ramp, for example, and then you're 200 feet away with your parking and it may not be the most appropriate place. And, like I said, you've got a beach and a lagoon and you're on the spit, you know. Where are you going to put the parking? 200 feet up and around the corner, right? And it –

Mr. Walters: I think that's why there are more specific sections in other use sections of the code to address those. But as a general rule, you locate outside of shoreline jurisdiction if you can, and if you can't then you can locate inside. But you're still supposed to stay out of the buffers.

Mr. Greenwood: And it has to have a variance and it has to fit one of these three areas.

Mr. Walters: It doesn't. You don't have to have a variance –

Chair Lohman: But a lot of the area – a lot of the buffer is the same width.

Mr. Walters: So the buffers are not always the same distance.

Ms. Stevenson: Right.

Mr. Walters: So but if you want to locate within the buffer, then you can get a variance based on one of those three criteria. So the sequence is: stay out of jurisdiction entirely if you can. If not, then you can locate inside jurisdiction but outside the buffer. But if you want to locate inside the buffer you can if you get a variance based on those three criteria.

Mr. Greenwood: Oh. So what's the difference between the buffer and the jurisdiction then?

Mr. Walters: Ah! So the jurisdiction is 200 feet and then the buffers are the widths based on – let me bring those up.

Mr. Greenwood: What is a buffer width?

Ms. Stevenson: They vary, depending on the shoreline.

Mr. Greenwood: Okay.

Mr. Axthelm: That's what's confusing between – you've got the – it seems like you allow certain things under Recreational Development to allow the parking – let's say boat parking or fishermen parking or something like that. Yet then when you go to this Transportation and Parking it has more limitations that don't allow it and you have to go through the variance to get. But yet over here it seems like it allows it. So I can't tell you exactly which section, but it's a little confusing when you're showing it in both sections and have different regulations for the same thing, unless you exclude one from that but then it's even more confusing.

Mr. Greenwood: Also even just saying parking facilities in the shorelines are not a preferred use, that would be the case where you're talking about a parking structure, I'm thinking, like a car pooling parking scenario, but not one that –

Mr. Temples: Well, I'll give you a good example. A month ago I went to La Conner. They have brand new handicap parking right next to the water – I mean like 20, 30 feet at the most away from the water. So somehow that got approved and that went through.

Chair Lohman: If I may ____: Are all of you good to keep going a little bit longer to get to the end of the list? Or do you want to –

Mr. Greenwood: I'm kind of like Dave. I've got an early morning myself.

Ms. Candler: Yeah, we've still got four pages to get through. I'd prefer to adjourn.

Mr. Temples: Can we kind of officially wrap this section up so all we have left is the one – Utilities?

Mr. Walters: So shall we address what the buffer widths are before adjourning?

Chair Lohman: Yes.

Mr. Walters: So buffer widths are found in the critical areas ordinance in 14.24.530, and there's listed buffer widths there for the various shoreline area designations from 200 to 100 feet, but then those will need to be updated because it was the old list of designations. We have a new list. And then that buffer width table is for, like, in marine shorelines, and then you've got another one for streams and rivers based on water type, ranging from 50 feet to 200 feet; however, I think the 50 feet – the NS streams, those wouldn't be shoreline jurisdiction anyway so the 50-foot buffer wouldn't apply.

Mr. Axthelm: That's added in to the shoreline jurisdiction, right?

Mr. Walters: No. This is – you've got your shoreline jurisdiction of 200 feet. That's where the Plan applies at all. And then the buffer width is from the ordinary high water mark out and it never exceeds 200 feet. It's always within the 200.

Mr. Axthelm: Okay.

Ms. Ehlers: But it's still 200 feet, is it not? That's crucial.

Mr. Pernula: Not the buffers.

Mr. Walters: So there's a table in the critical areas ordinance with a range of buffer widths from 100 to 200 feet, unlike a marine shoreline. And 100 to 200 feet for water types.

Mr. Greenwood: So we're talking about the buffers around the critical areas as well as the shoreline itself? We're talking about any buffer then.

Mr. Walters: Right. There are also buffers on critical areas. If you have a critical area anywhere in the county you're going to have these same buffers, so that doesn't change as a result of the Shoreline Plan Update.

Mr. Greenwood: But this is talking about shoreline buffers, not critical areas buffers?

Mr. Walters: Right, because prior to our Shoreline Update – if we ever accomplish the Shoreline Update – we have to be applying both shoreline and critical areas. We have in the critical areas code some shoreline buffers already so you can go to the critical areas code and find the shoreline buffers.

Chair Lohman: All right, how about we can finish the Transportation, Parking, and Utilities and add some additional for next time? This is still – we're not – I don't feel like we're finished (with) this.

Mr. Greenwood: I know.

Ms. Candler: That's fine.

Mr. Greenwood: I'm fine with that, too, and then I can bring an example of a fill.

Chair Lohman: Okay. Okay, let's – so we're going to stop the work session on the Shoreline Master Program and we're going to move on on the agenda to Department Update.

Mr. Pernula: So I think I had mentioned a few things earlier in the meeting. Probably the most important thing coming up is the Bayview Ridge Community Meeting on June 26th, 6 to 8 p.m. Last year we had one on the Plan that was adopted in December and it was well attended. I think there was like 135 people there. It was very well attended. And these people are very interested in what happens.

The second thing, that DOT consultation is on the 18th. That's certainly not required by the Planning Commission. It's mostly technical stuff, but if you're interested you're certainly welcome to come.

We were talking earlier and I think staff is starting to get behind a little bit and we need a little bit of time to catch up. And it's our recommendation, since we haven't scheduled one yet, that we not have a second meeting in June, that we have our next meeting the regular first meeting in July.

Chair Lohman: I like that.

Mr. Meenaghan: Is that July 1st?

Mr. Pernula: Do you have the date of the July meeting?

Ms. Stevenson: Yes, it's on the – I wrote it down – the 1st, Tuesday, July 1st.

Mr. Pernula: And the only other thing was I was going bring up – maybe Kevin was going to bring up – the meeting tomorrow.

Mr. Meenaghan: Yeah, I was going to mention it but, yeah, dinner at 6:15, Skagit River Brewery. And if you guys tell me who's coming, that would be much appreciated – so I can kind of get a head count.

Ms. Candler: I'll be there.

Mr. Meenaghan: ___ in, Josh in, Tammy's in.

Mr. Greenwood: I'll be there.

Mr. Meenaghan: Good.

Mr. Pernula: I'll be there too.

Mr. Meenaghan: Thanks. Perfect.

Mr. Axthelm: And we're paying for our own? This is not necessarily a public meeting. We're not discussing anything.

Mr. Meenaghan: Correct.

Mr. Greenwood: We're not going to talk the job at all? Are you kidding me?

Mr. Walters: We advertised it, though.

Mr. Meenaghan: Yeah, I saw that.

Mr. Axthelm: I just want for the public to understand this is not a discussion meeting. We don't – this is just an opportunity for us to –

Mr. Pernula: Socialize primarily, yes. But we did advertise it.

Mr. Axthelm: Yeah, we don't want to talk about issues.

Mr. Pernula: We put notice on the door and we put notice on the door of the Skagit River Brewery and we put it on the listserv and so on.

Mr. Walters: So I have one other item.

Chair Lohman: Okay.

Mr. Walters: I wanted to correct something that I just said. The streams that are in the critical areas ordinance – the Type F, Type N streams – would not fall within shoreline jurisdiction.

Chair Lohman: Ryan? Because that's getting really technical –

Mr. Walters: I know but I just said it incorrectly so I wanted to correct it.

Chair Lohman: Okay. I think we need to readdress that.

Mr. Walters: Yeah. I think you'll find all the information you need in 14.26.405. There's a little table there that has all of that information. And the buffer width would be 200 feet for all streams within shoreline jurisdiction, smaller for lakes.

Chair Lohman: But I think we should hit that a second time.

Mr. Walters: Yeah. Let's cover it again next time. But check out that reference if you want those correct widths.

Chair Lohman: Okay, Planning Commissioner Update and Comments. Okay, I have two. The first one is I notice that our iMap, the County GIS's iMap, got voted the best online interactive map, or they won an award for that. And the people that worked on that were Janice Baird, Brian Young and John Holmes. And as a person that goes there a *lot*, I just wanted to say thank you and let them know that I noticed that and I really, really like that iMap feature and the GIS in general.

And I also wanted to let the video/audio recording crew in there know that we appreciate them also – because sometimes we don't say thank you. So Brian Young, Silver Vivanco, and David Lowrence, thank you for recording this and putting us out there. So that was all I had.

Mr. Axthelm: Now our meetings typically go up to nine o'clock or before that. Hopefully we're done by that time. Could we set up, like, let's say at ten till that we stop and ask everybody if they want to continue?

Chair Lohman: I agree. I admit I do not – I hadn't been looking at the clock.

Mr. Axthelm: And that gives the ten minutes for Dale. No, I didn't notice it either until he got up.

Chair Lohman: It's like whoa!

Mr. Axthelm: Yeah, it was quarter after.

Chair Lohman: Yeah, because you can get kind of sucked in.

Mr. Axthelm: So if we do go late, let's say at ten till, say Okay, do we continue or not? Is that appropriate?

Chair Lohman: So everybody can help watch the clock.

Mr. Axthelm: Or should it be earlier than that?

Chair Lohman: I think we should try not –

Mr. Greenwood: I think it's appropriate – definitely.

Ms. Candler: I think that's great.

Chair Lohman: Okay, move to adjourn, somebody?

Ms. Candler: I would so move.

Mr. Temples: Second.

Chair Lohman: (gavel) Okay, we're adjourned.