

**Skagit County Planning Commission  
Work Session: SMP Update  
March 3, 2015**

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

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

**Public Remarks**  
**Commenters:**       **Ellen Bynum, Friends of Skagit County**  
                              **Carol Ehlers**  
                              **Bill Henkel, Community Action of Skagit County**

Chair Josh Axthelm: (gavel) I call this meeting to order. It's Tuesday, March the 3<sup>rd</sup>, and we have all our Planning Commissioners in attendance it looks like. Oh, Amy. Amy's not present today. So we do have a quorum. If everybody will take a look at the agenda – and as is normal, we have the Public Remarks on the agenda. Just a reminder that you have three minutes. And we also have the Shoreline Master Plan Update – our work session for that – and then a Department Update. So we can go ahead and proceed with the Public Remarks.

Does anybody have any changes to the agenda – any comments or changes?

(silence)

Ellen Bynum: Good evening, Commissioners. Ellen Bynum, Friends of Skagit County. I'm bringing you information which, you know, as the messenger I am always reminded that it's not always good information but it's something that you need to know that people are concerned about because I'm hearing about it.

So we all know that RCW 36.70A.130(1) requires all cities and counties planning under GMA to do updates, and we know that cities and counties need to be in compliance with the GMA in order to receive grants and loans from certain state infrastructure programs. But the question has been coming up: What is required under public participation and what is inferred by the original language of public participation? So the Board has indicated that the Planning Commission will serve as the county's Update advisory committee in developing the 2016

Update proposal and – this is a quote from the website – “This will maximize efficiency of both time and resources and...help to ensure that the Planning Commission has ample opportunity to vet major elements of the...Update...” So and it goes on to say “As part of developing the” program, “the Department will hold work sessions with the Planning Commission on major topics...”

Well, SCC 14.08.070 – it’s called “Public participation requirements” – is not a public participation plan or a program. It’s a listing of all the things that are desired that the state has put in – that the County has put in because the state has it in the RCW, or that the County has come up with it. So absent – and the first part of that includes except “...exempted by this Section, the Board shall establish 1 or more CACs or TACs, as appropriate, to participate and assist in the” – quote – “initial development of Comp Plan elements, subarea plans and functional plans.”

Now I know this was instruction that was written for the initial writing of the Comp Plan. But absent any other instruction, do we assume that these instructions do not apply? That’s a question for you.

Staff, the County Administrator, and the BOCC have read this to be a direction for the *first* Comp Plan development only. We do not agree with the reading.

Let’s see, the other concerns are procedures for a citizen requesting a CAC or a TAC to be formed is delineated in this section. Friends of Skagit County has asked for a CAC to be formed and a TAC to be formed and we actually received no reply from the Board on that, nor have we received a reply from you guys because we said the same thing to you.

Keith Greenwood: Ellen, that’s three minutes, okay?

Ms. Bynum: Okay, sure. The exemption is – there is a section in there for exemption but it has to do with legal requirements or rulings by the Growth Management Hearings Board, not a lack of funding. So I was going to go into what do you want to do now and where do you want to go from here, but I can send you that. I also went back and looked at the checklist that the state gives to the County, and I don’t know if Dale can speak to whether they used that checklist to develop the program or not. It’s very concerning because there’s no public input to the checklist.

So those are some things I’m hearing. I’ll bring you more next time.

Mr. Greenwood: Thank you.

Carol Ehlers: Carol Ehlers, west Fidalgo Island. In several weeks you’re going to have another workshop, this one on transportation. It was a nice selection of handouts at the last one on housing, but I gather that none of you read those handouts before you were expected to have a discussion. That is disconcerting. It would be much better if you and the public – you being the Planning Commission – had access to those handouts – the information in it – *before* you had an open meeting, *before* you had discussions, *before* we had an analysis. Paul Schissler did an excellent job providing a government document he wasn’t even asked to present to you, and it would have been useful.

Now, transportation: The last time – and this is evidence for why you don’t have a committee – the last time SCOG convinced the committee that there was no reason for the transportation planning process to go through the County, that SCOG should have the County road fund, that

SCOG should make the decisions regarding County roads, and that there was no need to follow the RCW. Planning Commissioners caught that, as did Public Works staff, so I encourage you strongly to read the first couple of pages in your Comp Plan regarding transportation because we included the RCW so that there would be no question about what state law mandated.

Now in the years since, SCOG has tried to take over more and more of the planning because they have the planner, and there's an understandable relationship with that. Last fall a group of people persuaded me to join them in attending the transportation meetings of SCOG, and we raised the issue of public participation. Apparently Island County has no public participation in the development of their transportation plan. But Skagit, as you know, they develop the plan; there's a meeting a week beforehand; they actually meet with the public; they actually give the public the information – all of it – so that the public is in – who comes is entirely informed; and then a week later there's a hearing before you folks and the process continues. Apparently Island County doesn't do that. And there was a serious discussion in SCOG last fall as to whether Skagit County would follow the Island County process with no public input or whether they would follow the Skagit County process. There were a number of people who testified – it was a hearing – a number of people who testified before I did and the Mayor of Mount Vernon at one point said, Well, we have a City Council. And I – when it got my turn – I said we don't. You have – those of you in the incorporated areas have a process. Those of us in the county have no process. We go to the county Planning Commission. We need a public process. You can't decide how to spend all of this money for hundreds of sections of rural land without any input. And they finally agreed. They decided that they would keep the Skagit County process of allowing the public to have an input into how the road budget would be spent and for what.

Mr. Greenwood: That's three minutes, Carol. Thank you.

Ms. Ehlers: So we accomplished a lot through the Comp Plan. Please read it, pay attention to it, and particularly look at the CPPs, the County Planning Policies, because the ones that are in the Comp Plan are the legal ones. There are others that have been decided by the committee and never went to public hearing, but the Comp Plan has the legal CPPs in it. It's important. Thank you.

Mr. Greenwood: Thanks.

Bill Henkel: Hello, I'm Bill Henkel, Executive Director of Community Action of Skagit County. And I wanted to thank you all for accepting public input on your Comp Plan's Housing Element and hosting the open house that was just mentioned on February 17<sup>th</sup>. Because I was unable to attend, I just wanted to come tonight and thank you and add a few high level stats based on research just to put an exclamation point on them, and also to offer my support and Community Action's support as you look at that important Housing Element.

As you probably know from the February 17<sup>th</sup> workshop, affordable housing is consistently identified as the highest need and lowest availability amongst low income people in Skagit County. And, if you'd like, we have a – we do a pretty extensive community needs assessment every four years. We just did it in 2013. And that was again illustrated. The Skagit County Affordable Housing Strategy Interim Report prepared by Paul Schissler for the County Commissioners showed that the average renter in Skagit County needs a fulltime job paying \$17.70 an hour or 36,000 per year in order to afford the fair market rent on a local two-bedroom apartment, while the average renter earns only \$11.06 an hour. Again, I know that's a repetition but I just wanted to highlight that six-dollar gap means a lot of struggle, and it's a huge illustration of the need in Skagit County.

According to the HUD report that was prepared for Skagit County, as of July 2014 the rental market in Skagit County was pretty darn tight – 3.5%. In Anacortes/Mount Vernon that drops down to 2.8%. No permits were issued for multifamily construction in 2013 and only 51 units were issued permits from 2010 through 2013, according to that report and the U.S. census. And the estimated total addition to rental housing from 2000 to 2009 was 1,450 units, while the total change in our local renter household population at that same time period was 2,825. So there's a big gap.

Again, I know that you probably heard a lot of those stats February 17<sup>th</sup>. I just wanted to repeat those, highlight them, pledge my support in the process, if there's anything that I or we can do. I also prepared a letter and I don't know the best form – just to hand that off now or send it in. I'm happy to do either. But thank you again for paying attention to this critical issue. It needs a collaborative, communitywide approach so we appreciate your interest and your leadership. Thank you.

Chair Axthelm: Do you have the handout tonight?

Mr. Henkel: I'm sorry?

Mr. Greenwood: Do you have a letter?

Mr. Henkel: Yes, I do.

Kathy Mitchell: Do you mind spelling your name for us, please?

Mr. Henkel: H-e-n-k-e-l. It's also on the letter.

Ms. Mitchell: Thank you.

Mr. Henkel: Thank *you*.

Chair Axthelm: Any other public comments?

Annie Lohman: Are they going to give that to all of us?

Chair Axthelm: Yeah – Dale? Can you send a copy of that to all of us?

Dale Pernula: I'll send it to you. I'll scan it and send it to you by e-mail.

Chair Axthelm: Perfect. Thank you. Seeing no other public comment, we can move forward to the Shoreline Master Plan Update. Betsy, do you have an opening for that?

Betsy Stevenson: Sure. Thank you for being here tonight. I'm glad you came back. For some of you who are new and for those of us who don't remember very well anymore, I'm just going to do kind of a brief review of where we've been and where we're going on this, so bear with me for just a minute.

We've actually been working on the SMP Update since about 2011. It took us about six months or so to get our grants all in order and get the contract signed and get that work done in 2010, so we pretty much started in 2011. We held visioning workshops in Concrete and Lyman, Mount

Vernon and Anacortes at the beginning of the process with a facilitator and a person who's very good at that sort of work. Maybe some of you attended those meetings. I know it's a lot of sticky notes and things like that that we used but it was kind of a fun process the way that it all came together at the end. So it was interesting and it provided us some good information to start. It's something that we do need to keep going back to and making sure that we're still kind of looking at those things or figuring out reasons why maybe they have fallen out of the process somehow. But I think it's important to go back to it again.

The Commissioners also appointed a seven-person advisory committee that has been working with us and have come to several of your joint meetings over time. We haven't been active recently since we've gotten through about the second version of this with you, but they've been great to work with and I know they're still interested in what we're doing and how it's going. They accepted comments on the first working draft that we did in May and June of 2012. We held open houses in May and June of 2013 – again, Mount Vernon, Concrete, Anacortes, and Lyman – to kind of talk about the Shoreline Master Program, look at some of the maps, and really interact in a one-on-one basis with people who came to those meetings.

You have had two rounds of study sessions with us. The first time, which was with a very pretty much draft document that we got into in some detail; the second time around – again, I didn't count up the number of study sessions because it was going to make me tired, but the second time around we had done quite a bit of work on it and you guys gave us some pretty good feedback and comments on all of that. And so now this is the third time back and we're hoping that we've incorporated your comments and it's getting better each time we do this, but we're still kind of hoping this might be the last time before we have our release document ready to go out for public comment and then public hearings before you.

So that's kind of where we are now. I kind of went through the process going forward a little bit. We are bringing some things to you that we hope were – weren't too controversial the last time, didn't have a whole lot of changes, at least that we remembered, or comments that you guys had, and then did some work on some other sections. We've tried to organize things and make the sections a little bit more consistent as far as the format and reading through it so that it won't be as hard for people to kind of figure out what they need to look at and get through, so that we're hoping as we go through it – I think we have at least two meetings scheduled – this one and then one later in April – that you guys will have time to take a look at it, write down your comments however you do that, and then bring them to the meeting. If it's housekeeping, you find errors that we need to correct, you can e-mail those to me. But discussion items, make sure that you make note of them somehow – whatever works for you – and if you want to send them to me ahead of time, great, but otherwise just come kind of ready to go through that. So that's where we're going to kind of start tonight.

The rest of the document, which is still a pretty big section that we will have before you later in April is going to be the use and modification, so kind of the meat of the whole thing, and you're going to get all of that. So I'm hoping that as we work through it we can get it to you more than a week ahead of the meeting because there's going to be a lot of information there. We're hoping we got it right this time and that there won't be too many changes that you need, but you're still going to need the time to go through it and it's going to be quite a bit. We'll get the definitions to you, too. We just need to clean them up a little bit more and make sure that we've excluded all the things that aren't actually in this Program. We kind of included everything that was in the previous Shoreline Master Program and there are some things that were defined that just don't exist here, so we need to do some more searching and looking at that and clean it up a little bit. But we can get that out to you, too.

I guess that's kind of all I have in the way of an introduction. If you have any questions or comments that you want to make at this point before we just jump right in...

Mr. Greenwood: I was just wondering if going forward if it's preferred that we give you some feedback ahead of time so that you can ruminate on them, I guess, before? Because I didn't have enough time, I think, to do a whole lot.

Ms. Stevenson: No, I don't –

Mr. Greenwood: Okay.

Ms. Stevenson: Just come prepared for the meeting. If you want to or you feel like there's something that you want to talk about ahead of time or any of that kind of stuff, feel free to do that. But no, we've been doing it long enough that I think we're getting a little better, and I'm not afraid to say I don't know and I'll have to get back to you, too.

Mr. Greenwood: Okay, sure.

Ms. Stevenson: But no, that's not a problem at all. But thank you for asking. I appreciate that. So anything else?

(silence)

Ms. Stevenson: Okay. Jumping right into it, the first section that we gave you was Part II, I think. Well, maybe we didn't give it to you because we didn't make very many – yeah, we did. We didn't make too many changes. Basically about the only change that we really made here is that we had the environment designations' descriptions there, which was a few more pages of information for each of the different aquatic, natural, rural conservancy, urban conservancy, and shoreline residential. It was the exact same language that was in the Policy section at the beginning, so we just took it out of the development regulations and it's still in the Policy part of the document that will go under the Comprehensive Plan.

Mr. Greenwood: And the jurisdiction portion is in another place now? Is that correct?

Ryan Walters: Part I.

Ms. Stevenson: Yes.

Mr. Walters: Right at the beginning of the development regulations. The other thing about Part II, as you'll see on page 6, is we reserved sections for each of the environment designations. So if you did need to have some regulation that affected all uses in, say, the aquatic environment designation, that would be where you'd put it. But at the moment we have no regulations that are specific to an environment designation. They're all use-specific regulations. So there's nothing actually in those sections but we reserved them in case we need them later.

Ms. Lohman: And then you added the – excuse me. Sorry! You added the boundary line determination. Because when I went back and looked at the old, I found a note that said we were going to move it. I saw that. That did happen.

Mr. Walters: Yeah, that's certainly not new but may be new to the section.

Ms. Lohman: New to the section.

Mr. Walters: I think it might previously have been in 7.

Ms. Lohman: It was in old 14.26.200. But it was in a different – it wasn't with this.

Chair Axthelm: So as far as this section here, do you want to – I think if we just go down through and see if anybody has any comments, and then double-check?

Mr. Greenwood: Just do it page by page or –

Chair Axthelm: Yep. That sounds good to me. Does that work for everybody? All right, so let's – yeah, this is a relatively short section. Why don't we just cover the whole section? Part II – Matt, do you want to start?

Matt Mahaffie: No, thanks.

Chair Axthelm: Robert?

Robert Temples: Are you going part by part or how are you?

Chair Axthelm: Just Part II so the whole.

Mr. Temples: Oh, on Part II?

Chair Axthelm: Yep. \_\_\_ all the way through page 6.

Mr. Temples: I don't have anything at this time.

Chair Axthelm: Annie?

Ms. Lohman: I didn't see anything that leaped out.

Chair Axthelm: Kevin?

Kevin Meenaghan: So the part of this that we pulled out and is going to go into 6B, we're not seeing 6B yet, right?

Mr. Walters: It's already in 6B.

Mr. Meenaghan: Oh, it is? Okay.

Mr. Walters: What we realized sort of later on in the last round of this revisions is that it was just all duplicate.

Mr. Meenaghan: It was duped? Okay. Awesome. Perfect.

Mr. Greenwood: Just like to note that one of the changes under 14.26.220, Boundary line determination: It was changed from, I believe, from "must" to "may." "The Administrative Official may resolve the uncertainty by applying the environment designation criteria in the following." Is

that what you intended? Because I noted that that's good. I think it's a good change, if that's what you intended. Knowing that must and shall – and they are important to Ryan.

Mr. Walters: I assume we intended that.

Ms. Stevenson: Yes, we did.

Mr. Greenwood: Okay.

Mr. Walters: I don't recall why.

Ms. Stevenson: He didn't ask why.

Mr. Greenwood: You don't like ambiguity, do you?

Mr. Walters: No. It results in argument. The last line there in .220, I just noticed, doesn't have a number. We will give that a number.

Ms. Lohman: What was that?

Mr. Walters: The last line – “Where resolution is not possible...” We would give that a number.

Mr. Temples: Like (2)?

Mr. Walters: Yeah.

Mr. Greenwood: I just thought it was a closing statement.

Ms. Lohman: I did too!

Mr. Walters: It, in fact, is possible that when Betsy copied this out she lost the number.

Ms. Stevenson: The error message just came up. I added a bunch of them back in because I did notice it, but that could very easily be the case for sure.

Mr. Greenwood: That's all I had on that section.

Chair Axthelm: Kathy?

Ms. Mitchell: Yeah, if you could just quickly explain the bit about the boundary for the laymen people who are not used to seeing those. I understand, you know, when you meet a road it's usually down the middle and edges and that kind of thing. But when there's mapping errors, it says at the end “may use environmental designation criteria.” How exactly do they do that?

Mr. Walters: Well, so there is a map. The map delineates in the environment designations. And if the line appears to follow a parcel boundary – which is (b) there – but someone has some dispute over whether it's here or it's here, then the Administrative Official would be able to say, Hey, it appears to follow the parcel boundary so wherever the parcel boundary is that's where we're going to call it. And that's sort of the same thinking on each of these. If it appears to follow the centerline of a street, then he would say it follows the centerline of the street. And each of these others.

Ms. Mitchell: So you're following pretty much like the Boundary Review Board people would do – whatever would be the natural, whether it's structure –

Mr. Walters: Well, I can't speak to what they do.

Ms. Mitchell: Okay.

Mr. Walters: I mean, the idea is logical boundaries would be followed.

Ms. Stevenson: Yeah. And the shoreline environment designations describe kind of what you expect to find in that shoreline area, whether it's a high density residential with small lots or whether it's a very natural area. So I think that that allows you to apply that criteria if, in fact, you can't necessarily tell where the boundary is. I think that's what it says, if that's what you were asking.

Ms. Mitchell: Yes. Thank you.

Chair Axthelm: Tammy?

Tammy Candler: I don't have anything other than – I'm sure Betsy's already dealing with the page numbers. I don't have anything else.

Ms. Lohman: Josh, I have a –

Chair Axthelm: First I have a question. Oh, well! I'll get back to you in a second.

Ms. Lohman: Oh, sorry.

Chair Axthelm: The only confusion I have is making sure – maybe I'm thinking, too, \_\_\_\_ boundary line determination, that that's specific to the shoreline, right?

Ms. Stevenson: Yes.

Mr. Walters: All of this is.

Ms. Stevenson: Yes.

Chair Axthelm: Okay. That's pretty clear through the document legally. And then – I think that works. Okay. So let's go back through and just make sure if anybody else had any follow-up comments. Matt? Robert? Annie?

Ms. Lohman: Sorry. I don't play well with others, apparently. On page 6 where it has the list of the designations themselves, we were going to go back and review those again, right? Or is this the time?

Ms. Stevenson: No. Ryan mentioned that we're just going to keep those reserved in case there are any kinds of development regulations for specifically that entire shoreline designation, rather than by the use or the shoreline modification, which is where a lot of that is happening. We just reserved it in case we need to put something there.

Ms. Lohman: So there is no language.

Ms. Stevenson: It's all in the policies, which you've looked at and gone through.

Ms. Lohman: Okay.

Ms. Stevenson: You can get them and get – you'll get the whole document again so you will be able to see them, but we weren't planning on going through it again. Is there something specific that you wanted to look at, just so that we can make a note?

Ms. Lohman: Maybe I'm not wording my question quite right. I have about six different questions. Is this list – it's still in the Comp Plan language then?

Ms. Stevenson: Yes.

Ms. Lohman: Okay.

Chair Axthelm: Kevin?

(silence)

Chair Axthelm: Keith?

Mr. Greenwood: No, I'm fine.

Chair Axthelm: Kathy?

Ms. Mitchell: No, thank you.

Chair Axthelm: Tammy?

Ms. Candler: (unintelligible)

Chair Axthelm: Okay, let's move on. If that's okay with the Commissioners, we'll move on to the next section.

Ms. Stevenson: Okay, so the next section is section III, which are the – or Part III, the General Regulations. Just kind of going back to the memo to look at briefly and, you know, Ryan, jump in if you want to wherever you want to. We did add an Applicability section to make it more consistent with the layout of the rest of the document and found that a lot of the information does kind of apply to just about everything, so we laid that out a little bit differently. We made some changes to the Dimensional Standards and the General Provisions just as far as where they are – moved some other things around, as the memo says. The Guemes Island Planning Advisory Committee, who has come before you and has had several meetings with us to talk about things that they wanted specific to Guemes, we've had additional follow-up discussions with them and this was the first place that they felt that they could have some of their Subarea Plan requirements implemented and put into other programs with the County. But now I think we've all agreed that it would be best if we go ahead and do that through all of it rather than just our Shoreline Program and do that as part of the Comprehensive Plan Update with those development regulations and put it in not just for shoreline areas, if that makes sense. That's the long way around!

Mr. Walters: So there used to be a little chart, a diagram, in here on what the Guemes Island Subarea Plan wanted for setbacks, and we took that out and that will be in the Comp Plan Update. The Board-authorized scope for the Comp Plan Update has some stuff for Guemes Island Subarea Plan implementation and it'll be in with that. The alternative would be to leave it in here, but that would mean that if you ever wanted to change it you would need Ecology's okay. They want it to apply to the whole island anyway so it doesn't really make sense to have it be in the Shoreline Plan.

The one other thing I would say about what Betsy's already covered is that the Applicability section – we did find that all over this document there were many references to no net loss of ecological functions in the shoreline area, and in my view we don't need to say that in every single section. So what we were trying to do is say it up front – no net loss of ecological functions – and then we're trying to take it out of all the other sections where it says that. So you'll see that right there in the Applicability section at the beginning of 300.

Chair Axthelm: Okay.

Ms. Stevenson: Go ahead. Do you want to keep going?

Mr. Walters: No. That's all I have to add at this point.

Ms. Stevenson: Okay. I'm just going to finish going through the memo and then you guys can ask whatever questions, if that works okay. And if you want to do it differently, just stop me and start your conversation. The section 340 was Environmental Protection. To add on to what Ryan said a little bit, a lot of that information – using the mitigation sequencing process and providing mitigation and how you're going to do that – kept coming up a lot in all the other sections, so we thought it made more sense to include it here rather than have a whole separate section because it does apply everywhere. So that section, I think – yeah – will be beefed up in the critical areas ordinance a bit and add something. Some of it is already in there and we'll add any of the other things that maybe weren't. So it still is included, but most of the things that kept coming up in every section, like Ryan mentioned, we put in the Applicability section in 300.

Mr. Walters: Well, I think we found that most of what was in the old 340, Environmental Protection, was already in the critical areas ordinance.

Ms. Stevenson: Right.

Mr. Walters: So we didn't need that duplication.

Ms. Stevenson: Right. Okay. We also felt that it might be important to continue to have an Outdoor Advertising and Sign section, which we hadn't included before. There is one in the existing Shoreline Program. So we've added that here and we just used what is in our existing Shoreline Program because it seems to work. And you guys can take a look at that and that's new. You haven't reviewed that before, so that's in here as well. And then under 370, Public Access, and 380, Vegetation Conservation, we still need to do some more work on that. There were quite a few comments and we're still trying to make that flow and try to get that right, so we're going to keep working on that a little bit.

And basically the next section in is divided into General Provisions for upland development landward of the ordinary high water mark, and then the next section is General Provisions that

are applicable waterward of the ordinary high water mark. So if you've got thoughts – you're all looking and moving pages around. Let's take a minute to think and offer comments or questions before we go any further. Maybe that'll help.

Chair Axthelm: Any general comments from the Commissioners? Robert?

Mr. Temples: Betsy, I got – I've been going through this briefly. I'm not trying to wordsmith the whole thing, but I'm seeing a logical setup of this which is much easier to follow than what I've seen in some of the other documents before. So I'm sort of throwing a compliment out there. And there may be others that feel the same way or not. I don't know.

Mr. Walters: We'll take it.

Ms. Stevenson: Yeah – no kidding. Thank you. Actually it helped us, too.

Ms. Lohman: Maybe for the next memo, when it's the old number can you just put in parentheses "old"? Like, for example, the Environmental Protection section 14.26.340 – that's been replaced with something else – so that we know that that's no longer valid? I figured it out, but it is a little bit confusing.

Ms. Stevenson: Okay.

Ms. Lohman: So if you're going to strike and replace it with something, if you could just kind of say that that happened?

Ms. Stevenson: Yeah.

Mr. Temples: What about showing both?

Ms. Lohman: Because, for example, the Public Access chapter got – that number got repurposed –

Ms. Stevenson: Right.

Ms. Lohman: – with something else.

Ms. Stevenson: Yeah, I think that once we delete it out of there it automatically readjusts and renumbers as we're going, so – but there isn't any reason why in the memo we can't say, you know, that was deleted and that was the old number for that, and now it's Archaeological.

Ms. Lohman: Because if you were to read it and you're looking for 14.26.340, Environmental Protection, well, it's not.

Ms. Stevenson: Right.

Mr. Temples: I'm just thinking instead of just saying "old," you could just simply show a strikethrough and the new number. And then maybe the next time this gets re-reviewed we could take that out of – take the scratched out part of it out of it at that point because it's been, you know, already shown and demonstrated. I mean it's being changed. It's a changed document.

Ms. Stevenson: Okay. We can just make that a little clearer that we deleted the entire section and it's gone, and it was 340 and that's now been – that number has now been given to whatever the section is that it's been given to. Because I'm sure it'll probably happen again.

Chair Axthelm: Okay. \_\_\_ go ahead and go down the line. Kathy? Any general comments? We'll go through this \_\_. Kathy?

Ms. Mitchell: A couple points: Off of that one, just it would be helpful. That way we can see what the old language is versus the new – and I'm reinforcing the strikethrough thing. It might keep some of us from asking the same questions over and over going through history, because I'm sure what I'm going to ask you next you've already hit before, but I'd like to know. Under section III, you have under Applicability the number (2). It says "No Net Loss of Ecological Functions. Uses and developments on shorelines must be designed, located, sized, constructed, and maintained to achieve no net loss of shoreline ecological functions necessary to sustain shoreline natural resources." And I realize you're working on definitions, but I've looked and tried to find definitions or information that we're using for this kind of stuff that makes sense for No Net Loss and Ecological Functions, and I've got to tell you I still am confused on what's being looked for and what's being expected specifically, I guess, for our county, maybe versus other counties, or if this is a top-down thing where there's a grander definition. And so I'd really like some help with that, please.

Chair Axthelm: So just general comments and then we'll go through that section – so just general comments on this, then we'll go back through the whole thing.

Ms. Candler: Okay. On – well, there's, I think, like an extra space in 300, part (2).

Ms. Stevenson: Yep. Thank you.

Ms. Candler: But I noticed – is Part I going to be the definitions? Or what is Part I?

Ms. Stevenson and Mr. Walters: Part VIII.

Ms. Candler: Okay, so what's Part I?

Mr. Walters: Part I was Jurisdiction.

Ms. Candler: Okay. So I'm wondering – and it's probably elsewhere everywhere – but we go straight into saying – using the acronym for ordinary high water mark instead of spelling it out anywhere. Is that because of it referenced prior to this whole section, or should we put it in there early on?

Mr. Walters: The definitions will be in Part VIII which is at the last part, the end of the document.

Ms. Candler: But that's –

Mr. Walters: When you see the code online, there are hover definitions for all defined terms so you can see a dotted line underneath any definition and mouse over them and get the definition.

Ms. Candler: But I'm not really talking about a definition. I'm talking about spelling it out rather than using the acronym. Do you know where –

Mr. Walters: We – oh, Betsy reminds me we have a guide to acronyms at the beginning.

Ms. Candler: Okay. And where will that be? That'll be at the beginning of 200 or –

Mr. Walters: This is at the beginning of the –

Ms. Stevenson: The whole thing.

Mr. Walters: It's at the beginning of the document, the Master Plan as a document. It's not at the beginning of the development regulations. It's before the Policies.

Ms. Candler: Okay.

Mr. Walters: And also OHWM we decided to abbreviate rather than spell out simply because it's so long and so commonly used.

Ms. Candler: I think it's a good idea. I just didn't know where it was first referenced, I guess.

Ms. Stevenson: Right. We should give you the parts that we didn't think needed to be changed, too, so by the time we're done you have the whole thing. That makes sense.

Ms. Candler: Well, and I have the old one but I think this is already pretty out of date.

Ms. Stevenson: Okay.

Ms. Candler: I think.

Mr. Greenwood: What date do you have on yours?

Ms. Candler: Well, this is January 14, but it's already been –

Mr. Greenwood: What year?

Ms. Candler: 14.

Mr. Greenwood: Oh. That's a better one than I have.

Ms. Stevenson: February 4 was the most recent release that we kind of gave you guys a whole new \_\_\_\_\_, both 2014.

Ms. Candler: No, that's good. That's helpful.

Ms. Stevenson: Thank you. That'll help.

Ms. Candler: So that answers my question. Thanks.

Chair Axthelm: It seems to be working well to just go through the Commissioners and get their comments. I'd suggest that we start at it like section 300 – just pick a section and then skip to the next section after we run through comments. Is that enough or do you want to cover more sections?

Mr. Greenwood: That works for me. That way we can go through it quicker.

Chair Axthelm: So I've gone through twice before. Does that work, or should we go ahead and just go – just ask if anybody else has any more comments after the first round?

Ms. Mitchell: Let's do that.

Mr. Greenwood: I like that idea.

Chair Axthelm: Okay. If there's a lot of people having more comments then we'll go back through it again. So let's just start out with – let's go (to) Tammy this time.

Ms. Candler: I don't have anything else.

Ms. Stevenson: So I'm sorry. What section are you talking about? Or are you talking about the whole thing?

Chair Axthelm: Sorry – section 300, Applicability.

Ms. Stevenson: I'm sorry.

Ms. Candler: I don't have anything else.

Chair Axthelm: Kathy, any more comments?

Ms. Mitchell: Under the section that says 14.26.310, General Provisions, number (2). It says "Design features for compatibility. Shoreline use and development must be designed to complement the character and setting of the property, minimize noise and glare, and avoid impacts to view corridors, where feasible." And I know view corridors comes up again later. Is this our language that we've worked on before for County, or is this –

Ms. Lohman: What page are you on?

Several voices: Page 8.

Ms. Mitchell: Page 8 – sorry, Annie. Is this something that's already been honed down to this, is my question to start with.

Ms. Stevenson: Yes.

Chair Axthelm: Kathy, did you get we were just covering Applicability at this point? Okay.

Mr. Walters: Okay, so I imagine that this has its genesis in a WAC. It sounds WAC-Y.

Chair Axthelm: Okay.

Ms. Mitchell: Yeah, that's kind of what I'm wondering, is if this is being passed down or if we're voluntarily saying this is what we would like to have.

Mr. Walters: Most of the time you'll see parentheses or brackets with WAC citations, which are just internal notes for us. And there isn't one on this paragraph but I bet it's in the WAC.

Chair Axthelm: Kathy, anything else?

Mr. Greenwood: Annie has a burning question, I can see. She'd like to go ahead of me.

Ms. Lohman: No, I'm good.

Mr. Greenwood: All right. I don't want to distract you. I struggled a little bit with – no, actually a lot – with element (3) of Applicability where it says, and I'll just read it: "Uses and developments must not have an unmitigated significant adverse impact on other shoreline uses," which is a takeoff of (2) which is talking about no net loss of shoreline ecological functions necessary to sustain shoreline natural resources. Now I found – I looked at the WAC reference, both of them, and I found that the reference to uses is pretty subtle and a little bit – I think – obscure. I think it's – it would be okay if that's really what we intend, but I think we should – the only one that really referenced uses at all – all the rest of them were shoreline ecological functions or natural resources and so – is 173-26-186(8). That was the only one that talked about uses, mitigating for no net reduction in uses. I think it's an obscure reference and the interpretation has consequences. Does that mean that all other uses will receive equal protection? And I'm thinking of an example that came up recently where there's a project being proposed for restoration, and that would mean then that the existing uses in that reach of the stream being restored would reap benefit or call for equal protection. And I think what we're looking at – in all the other references it's talking about ecological functions, not so much equal protection of all uses. So I just want to look at that a little bit more in depth and make sure that we want – we're saying what we want to say there. Okay, so uses is one thing and has a definition, and functions is another. So I don't know. It doesn't have to be solved right now but I want you to look at that a little bit more closely, because when I read 173-26-201 I don't see uses identified at all. And I could read the section for you that talks about uses but it talks about functions and then has a slash and then says uses. So I think they're pointing more towards habitat and ecological functions. But if you want uses to get equal protection then I think it has some ramifications throughout the document and the code. So I don't need an answer now. I just – maybe look that up when you get a chance.

Mr. Walters: Did you say that you see functions-slash-uses in the WAC?

Mr. Greenwood: Yes, in 173-26-186. It might be another word attached to uses but – it's at the very end.

Mr. Walters: In 186?

Mr. Greenwood: Yes, 186(8) and it's down towards the bottom. I can look it up. *Maybe* I can look it up. I was looking at marijuana most recently so that's not going to help me.

Mr. Walters: Oh, "functions and/or uses." So the WAC says "Local master programs shall evaluate and consider cumulative impacts of reasonably foreseeable future development on shoreline ecological functions and other shoreline functions fostered by the policy goals of the act. To ensure no net loss of ecological functions and protection of other shoreline functions and/or uses, master programs shall contain policies, programs, and regulations that address adverse cumulative impacts..."

Mr. Greenwood: So that's the only place I've seen in their discussion of no net loss where they talk about "and other uses." So are you thinking then that's because it's talking about cumulative

impacts of your project, as opposed to the entire Program? Or did you see that somewhere else?

Mr. Walters: This line should be – based on its location, it should be in reference to a particular development, not the Program as a whole.

Chair Axthelm: You're saying *should* protect other uses?

Mr. Greenwood: I think it should. I mean, as stated it will. Yeah, go ahead, Matt.

Mr. Mahaffie: I just think you're hung up on uses and they've addressed it as a development. And I don't think it really has anything to do as a WAC – that they brought the uses and developments in to address what was required.

Mr. Greenwood: They use that as the supporting documentation in code language.

Mr. Mahaffie: Yeah, but the uses they're using isn't referencing that. It's aquaculture as a use. You can't not mitigate for those impacts. It's not – I don't see it as a pre-existing use as related to a function like you're looking at it, I don't think.

Chair Axthelm: Betsy? Ryan? Are you guys in agreement?

Ms. Stevenson: I agree with what Matt is suggesting. I'm not sure that I'm – I wrote down what you said and I'm going to have to think about it before I necessarily understand if you're thinking "use" means something different.

Mr. Greenwood: Well, if you're citing the use and it doesn't pertain to that code language that we've used as a reference, then strike that supporting code reference. Or maybe I'm just reading the code reference incorrectly – is that what you're thinking? – which could be the case.

Mr. Walters: I have some recollection that possibly number (2) and number (3) were one paragraph in a previous edition of the Shoreline Master Plan. Do you have that recollection, Betsy? And I think that might be why there's only a citation at the end of (3) and not one at the end of (2). I think we separated them because one is about ecological functions and the other one doesn't mention ecological functions. And actually – so, especially looking at this code reference here, it looks like this reference really supports (2), and maybe (3) is not very well supported by the WAC or required by the WAC. So I think what we'll do there is take (3) and see if it's necessary. It may not be necessary.

Mr. Greenwood: And it may reference just what Matt's talking about. Maybe just clarify what Matt's referring to, which would be the cumulative effects analysis of your project needs to address its impact on other uses.

Ms. Lohman: Well, when you were speaking, the thing that popped into my brain was impacts to maybe an existing drainage facility. You don't want to impact that – an adverse impact. Is that what you're imagining?

Mr. Greenwood: I'm imagining that. I'm imagining a redirection of a river channel to restore some ecological functions from a perceived environmental benefit. But those other uses that could be affected by it have to be mitigated for. So you can't have an unmitigated effect just because you've got a good project. That's what I'm looking for, is to make sure that not only the

ecological functions are protected but the other uses are protected as well. And if that's what we're intending, I'm okay.

Ms. Stevenson: I think that's what that says so – somehow it's not –

Ms. Lohman: I think we're stumbling on the WAC references because –

Mr. Greenwood: That was my biggest problem, was that when I looked for the support I didn't find the support for that language.

Ms. Stevenson: Okay.

Mr. Walters: I don't see it immediately either, but I do think the WAC reference goes with (2), not (3).

Mr. Greenwood: I think you're right.

Mr. Walters: And also remember that the WAC, all these bracketed, parentheses WAC references go away from the final document.

Chair Axthelm: Okay, anything more?

Mr. Greenwood: No, I'm fine on this section.

Chair Axthelm: Kevin?

Ms. Lohman: I just generally – and I know that it's mandated from top down but I still struggle with the no net loss of ecological functions because I almost feel like we're all set up to fail, because it means none and –

Mr. Walters: Well, it means no *net*.

Ms. Lohman: Yeah, but it could be – I'm not sure how we're going to measure net. And so I just wanted to say that up front that I'm struggling with that concept that's overarching this whole thing.

Ms. Stevenson: Okay. Very early on in the process we had the consultants come in and talk about the analysis report they'd written, and there's some kind of baseline information that we're supposed to be kind of going from and we will be measuring and keeping track. We've kind of set up a tracking system that we're kind of working the bugs out as this – after this gets adopted. So we keep track of development that happens and mitigation that happens and restoration and all those things and we are required to kind of report that and make sure that what we've done is going to work. We have to prove that with our – you know, as we keep going and as we do our next update. Is it working or isn't it? Do we have to change all of that or is it going to be okay?

Ms. Lohman: And I realize all that.

Ms. Stevenson: Oh, okay.

Ms. Lohman: But I – also, further on in the packet you talk about the County’s obligation to monitor, and the applicability of the shoreline overlay, basically, is 200 feet wide, right? Well, the majority of it is taken up with buffers in certain areas, but yet the County is required to be monitoring the area that is not in the critical area or in that shoreline buffer, and so I’m thinking, Well, where in the world would you be monitoring? And you have to measure – you’re outside of the buffer and you’re outside of the critical area, so you’re monitoring a really tiny spot and I’m wondering how in the world are we going to not have any no net loss? And so I’m just – it’s just an observation that I’m concerned about if we can actually do it.

Chair Axthelm: I think it comes to an understanding of what no net loss is. Because if we understand the no net loss doesn’t mean there won’t be some loss on some levels. Is that correct, Betsy?

Ms. Stevenson: Yes.

Chair Axthelm: And so – and understanding of that on both sides is that one side has to accept, you know, you do something it’s going to impact the environment. But what’s acceptable?

Mr. Walters: And it goes on to say “No net loss of shoreline ecological function necessary to sustain shoreline natural resources.” So development within shoreline jurisdiction but outside of the buffer may have no negative effect on shoreline natural resources.

Ms. Lohman: May.

Mr. Walters: If it did, then that would be a – then that would be a problem.

Ms. Lohman: But I just think it’s kind of the elephant in the room that we need to recognize.

Chair Axthelm: Robert?

Mr. Temples: Well, I sort of agree with Annie but by the same token I’m going there’s a lot of impact on our environment that is sometimes not documented at this point in time as human involvement affecting the ecology of our oceans and our beaches and our shorelines. And when, again, you say “no net loss,” well, we’re losing literally millions and millions of starfish right now because they’re being affected by something that they’ve been unable to determine what they’re going to do to counter it. We don’t know. So there’s sometimes bigger pictures here than – and the term “no net loss” sounds good. I don’t know how attainable it is, how you document it and verify it. That’s my only comment.

Mr. Walters: And we have some in Part VII, right? Part VII has some stuff on the monitoring that we need to do as part of it.

Mr. Temples: Well, what are they monitoring? Are they monitoring the rivers, the bays?

Chair Axthelm: Let’s cover that in Part VII.

Mr. Temples: Yeah, but what is monitoring?

Mr. Walters: Yeah, I guess we’ll get to that. We’ll get to that later, but we do have some of that information in our monitoring section.

Mr. Temples: Okay.

Mr. Walters: And remember it's just the shoreline. It's not the entire aquatic environment.

Chair Axthelm: Okay. So I have a couple questions. One was on number (3) where it has "Uses and developments must not have an unmitigated significant adverse impact..." So are there uses that allow – that don't require mitigation? So that would automatically say they have to be – you can't do that. Everything has to be mitigated for.

Ms. Stevenson: I'm not sure that's what that says.

Chair Axthelm: I understand, just – I'll play Devil's Advocate here: That's how it reads to me. I understand what you're saying but somebody could take it that way – that you have to always do something.

Ms. Stevenson: If you meet all the requirements and you stay outside the buffers and you don't mess with the buffer at all when you do your development, there is a potential that you wouldn't necessarily be required to do any kind of mitigation. Okay?

Chair Axthelm: And that's where that statement almost pushes for the mitigation as has to be because it's must – or must not.

Mr. Walters: Well, also it could be if you were a single-family dwelling. Can't require a substantial development permit.

Chair Axthelm: And then that and – does Tammy have something to add to that?

Ms. Candler: Well, I was just wondering if that's – I mean, I'm assuming that what you're talking about is staying back from the setbacks and everything would be deemed as not having an adverse impact and that's why you don't read it the way Josh was saying? They're just – I guess I'm wondering.

Chair Axthelm: It's just a project requiring mitigation. Some projects may not require that or allow it without it.

Ms. Stevenson: Right. They may not require mitigation. It depends on the project, the location, the design – all that sort of thing. It's not automatic that just because you want to do something that mitigation is required. Somebody has to determine first that there's an impact.

Chair Axthelm: Okay.

Mr. Greenwood: And it's significant, too. Right? There's a lot of references to significant adverse impacts probably throughout the code. I'm sure it's defined. I've seen it defined in other locales, but significant adverse impact is part of the SEPA checklist that you go through: Are you having a significant adverse impact on this? Are you having it on that? Right?

Ms. Stevenson: I guess I see the way that you're reading this, Josh. I think I'm catching on now. It takes me a while sometimes. I'm kind of trying to –

Chair Axthelm: And it goes both ways, because some things read a certain way and take advantage that the taxpayer or the homeowner or the developer, so you have to – I just think that that could be a confusing situation.

Ms. Stevenson: Okay. So maybe there's a better way to word that sentence. We can take a look at that a little bit and see if we can make it clearer somehow.

Chair Axthelm: Actually I think that's – that's all I've got. Any other comments, Tammy?

Ms. Candler: I'm okay.

Chair Axthelm: Matt?

Mr. Mahaffie: Maybe just to help you wrap your mind around it \_\_\_\_\_. When you say "unmitigated," I always kind of tell people the mitigation sequence *is* mitigation, so your first step is avoidance. So you've got 150-foot buffer, you build your house at 155 feet. You've avoided impacts. That *is* mitigation. So you might not have to do anything but it still could be defined as mitigation. Does that maybe help you wrap your mind around it a little bit?

Chair Axthelm: Okay. And that's the way the code reads otherwise, too. It does not –

Mr. Mahaffie: The mitigation sequence, you know, it's a step. Step by step you go down. Avoid is always number one, and every jurisdiction uses a similar variation of it.

Chair Axthelm: Okay. So it doesn't require something more necessarily.

Mr. Mahaffie: Yeah. Yeah, you know, actual planting for mitigation might be, you know, farther down – number four, you know, you get to. Mitigation can mean a lot of different things. Just avoiding certain things can be mitigation.

Chair Axthelm: Okay.

Mr. Meenaghan: That's a great explanation. Is that checklist somewhere?

Mr. Greenwood: It's in our code.

Ms. Stevenson: Yeah, it's in the critical areas ordinance.

Mr. Meenaghan: Is it in the code?

Ms. Stevenson: Yeah.

Chair Axthelm: Okay. Should we move on to the next section?

Mr. Greenwood: Did you have anything else? I'm sorry. Josh, were you done?

Chair Axthelm: I'm done.

Mr. Greenwood: Oh, okay. I was just going to say that on that section that "no net loss" is not a new definition or a new standard that we're held to, is it? I think it's been there since we've done the Shoreline. There might be confusion about it but there's a pretty lengthy description of no

net loss in Ecology's guidance documents. I don't remember if it's in – what part of the WAC. But that doesn't make it easy necessarily, but it does say if you come up – if I remember correctly – you come up with an approved master program then they're going to say that you've achieved it as you report to us by following a plan, if I remember correctly. So I think if you look up their definition I think you'll get some clarity on why we have to have a plan and why we have to follow that. And then there's the monitoring aspect of it, as well, to prove – to verify not only on the project level but on the overall plan level that you're achieving no net loss. So they have some criteria. But it's not easy, still. It's not new.

Chair Axthelm: I hate to keep going on it but that was – I remember a discussion a while back about a highway – where a highway was. They were talking about the state had done something upriver and so we couldn't get no net loss because the – in the area in the county because the state had done something upriver. But that wouldn't be true unto the definition you're talking about because it's no net loss. So it doesn't mean you don't have some loss; it's no *net* loss.

Ms. Stevenson: Correct.

Chair Axthelm: Okay. So moving on to the next section, let's start with Matt this time on 310.

Mr. Mahaffie: Number (6)(b). I think I mentioned before I just don't like the words "Stormwater Design Manual" in there. I think just removing BMPs to stormwater \_\_\_\_\_ Stormwater Design Manuals?

Mr. Walters: Could you repeat that?

Ms. Stevenson: Which one again? I'm sorry.

Mr. Mahaffie: (6)(d). Page 8, (6)(d).

Ms. Stevenson: I'm sorry. I thought you said "(b)."

Mr. Mahaffie: "Stream bank erosion control BMPs must be selected, designed, and maintained according to the Stormwater Design Manual." The Stormwater Design Manual changes over time. There are other BMPs, especially in the conservation district and such that might be more applicable for your project. BMPs are well-defined. I think BMPs would just be fine, in my humble opinion. That's my only comment.

Mr. Pernula: So how would you like it phrased instead?

Mr. Mahaffie: "Stream bank erosion controls must be selected, designed, and maintained according to the best available BMPs," or something of that nature.

Chair Axthelm: Could it be "currently adopted"?

Mr. Walters: The term "Stormwater Design Manual" is –

Mr. Greenwood: We've had that discussion.

Ms. Stevenson: Yeah.

Mr. Walters: Yeah. It is defined.

Chair Axthelm: I'm talking currently about the BMPs. Could be because there're certain ones that you have to go by, right? Or is there –

Mr. Mahaffie: If you went by the Stormwater Design Manual. I'm just thinking there are other documentation – other sources of information. If you're in an agriculture environment, you know, the Conservation District might be supplying better BMPs than you'd want to use Stormwater – you know, forest practices.

Chair Axthelm: Betsy, any –

Ms. Stevenson: It's a good point and I'm still writing. Is that okay?

Chair Axthelm: Yeah, that's fine. Obviously it's \_\_\_\_\_.

Mr. Temples: I have no comments to this.

Chair Axthelm: Annie?

Ms. Lohman: Yes, I do. Up on the Screening section, number (b) you talk about "Outdoor storage must be screened from public view." And is that for all scenarios? Because I'm wondering do you have to screen if the thing is only on *your* property? Or is the screening only applicable if it's bordering a public view or a – do you always have to screen?

Mr. Walters: From public view.

Ms. Lohman: From public view, but what if the water feature, the shoreline feature is solely on your property?

Mr. Walters: If the public can't see it then you wouldn't need to screen it.

Ms. Stevenson: Somebody traveling along that water feature could see it perhaps.

Ms. Lohman: Not all of them are public access.

Mr. Walters: Not all the shorelines?

Ms. Lohman: They're not all navigable.

Ms. Stevenson: Shorelines are.

Mr. Walters: Yeah.

Ms. Stevenson: They are waters of the state.

Ms. Lohman: I'm thinking ditches or sloughs.

Ms. Stevenson: Those aren't shorelines necessarily. Some of the sloughs are but...

Chair Axthelm: But you're still under the shoreline jurisdiction.

Ms. Lohman: You're still under the jurisdiction. That's the thing.

Mr. Walters: Ditches aren't under shoreline jurisdiction.

Chair Axthelm: No, I'm talking –

Ms. Lohman: No, but sloughs and other water –

Ms. Stevenson: Some in limited areas.

Mr. Walters: Well, regardless, though: If there's no public access or public view you wouldn't need to screen. It's from –

Ms. Lohman: Okay.

Mr. Walters: It's from public view. So I think the existing language – I hope – covers that concern.

Chair Axthelm: Annie, anything else?

Ms. Lohman: No. Nothing.

Chair Axthelm: Kevin?

Mr. Meenaghan: No.

Mr. Greenwood: Mine was on the same one that Matt identified, so I think you covered it if you make some sort of a statement that covers what types of – where BMPs can be drawn from. And I know we've been talking about recently the NPDES permit. There was talk about which Stormwater Design Manual we would reference, and so my question was going to be, Do we want to identify which revision we wanted to reference so that it stayed static? But if we want it to be flexible to the best available science then we should make it more open, I think as Matt suggests. So that's maybe just supporting what he said. I didn't have anything else on that section though.

Chair Axthelm: Kathy?

Ms. Mitchell: I think I already got mine in. Thanks.

Ms. Candler: I have a follow-up question to what Annie was talking about on the Screening on part (b). Outdoor storage is – what type of thing are we talking about? Are we talking about – I mean, (a) is talking about equipment, but I'm assuming (b) is something different or it wouldn't be separate.

Mr. Walters: (b) is separate. (b) is storage; (a) is equipment. Both are Screening – both under Screening – but storage is – I don't know – cars, tractors, stuff.

Ms. Stevenson: Trash cans.

Mr. Walters: Trash cans.

Ms. Candler: So a – like a little lawn mower shed: Would it be included in?

Mr. Walters: No, because that's a shed. So you've got already something around. It's not outdoors. It's indoor.

Ms. Candler: So would it make sense to include "Screening techniques may include enclosures," or – I don't – because I got –

Mr. Walters: I think that's subsumed because it's outdoor storage. So if you have an enclosure, it would be indoor storage.

Ms. Candler: Okay. Okay, thank you.

Chair Axthelm: The issue – this is architectural, but the issue I have with screening sometimes is that the units themselves or the mechanical unit itself could be quite small and then you have to put screening around it that actually can be bigger and stand out more than what the mechanical unit itself would. So it's kind of in an interesting position. We've had that happen with buildings with rooftop units, and you have to put a big fence around the rooftop unit and now all of a sudden you have a – it stands out way more than it ever did before.

Mr. Walters: And I think the first sentence tries to get at that a little bit by saying that you can incorporate it into the building architecture, and where you can't incorporate it into the architecture then you have to screen.

Chair Axthelm: Hmm. Okay. Anymore?

(silence)

Chair Axthelm: Okay. Tammy, why don't you go ahead and start on 320?

Ms. Candler: I don't have any notes on 320.

Chair Axthelm: What's that?

Ms. Candler: I don't have any notes on this.

Chair Axthelm: Okay. Kathy?

Ms. Mitchell: I obviously can read the language and understand most of what this says, but I think that some of this is hard to enforce or define or describe. It seems pretty – some of this stuff seems pretty subjective so – as of, like, even the first one for the siting design requirements. Are they – when they say something like this, are they taking a very general approach to these kinds of things, or are there more specifics that are code-related on how these things are done?

Ms. Stevenson: Yeah, these are the general provisions for everything that would be located waterward of the ordinary high water mark now, and then you would go to the specific use for whatever it is that you're doing and there may be additional, more specific standards in that section that would apply as well. But these apply to all of them.

Ms. Mitchell: Thank you.

Ms. Stevenson: In both of these sections, if that helps.

Ms. Mitchell: Thank you.

Ms. Stevenson: Okay.

Chair Axthelm: Anything else, Kathy?

Ms. Mitchell: No. Go ahead.

Mr. Greenwood: No, I'm fine.

Chair Axthelm: Kevin?

Mr. Meenaghan: Section (4) there is Timing restrictions. Is that basically saying that if you start a project it's got to be done in a certain time? Did the state tell us?

Ms. Stevenson: I think that's more for fish windows and things like that.

Mr. Meenaghan: Okay, so they say there are times when you can do projects but there times you cannot due to salmon runs or whatever?

Ms. Stevenson: Right. Right – when you're instream.

Mr. Meenaghan: Okay.

Mr. Walters: And it's those – it's the other agencies that are prescribing those, so that is really – this is one of several, I think, in here that is just sort of a heads-up statement because it wouldn't be a restriction we'd actually impose.

Chair Axthelm: Annie?

Ms. Lohman: In this section, I wanted to make sure that it accommodated the drainage-fish initiative and the tide gate-fish initiative – the DFI, TFI, and the ag chapter – that it wasn't opposing the ag chapter.

Ms. Stevenson: So those are the things that would apply everywhere.

Mr. Walters: Except, actually, to the ag activities that qualify for a complete exemption.

Ms. Lohman: I had the same note last time.

Ms. Stevenson: I don't think it fits here, though. It fits in the ag section where it is. That gets more specific. These are the general, broad things that apply to everything that's happening in the water, okay?

Ms. Lohman: Right.

Ms. Stevenson: And then you go to whatever the use is or the activity is and then – in chapter IV, or Part IV.

Ms. Lohman: Because I didn't want – I'm envisioning in the future if Betsy's not there, I want to make sure that it doesn't trip us up and say, Oh, but right here in the General Provisions it says you have all this, and here you've got somebody at the counter arguing, Yes, but you need to read the ag chapter. Because it doesn't reference back, and I had a note in our last go-round about sometimes you need to reference back if there is a specific something.

Mr. Walters: I think it –

Ms. Stevenson: It's in number (1) – yes?

Mr. Walters: What's that?

Ms. Stevenson: Doesn't it come under here?

Mr. Walters: Yeah, well, I think it would make sense to throw into number (1) that it could – because ag is special and that it's the only use – and not *all* ag, but the qualifying ag is the only use that's wholly exempt from the Shoreline Master – the Shoreline Management Act. So we could add at the beginning of 300 just a reference to also check out the ag section where there's a whole flow chart to see if you qualify for the exemption.

Ms. Lohman: Because in the ag applicability in the RCW it references not just the activity and the dirt but also our pumps, pipes, tapes, nails, ditches, and drains, so it's a very broad agricultural use. So where would you suggest putting that?

Mr. Walters: I think we would add it to the beginning – Applicability 300 or \_\_\_\_.

Chair Axthelm: Robert?

Mr. Temples: No comment at this time.

Chair Axthelm: Matt?

Mr. Mahaffie: A couple. Page 9 – or, I'm sorry, page 10, number (9) Excavations. I can think of some scenarios that would have an "unless" at the end of it. You know, if you're having multi-day project and have a \_\_\_\_\_. There's a lot of projects that, you know, you pump the water out then work below grade. Does that make sense? Or am I –

Ms. Stevenson: But you would have to fill it back in before the water comes back and I'm assuming that would stay protected from the water until you took it –

Mr. Mahaffie: Is that how you would look at it?

Ms. Stevenson: That's how I would, but if you don't think it says that...

Mr. Mahaffie: I can only say that's how *you* look at it but it's \_\_\_\_.

Ms. Stevenson: I know. That's what I mean. That's why if that's not what you think that says, that's what it means to me – that if you've put something in there – cofferdam or something – to

keep the water out, it's going to stay in place until you're done. And that whatever holes or impressions that you've made with your equipment are something else that need to be filled before you take the cofferdam out and the water comes back in. That's how I read that, but if that –

Mr. Mahaffie: Okay. All right.

Ms. Stevenson: – then maybe we need to change it.

Mr. Mahaffie: This is just a devil's advocate kind of question. Maybe if you think it's something – if that's how you read it, everything's okay.

Ms. Stevenson: What's another way to say it?

Mr. Mahaffie: I don't know.

Ms. Stevenson: Okay! All righty – I'll look at that then.

Mr. Walters: We'll work on that.

Mr. Mahaffie: Another I-don't-know one was on the next page, page 12, number (19)(b). I think that's a little too open-ended. I can see the neighbor complaining about your unsafe dock and it's just the decking, and by that instead of just replacing the decking now you're re-doing all the piling? Suggest something on how I would like to see it? I don't have one. I just worry it's a little too open.

Ms. Stevenson: Okay.

Mr. Walters: So this – it says “Abandoned or unsafe structures.” So what are you – what's the problem that you see?

Mr. Mahaffie: Say you have an unsafe structure and you make it safe – like a dock. You have – some of your boards have rotted out. You have to replace – even if it's more than 50% of it, you're just replacing the decking. By this, I could interpret it to say you have to replace all the pilings too, if they're treated? Why do you think that's really right?

Ms. Stevenson: Yeah. I see what you're saying. Again, I think that those structures or materials we're talking about, the treated wood would have to be unsafe as well. Does that make sense? We wouldn't make you replace it otherwise.

Mr. Mahaffie: Could you write it to say it like that?

Ms. Stevenson: Yeah, and try to figure out a better way to say that.

Mr. Mahaffie: And whatever components are actually unsafe.

Mr. Walters: What if it didn't say “treated wood”? Just for the moment if you deleted the words “treated wood,” so it just said “including pilings, derelict structures, vessels, buoys, and equipment.” Then does it get at abandoned or unsafe structures or materials? Because obviously pilings are not. There's nothing wrong with a piling.

Ms. Stevenson: That makes more sense because the rest of them are things and that's not \_\_\_\_\_.

Mr. Mahaffie: I don't want to see a bazillion creosote pilings left out there, but at the same time...

Ms. Stevenson: I mean, it could say concrete, too, and it doesn't, so maybe we should take that out.

Mr. Walters: But if it's not an abandoned piling then you can keep using it. If it *is* an abandoned piling then you need to pull it, regardless of what it's made out of.

Ms. Stevenson: Mm-hmm. Does that help at all?

Mr. Mahaffie: Yeah, and that kind of raises another little red flag for me.

Mr. Walters: Oh, good.

Mr. Mahaffie: You know, somebody buys a house with – you know, there's a lot of abandoned pilings out there. That's going to be a huge cost for the landowner if you're –

Chair Axthelm: Well, when does pulling the pilings out do more damage?

Mr. Mahaffie: Yeah, that's another concern as well.

Ms. Lohman: Not all of them are treated.

Mr. Greenwood: But most of them are unsafe, you know, by somebody's definition. If you've got a piling out there and the tide changes sometimes it's above, sometimes it's below. Some of them are broke off. It's a major problem.

Mr. Mahaffie: I was at Grandy Lake the other day. There's a whole bunch of creosoted pilings out there. Whose responsibility is that for this \_\_\_? I mean, that's in a county park. It just seems like a can of – you know, some complaint-happy person could make a lot of work for the Department, for citizens.

Mr. Greenwood: It sounds like a noble goal, but...

Mr. Mahaffie: I don't have a problem with the goal.

Chair Axthelm: Okay. And then the problem that I had, it seems like we regulate a lot of construction but yet a lot of the construction by other agencies, and my worry is that it might get into too much into that. Like with the concrete and the silt protection, sediment control – that that isn't really – we're trying to regulate it here and define it but yet there's other agencies that define that. Just a note that maybe we can remove some of these sections just to refer to the applicable agency that is going to regulate it anyway.

Mr. Walters: Do you think (10) and (8) are like that? Is that what you're saying?

Chair Axthelm: Well, I think I was looking at – one of them was (10), one was (8). There's a couple notes here and there in a couple locations. I just – my worry is if we try to regulate it and

then – in here – and then the construction industry or Department of Ecology has a certain method that they want to follow and it becomes a conflict.

Mr. Walters: We'll check it out.

Chair Axthelm: I see why it's mentioned here. It helps, but if it becomes a conflict then we have to go through and change everything. Anything else? Let's move on to the next section.

Ms. Lohman: I thought Kevin was trying to say something. On number (7)(b), in our old version I had written after the word "buffers" "where feasible."

Mr. Mahaffie: Yeah, I remember talking about that.

Mr. Pernula: It's on (7)(b) on page 10?

Ms. Lohman: Yes.

Mr. Mahaffie: We spoke of it in terms of there are properties that are wholly within a buffer.

Ms. Lohman: You mean on the terrestrial side?

Mr. Mahaffie: Oh, we're in – we're in the in-water section – waterward. We're in waterward. Never mind.

Ms. Stevenson: Give me an example so I –

Mr. Walters: I think we looked at this one and – it's talking about refueling; it's in the waterward section; it's saying that you should do it outside of buffers. Does that mean it should be in the landward section? But evidently we decided to leave it in the waterward section. It only applies to activities waterward.

Ms. Lohman: Of the ordinary high water mark?

Mr. Walters: Yeah. So it shouldn't actually affect landward.

Ms. Lohman: Well, I mean you could be doing something –

Mr. Walters: Maybe it should say that you can't refuel – other than watercraft – waterward. Like if you drove your ATV into the lake and then fuelled it, that would not be allowed.

Mr. Meenaghan: I think the example was if you have an excavator and you need – if you have a lot of work to do, you're going to refuel the excavator. That says you can't do it. I think that's why –

Mr. Walters: I think that's a *much* more sensible example!

Ms. Lohman: Even hand tools.

Mr. Meenaghan: Than the ATV?

Mr. Walters: Even a red bandanna \_\_\_\_\_.

Ms. Lohman: You might be even doing work with –

Ms. Stevenson: A generator for a pump, or things like that.

Ms. Lohman: Yeah. Hand tools of some sort.

Ms. Stevenson: It's just kind of like don't be dumb enough to do it in the water.

Mr. Walters: Although this says not just the water but beyond it – outside of the buffer.

Mr. Greenwood: Well, when do you want to really fuel a piece of equipment, even an excavator, waterward within the shoreline? I can't think of a case that you can't move it –

Ms. Lohman: Yeah, but the tide can go out.

Mr. Greenwood: You don't have to move it 200 feet away. You can move it a few feet away outside of the shoreline – 200 feet all the way outside the –

Mr. Walters: You might be moving it a long way. But maybe there could be some different – maybe there could be some different standard than all the way outside the buffer.

Ms. Stevenson: So it's the shoreline buffer – outside the shoreline buffer that's the problem.

Mr. Greenwood: Yeah, I think it should be different. With water under your feet – I mean, I don't know – within the ordinary high water mark, or something like that would make more sense to me.

Ms. Mitchell: I could add in something to that example. I could see situations like – let's say you did have to \_\_ excavator, like, in our neighborhood coming up and down the road. You do a lot more damage every time you move the puppy, and so there may be some situations if there's, you know, along the beach area or other kinds of areas where you would want to move that less to get the job done that has to be done, and so, again, you wouldn't want to be refueling in the water but you don't want to keep moving that big piece of heavy equipment.

Mr. Greenwood: Because we do bridges and when we put bridges in we don't move it 200 feet up the road to fuel it.

Ms. Mitchell: Right.

Ms. Lohman: But is it already answered or identified in (a)? You're saying, Don't spill, in (a). And so I'm suggesting that – do we need (b)?

Chair Axthelm: I say we just strike (b). Because it says "in the shoreline." That's anything on the other side of the ordinary high water mark. I don't think that's –

Ms. Lohman: You're already saying no petroleum products, hydraulic fluid, and all this other stuff.

Mr. Walters: I would say you almost don't really need to say (a) because you're going to be in trouble with multiple other agencies if you commit (a). But I think I would recommend leaving

both (a) and (b), because (b) is a good precautionary measure. We can adjust (b) to say something other than “shoreline buffer.”

Mr. Mahaffie: I think the original and except just “where feasible” at the end. I built a bulkhead bringing the excavator in on a barge. You couldn’t – there was no way on \_\_\_ and we \_\_\_\_\_. Having worked in environments where your neighbors sit there with binoculars and look for whatever you’re doing wrong – I mean, you might think it’s silly that you have to put that in there, but...

Ms. Stevenson: So leave “shoreline buffers” but add “where feasible”?

Chair Axthelm: Yes.

Ms. Stevenson: Is that better? Okay. Thank you.

Chair Axthelm: Okay. Where were we? Matt, did you finish? Okay, so the next section 330 and 330-1, Dimensional Standards. You have any, Matt?

Mr. Mahaffie: No.

Chair Axthelm: Robert, any comments on that?

Mr. Temples: Not right – not at this time.

Chair Axthelm: Annie?

Ms. Lohman: I struggled with some of this because where isn’t there a buffer? And yes, I did look at the chart and some of it we have 50 feet left. But when you look at the chart, if the shoreline jurisdiction is 200 feet – the majority of the chart, the buffer is 200 feet so there’s really very little that there isn’t a buffer in addition. But in the Dimensional Standards, I have a question on why the height restriction down to 25 feet, where everywhere else in the code the lowest height is 35? Otherwise it’s 40 and 50 feet minimum – or maximum height.

Mr. Walters: A couple of things on that. First of all, in the Shoreline Residential area and Marine Shorelines your buffer is 100 feet, so that, I think, is significantly different from the 200-foot shoreline jurisdiction. And the shoreline jurisdiction is in some cases going to be more than 200 feet, although the default is 200 feet. But if it enlarges to enclose a critical area that’s partially inside the shoreline jurisdiction, then that would make it larger. I think that the height limit – there are two different height limits here, one inside the buffer and one outside the buffer. And I think Betsy can talk to that, but it recognizes that the shoreline is special – I mean, that’s why we have the Shoreline Management Act – and I think provides some incentive for moving your project outside the buffer. You want to elaborate?

Ms. Stevenson: Do we need to?

Mr. Walters: It’s similar to the existing Plan. The existing Plan has –

Ms. Stevenson: Yeah, there’s – if you’re within a certain distance your height \_\_\_\_\_. If you’re in a further distance then you get more. Now it’s mostly standard at 30 feet, but the state law allows it to go to 35. So we thought, okay, as long as you’re outside the buffer you can be at 35, but if

you're going to be inside the buffer then maybe we think that 25 is enough. 25 is still a two-story house.

Mr. Walters: And state law wouldn't allow it to be more than 35 in shoreline jurisdiction without a conditional use – yeah, one of the various shoreline permits.

Mr. Temples: Mr. Chair?

Chair Axthelm: Robert.

Mr. Temples: That height restriction has been consistent for as long as I can remember – since the, you know, state put it in there so I don't think it's – I'm sure it's been debated over the years but I have never seen it changed.

Mr. Walters: The 35-foot?

Mr. Temples: Well, 35 and 25.

Mr. Mahaffie: (unintelligible)

Mr. Temples: And believe me, there's probably been hundreds of people try and get around that.

Chair Axthelm: Annie?

Ms. Lohman: That was all I had.

Chair Axthelm: That's it? Kevin?

Mr. Meenaghan: No, thanks.

Mr. Greenwood: Nope.

Chair Axthelm: Kathy? Tammy?

Ms. Candler: I have a question about – under just the very first part (1). Is “existing and planned character” a term of art, or a phrase of art? Because –

Mr. Walters: Where are we looking?

Ms. Candler: Very first under 330 – not 330 but 330-1: “To preserve the existing and planned character of” shoreline. Is that like a phrase of art – “existing and planned”?

Mr. Walters: Not that I'm aware of.

Ms. Candler: Because I'm leaning toward it should be an “or,” but I'm trying to go through some scenarios as to why it would be an “and.” But I'm thinking it should be an “or.” They're not the same thing. “Existing” and “planned” are not the same thing.

Chair Axthelm: Anything else?

Ms. Candler: Nothing else. Thank you.

Ms. Lohman: So are you recommending changing it to “or”?

Ms. Candler: I probably haven’t thought about it maybe as much as Betsy, but just what little I have thought of it I think it’s an “or.”

Chair Axthelm: Okay. The only comment I have is with it has hard surface limits – making sure that we’re online with the current – with the current, I guess, definition with that one? Because there’s a pervious surface, there’s hard surfaces.

Ms. Stevenson: I’m sorry. What was your –

Chair Axthelm: Well, just the hard surface has limits – making sure we’re in line with the definition. Like the hard surfaces versus the impervious surfaces. Is that the best term to use? That’s all.

Mr. Walters: I think we’ll look at that again.

Ms. Stevenson: Okay.

Chair Axthelm: Okay? Anything else?

(silence)

Chair Axthelm: Next section, 340, Archaeological, Historic, and Scientific Resources. Tammy?

Ms. Candler: I didn’t have anything in that section.

Chair Axthelm: Kathy?

Ms. Mitchell: I didn’t either.

Chair Axthelm: Keith?

Mr. Greenwood: No, I didn’t.

Chair Axthelm: Annie?

Ms. Lohman: Nothing.

Chair Axthelm: Robert?

Mr. Temples: Not at this time.

Chair Axthelm: And I don’t have any either. So, Matt, go ahead and start with 350, Flood Hazard Reduction. Robert, anything for Flood Hazard?

Mr. Temples: Nope.

Chair Axthelm: Annie?

Ms. Lohman: I just wanted to make sure that it was the same thing as at the top of 300, but if you – the ag exemptions. Because it touches – some of the language in that section touches the agricultural activities so I wanted – but I think if you put the ag language like you suggested at the beginning in 300, I think it'll capture that section, too.

Mr. Walters: Yeah.

Ms. Lohman: But I also saw on page 15 under Development Standards (a), and it's more of a why. And I did read the WAC. It says "New development or uses in shoreline jurisdiction, including...subdivision of land, are prohibited when it is reasonably foreseeable that the development or use would require structural flood hazard..." So that's not a prohibition against land subdivision in general, is it? It's only if there's a flood hazard scenario, right?

Mr. Walters: The idea is when you're – when you would be creating a development or doing a subdivision that would create a reasonably foreseeable need to create a structural flood hazard reduction measure. So if you're setting yourself up to have to make one, then you can't do that. You're going to have to do something different.

Chair Axthelm: Annie?

Ms. Lohman: Nope, that was all.

Chair Axthelm: Okay. Kevin?

Mr. Meenaghan: Nothing.

Mr. Greenwood: For me, also under Development Standards on page 15, (b) says "The following uses and activities may be authorized where appropriate and necessary..." And (ii) references "Forest practices in compliance with the Forest Practices Act and its implementing rules." I thought we'd already identified that those are exempt activities typically, unless it's a substantial development activity. So it looks like it's asking for additional authorization, which I don't think is necessary. And maybe some of these other exemptions – that I'm less familiar with, but it looks like we're talking about some exempt activities – like existing and ongoing agricultural practices. Are we saying we're then going to require authorization for those ongoing agricultural practices, provided no new restrictions or channel movement occurred? So are we just talking about flood protection activities? Or maybe I'm missing something.

Ms. Lohman: I thought these were all allowed, authorized activities to occur.

Mr. Greenwood: May be.

Ms. Stevenson: Not in the channel migration zone and the floodway necessarily.

Ms. Lohman: It says "within": "The following uses and activities may be authorized where appropriate and necessary within the channel migration zone or floodway, provided they comply..."

Ms. Stevenson: Right. They might not automatically. That's all I'm saying.

Ms. Lohman: Right.

Ms. Stevenson: So this is another – it's a catch-back to get you back into the flood ordinance basically.

Mr. Greenwood: But we are talking about flood hazard reduction activities, right? I guess I don't have good clarification in my own mind on that.

Mr. Pernula: I think it's referring back to a different code.

Ms. Lohman: Yeah, the flood damage prevention code.

Mr. Pernula: The flood damage prevention regulations, which is already in the code, and it just says that these uses can be authorized as long as they meet those requirements of 14.34.

Mr. Greenwood: Flood damage prevention? Okay. Good. That makes sense. Because I can't think of cases where we do or I've been associated, where I see flood damage prevention with forest practices typically. But that's not to say it can't happen. I just don't know where. I'll look at that section, although we don't have it yet, right? We don't have 14.34?

Mr. Walters: No, 14.34 is a different –

Ms. Stevenson: That's an existing code. That's the flood ordinance.

Mr. Walters: Yeah.

Mr. Greenwood: Okay.

Mr. Walters: I would agree that subsection (b) seems awkwardly positioned because it's not really a development standard in and of itself. It doesn't tell you where –

Mr. Pernula: It's referring to something else.

Mr. Walters: Yeah. Maybe there's a different place for that.

Mr. Greenwood: Okay. I'm satisfied with that – if you look at it a little bit deeper.

Chair Axthelm: Okay. Kathy?

Ms. Mitchell: Nothing there. Thank you.

Chair Axthelm: And Tammy.

Ms. Candler: Nothing in 350.

Chair Axthelm: I see I didn't do my full background here but number (d) on (3)(d).

Mr. Temples: What page?

Chair Axthelm: Sorry – page 16, where it has “New public structural flood hazard reduction measures, such as dikes and levees, must provide public access when required by...14.26.360.” So I'm not sure what 14.26.360 reads.

Mr. Walters: 360 is not the right number anymore.

Chair Axthelm: Okay. So which one is the right number and what does it state?

Mr. Walters: Well, it's the Public Access section – 370 now – but it's just a reference to that, and we don't have that for you yet.

Chair Axthelm: Okay. Okay, so that's – we're going to address that in Public Access? Because my concern that – is again, if you take the dikes and you upgrade them, if you live on the dike and they come and they fill it in or level it out, raise it up, all of a sudden it's public access.

Ms. Stevenson: This is a *new* dike. This would be new construction.

Chair Axthelm: Well, it says "New public...flood hazard reduction measures," so it doesn't say "new dike." It says "reduction measures."

Ms. Lohman: Right.

Chair Axthelm: If it was "new dike," that would be specific, but if it's "reduction measures, it's not.

Ms. Stevenson: Okay.

Chair Axthelm: I would strike – I don't mean to be pushy on that one. That is something that personally I \_\_\_.

Ms. Lohman: And isn't there kind of a question of whether that means – what does "public access" mean? Does it mean just up and over, or does it mean access to the top?

Mr. Walters: I would encourage – yeah, yeah – I would encourage you to wait till we get to that section, which won't be till the next meeting, but we're working on addressing all of those issues. So it won't mean 'along,' right?

Chair Axthelm: They refer to the dikes – were referring to the dikes in that section, or any situation like that.

Mr. Walters: Oh, yes. There's a special dike section in Public Access that, I think, addresses those concerns.

Chair Axthelm: Perfect.

Ms. Stevenson: Yeah, I think we just talked about new construction.

Chair Axthelm: Okay. Well, it doesn't show it there. That's where I – it doesn't differentiate it there. Okay.

Ms. Lohman: But, Mr. Chairman?

Chair Axthelm: Yes?

Ms. Lohman: I think what we're trying to say, too, is we want to make sure we're watchdogging for continuity throughout. So if it –

Mr. Walters: Oh, yeah.

Ms. Lohman: – says it here that the concept is consistent so that –

Ms. Stevenson: There are only certain sections in the Public Access where it might be required, and that's why it reads the way it does here.

Mr. Walters: It tries to refer –

Ms. Stevenson: Right.

Mr. Walters: – refer back to 370 rather than articulate a rule here. It just sends you there. So if you're reading about dikes and levees, if you're reading about flood hazard reduction, in this section it would say, Hey, and you have to do public access, when the Public Access section does in fact actually require it. So it's attempting to just be a reference to 370. And it's not the very next section because they're in alphabetical order.

Chair Axthelm: Thank you. Any other questions on that one – section? Okay, so – sorry – where'd we stop? Start with Tammy. Start with 360.

Ms. Candler: Okay. I have a question about what – looking at the definition of “official signs” and “outdoor advertising” it seems like there's some overlap there. Is this intended to include both outdoor advertising and official signs?

Mr. Walters: When we went through this in here we did not look at the definitions of the terms because we have been planning to do that later, but this is – it's not completely straight out of the existing Plan because we have this new four-part format, but it's very close to that. And there are maybe some issues with all the various different types of signs that the current Plan tries to identify. So I don't know where in here we use the term “official signs.”

Ms. Stevenson: Right there.

Mr. Walters: Where is it? Did you find it?

Ms. Stevenson: Yeah.

Mr. Walters: And if that's the only time we use it, maybe we can just eliminate the definition and work it into that – work it into that section.

Ms. Candler: The Applicability talks about signs and it talks about official in two separate – you know, in the same sentence but not in that order, so I was confused by that – just so you guys are aware. It looks like, you know, it might cover, like, for example, stop signs and I don't know if that's the intention.

Ms. Stevenson: A trail marker, interpretive signs – things that kind of – it's not advertising a business. It's informational.

Mr. Pernula: We have a whole set of definitions for other kinds of signs in our sign code. We've got to make sure that they're consistent, if possible.

Mr. Walters: You mean the zoning?

Mr. Pernula: Mm-hmm.

Mr. Walters: Well, the zoning sign code has some problems.

Mr. Pernula: Yeah, I think we know that. I don't know why I said it. Create a whole additional set of problems!

Ms. Stevenson: We already have them! They're already there.

Mr. Walters: Well, and it's possible that it's not actually very important to distinguish between all the different kinds of signs, so maybe we could eliminate some of those distinctions. Yeah, I think the idea is just to reduce the amount of visual clutter on the shoreline, right?

Ms. Candler: But if I'm reading it right, it would affect things like stop signs, which you can't put \_\_\_\_\_ away if you're going the wrong direction. You know what I mean? Like, I think it would be a problem for official signs on the roadways.

Mr. Walters: Mm-hmm.

Ms. Candler: That's my concern. And I don't have anything else, I don't think, in this section.

Chair Axthelm: Okay. Kathy?

Ms. Mitchell: Nope. Go ahead.

Mr. Greenwood: Not I.

Chair Axthelm: Annie?

Ms. Lohman: No.

Mr. Temples: I've got on clarification, if you would, Ryan. On page 17(2)(b), the reference here is for "Aquatic. Outdoor advertising is prohibited except for one flush-mounted" sign. Is that again trying to minimize signage along the shoreline? Is that the intent?

Ms. Stevenson: This is for the Aquatic area, which would actually be out on the water.

Ms. Lohman: No Ivars schemes?

Ms. Stevenson: There were some not that long ago down in Seattle on Lake Washington and Lake Union where they were floating things and they were signs. So if you have an overwater –

Mr. Walters: Just signs floating around the lake?

Ms. Stevenson: Pretty much. I mean, I think they're anchored but they're advertising signs. They're on the water, actually on the water, floating on the water. But if you've got an overwater

structure like a restaurant on a pier or something like that you would be allowed to have something on your wall at the existing structure.

Ms. Lohman: Well, I was thinking of that Ivars sign that was underwater. Am I the only one?

Mr. Greenwood: Yeah, I don't know.

Ms. Lohman: I thought that was pretty interesting.

Mr. Walters: It was underwater?

Ms. Lohman: It was underwater. I can't remember the story exactly.

Mr. Greenwood: Who were they advertising for?

Ms. Lohman: Ivars!

Mr. Greenwood: Yeah, who was going to read it?

Male Commissioner: (unintelligible)

Mr. Greenwood: When it's underwater?

Mr. Temples: They took a videotape of it when it was underwater. She's right. I remember seeing that now.

Mr. Greenwood: Did it help?

(several inaudible comments and laughter)

Chair Axthelm: Anything, Matt?

Mr. Mahaffie: No, not in that section.

Chair Axthelm: All right. So 390. Is that right? Yes. Section 390, Water Quality, Stormwater, and Nonpoint Pollution. Matt?

Mr. Mahaffie: No.

Mr. Greenwood: Nope.

Chair Axthelm: Annie?

Ms. Lohman: No.

Mr. Mahaffie: Come back.

Chair Axthelm: Okay. Go ahead, Matt.

Mr. Mahaffie: Yeah, I just had the comment about approved treated wood. That's something I've never been able to find. What is approved treated wood? There's a million white papers out

there on different studies that say different things. The state doesn't carry a list. Federals don't carry a list. It's just one I've looked for.

Chair Axthelm: Okay. Annie?

(several inaudible remarks)

Chair Axthelm: Kathy?

Ms. Mitchell: No, thank you.

Chair Axthelm: Tammy?

Ms. Candler: No, thank you.

Chair Axthelm: Okay. I don't have anything in there either. Okay, the next section. Part IV, right? Is that right? Am I reading that right?

Ms. Stevenson: No. We're skipping Part IV.

Mr. Temples: Says VI.

Chair Axthelm: VI, whatever. I can't read Roman numerals! Okay. Do you want to intro this at all or is that – just go through?

Ms. Stevenson: I'm having trouble with the fan on. I can't hear you. I'm sorry.

Chair Axthelm: Oh, sorry. Do you want to intro this section at all or just have us go right into it?

Mr. Walters: I'll just \_\_\_\_\_.

Ms. Stevenson: Okay. I was going to say we didn't make a whole lot of changes. We reorganized it a little bit. I won't say it was good to go last time because there was still some confusion, but I'll let Ryan go through it with you. How's that?

Mr. Walters: So we made a whole bunch of changes to this section.

Ms. Stevenson: Oh, stop! Not this last time!

Mr. Walters: No. This section did not get a lot of changes. What did change is the Applicability section. At some point in our process there was a little bit more going on in Applicability, listing all of the applicability of the various sections underneath. And what we did is we clearly specified what's exempt from the applicability here, and then in each of the next sections – the pre-existing single-family, the pre-existing other structures, and the other pre-existing uses – we have new applicability sentences at the beginning of each of those. So I think that that helps a little bit maintain some parallel construction of each of these sections.

I don't know that we changed very much else in here. There – yeah, there is – I don't know that you saw the Abandonment at 650 at all last time, but there's an Abandonment section here, basically providing that if you have a legally established, pre-existing use and you cease it for any reason for 12 consecutive months or for 12 months during any two-year period, then you

lose your rights to a pre-existing use. However, we do have an existing procedure for abandonment in our zoning code, 14.16.880. So it provides that the Department would have to use that procedure to verify abandonment. It's not just something that would come out of the blue.

Chair Axthelm: Okay. So, with that, let's go ahead and start out – Tammy? – with section 610.

Mr. Meenaghan: We could probably just go through that whole section because it's only about three pages.

Chair Axthelm: Oh, yeah. Do you want to just go through the whole section?

Ms. Stevenson: Yeah.

Chair Axthelm: Okay. Go ahead.

Ms. Candler: Well, just the first part is a little bit confusing with all the conform/not conform, but I don't know that it can be better. So I don't have any other comments.

Ms. Mitchell: I've got questions about the conforming and not conforming, as well. There may be a whole lot of people that might object to the term "nonconforming," and I'm assuming that's been raised before when we're going through this kind of thing.

Mr. Greenwood: Mm-hmm.

Mr. Walters: Well, we didn't really use the term "nonconforming."

Ms. Stevenson: Right.

Mr. Walters: Did we?

Ms. Stevenson: No. We took it out.

Ms. Mitchell: Okay. But by saying "conforming," is that implying there's nonconforming?

Mr. Walters: So it says "conform."

Ms. Mitchell: Right.

Mr. Walters: I think we have to use some word. The concept here – which I think you're familiar with, but just for background – the concept is that if you define a new rule people who have built under the existing rule get to continue to use their structure under the existing rule. And that's – that is how all of our land use laws treat existing uses and structures. You get to continue those uses that were properly built under the old rules if a new rule is established. The Shoreline Plan goes a little further and provides that a single-family – not just our Shoreline Plan, but the state Shoreline Management Act goes a little further and says that if you have a single-family residence that was built under the old rules and then a jurisdiction adopts the new rules it continues to be considered not just nonconforming – which lets you continue under all our other land use laws – but it gives you special permission to have some expansion and not be considered nonconforming, which is why we tried to not use the word –

Ms. Stevenson: Right.

Mr. Walters: – because the term “nonconforming” has a slightly different meaning than “not conforming” so –

Ms. Mitchell: Right.

Ms. Stevenson: It doesn't conform to the regulations that we're proposing, but it's considered a conforming structure or use. And that was law that was adopted after the WAC guidelines and everything went into place, and people were saying, Well, wait a minute. I don't want to be considered a nonconforming residence now.

Mr. Walters: And the reason you don't want to be –

Ms. Stevenson: So the law changed and it gave us the ability to say even though you are not going to be, you were built at a certain time in an area that was okay at the time, or you got a variance, or whatever – even though you may not – your building may now be right in the middle of the shoreline buffer, we still consider you conforming rather than not conforming.

Ms. Mitchell: So do they not use the term “grandfathered in” anymore? That's a no-no?

Mr. Pernula: It's never been used.

Ms. Mitchell: That's true.

Mr. Pernula: It's always been legal, nonconforming uses. I've never – “grandfathered” is just a kind of a colloquial term.

Ms. Mitchell: Mid-west, yeah.

Mr. Walters: Well, and the reason that you wouldn't want to be nonconforming is because if we adopt a new rule the idea is we want that to be the new rule – and this is speaking generally in terms of all land use law – so we phase out structures that don't comply with the new rule. And most jurisdictions would say you get to hold that use as long as you are using it. But that's not a requirement. A jurisdiction could say, We're going to phase it out over ten years. You only get ten more years, or 50 years or whatever the time period is to hold onto it. So you don't necessarily want to be nonconforming. Also you might lose rights to rebuild if your structure is destroyed. So there are a variety of reasons that you might not want to be considered nonconforming. But if you're a single-family, then you aren't considered that under the state law. And this section – the whole point of this section is to clearly spell out what rights you would have if you are not compliant with the new rules and what else you have to build to add on, to expand, or to reconstruct.

Mr. Pernula: In my experience it has a lot to do with financing of homes. If a lending institution sees that a house is a legal, nonconforming use, if it burns down they may not be able to re-establish it, so they're going to be less likely to loan money for it. So it's an important provision, I think, the way it's written. Leave it this way.

Mr. Greenwood: Any more, Kathy?

Ms. Mitchell: That's it. Thank you.

Mr. Greenwood: I was just noticing that – as you clarified for me – that that section 620 is talking about pre-existing single-family residences, but I remember looking at point (2). It also occurs in point (2) of Pre-Existing Structures, and I thought it might be helpful to add the citation for a – what routine repair and maintenance is, which is WAC 173-27-040, so I think because sometimes people say, What is routine repair and maintenance? And I think it's pretty well-defined, or it is defined elsewhere.

Ms. Stevenson: It's in the definition.

Mr. Greenwood: Yeah. So if it – it seems like it would be helpful to just cite where it's located, unless those are – maybe like you said, Ryan – those are citations we're just using for evaluation purposes and then we're going to remove when we get done.

Ms. Stevenson: Right.

Mr. Walters: They are, but clearly we'll need to know what routine repair and maintenance is, and I sort of assume that that is one of the things we have slated to go into the Definitions section.

Mr. Greenwood: Right. I was thinking either a citation or a footnote or something. You know, it's –

Mr. Walters: Well, if we add it to the Definitions, when you view it online – ultimately, when this is approved in 2029 – there will be a hover definition.

Mr. Greenwood: Right. Because when there's a definition attached you want it either in quotes – you want to highlight it somehow so you say, Oh, this phrase has legal standing.

Mr. Walters: Yes, and that has been a long-term problem with the County code, that – with especially the zoning code because there are so many terms that don't have quotes or bold or capitals or anything like that. But we feel like we have largely solved that through the new feature on the website that underlines them.

Mr. Greenwood: I do think, in reference to the pre-existing and the conforming/nonconforming – I know that was a big issue when we talked about it before, and I think this addresses it much better.

Ms. Stevenson: I do, too.

Mr. Greenwood: Just from what I can see of it, it talks about non-conforming with respect to dimensional standards. So I think it clarifies what that is in reference to \_\_\_\_. There was one other point I had on page 21 under Other Pre-Existing Uses. Maybe I'm setting too high of a standard in this case, but under (3)(b) it says "the proposed use will be at least as consistent with the policies and provisions of the SMA," and I think it should be "more consistent." So I think we should elevate that standard a little bit. When you're taking a non-conforming use and then you're going to change it to another non-conforming use, I think that should require a little higher standard. Just at the – see what I'm saying? (3) says "Change of the use to another nonconforming use requires a Conditional Use Permit, which may be approved only upon findings that: no reasonable alternative conforming use is practical"; or then we say so long as it is "at least as consistent." Well, "as least as consistent" is still a nonconforming use. You've

decided to turn it from a house in the wrong place – now it's going to be a marijuana production facility. I don't know. I'm trying to think of something that's on my mind of late. But there's other nonconforming uses that we can make that – we've changed it from an Ivars sign underwater to a – another fish market sign. Anthony's underwater! I don't know.

Ms. Lohman: But I read that differently. I read it to be that at least as consistent with the policies and provisions of the SMA and *this* SMP, where the nonconformity is an old version. So as long as you bring it up to at least the standards of the new book, then you're good to go, where you're asking the person to exceed the standards of the new SMP. And I think that – I have to respectfully disagree with that.

Mr. Greenwood: What is another nonconforming use? What would that be that would be compatible and consistent?

Ms. Lohman: Well, what if you already have a building that still has an awful lot of life in it and you want to use the interior of that building for something else, but it's really only the location of the building that's the nonconformity?

Ms. Stevenson: It goes from a grocery store to a restaurant, or from something to a barber shop, or, you know, whatever it is where you have a certain amount of parking or – that would be a change of use.

Mr. Greenwood: Well, I know that we talk – we talk about when you move it. You move it even just a little bit, now it has to come up to the standard. That's stated elsewhere.

Ms. Lohman: But it's the use.

Mr. Meenaghan: This is not moving.

Mr. Greenwood: Right. I know. But we're looking for – maybe we're not looking for it, but it seems like we're looking for – we've got a nonconforming use. We're going to allow it while it's still in place and being used, but when you go to change it or move it or update it or expand it that's when you have to come up to the higher standard. And so when you want to change it from one nonconforming use to another nonconforming use it seems like you're playing a shell game when you're saying, Now I want to keep this nonconforming use.

Mr. Walters: I sort of follow that because the overarching principle is we've adopted a new rule. If you weren't already there, we wouldn't allow you to be there at all because you're nonconformed. You don't conform to the new rule. So if you're going to change to something else, why don't you step up even just a little – because your insertion of the word "more" wouldn't have any amount more. You're just – but also it would be – it wouldn't have very much effect just by saying "more" because "more" could be a very small amount.

Mr. Greenwood: How about we set a standard of no net increase of nonconforming uses?

(laughter)

Ms. Lohman: Well, you sort of did. You already did. I'm – okay, in our neighbor – my neighborhood, Edison, it would fall within that shoreline. There's an awful lot of repurposing of some of those historic buildings for slightly different activities. I mean, there was one building that used to be a lumberyard. Now it's something else. The use has changed; the footprint

hasn't. It's nonconforming because it's – you probably wouldn't put the town there in today's world. I don't think that you need to, and I just can't support giving it a higher standard. I don't think you really mean to go there.

Mr. Greenwood: I'm okay with either way. I just thought that if we're looking to make improvements in the overall, you know, code requirements, when you go to make an adjustment in every other case we're required to bring it up to that new standard. Whether you're replacing a bridge or replacing other structures, they make you have the new standard. So I just thought it would be consistent.

Ms. Mitchell: Okay. Mr. Chair, I'd like to ask a question. To follow on that – maybe this'll help out what both of you guys are saying – so there's a landowner that has a building or a property. There might be a reasonable expectation for them being able to – they've owned it for 90 years in the family – reasonable expectation to be able to use that to the utmost – for their expectations. So the question then would come back to some property rights questions or expectations for their investments, et cetera, et cetera, so forth. And so that's where I'm wondering about the standards and, you know, where you say increase or don't increase for what the expectations would be for using that property if they've been using that as something anyway.

Ms. Stevenson: Yeah, and, I guess, in (3)(b) there, this is one of the things that would have to be reviewed and it has to show that it's at least as consistent as what was there before in order to get a conditional use permit approved to change the use.

Mr. Greenwood: I don't need to stick to that higher threshold.

Ms. Stevenson: But, I mean, if you want to say that it has to be more, how much more? I mean, that's even more arbitrary to me.

Mr. Pernula: I'd like to just make a point that I don't think that it's going to be – you're going to be able to slice it that close. Because when you're changing uses, it's usually comparing apples to oranges. One use might have increased parking requirement but less traffic. Another one might have children there as opposed to older people at night. And you've just got to make a judgment sometimes, and whether or not it's a less of an impact depends on who you're talking to. So I don't know that we're going to be able to slice it that close to say it's less of an impact than the former use in most situations.

Mr. Greenwood: I'm fine with that. It sounds reasonable.

(several unintelligible remarks)

Chair Axthelm: Annie?

Ms. Lohman: Are you sure? \_\_\_\_\_?

Mr. Meenaghan: No, I'm okay. I'm sure you'll make up for me.

Ms. Lohman: Is there a prohibition on increasing the height as long as you stay within the County's height restriction? Because on page 20 at the top – I guess it would be (b)(iii) – it says "the enlargement does not increase the height..." Why are we prohibiting an increase of height as long as you're within the overall height restriction?

Mr. Meenaghan: And I thought in our previous draft we struck that.

Ms. Lohman: I had it flagged in my other one.

Mr. Walters: I do recall something from before about that.

Ms. Lohman: Because I could see where a person could maintain their footprint and go up a little bit.

Mr. Pernula: But still within the envelope of what's permitted. You could add that at the end of that sentence – if it still conforms with the new height restrictions.

Ms. Stevenson: This is just for *minor* enlargements or expansions.

Mr. Walters: Oh.

Ms. Stevenson: Can “be approved by the Administrative Official,” okay? Under (b) under that list – okay? And then a major that did not meet all \_\_\_ would require a variance.

Mr. Walters: So still, though, if \_\_\_ the enlargement does not increase the height beyond – although it wouldn't be able to go beyond our current limits anyway.

Ms. Stevenson: Yeah.

Mr. Pernula: It still would be able to expand to that limit if you're way below it. Otherwise you couldn't go up at all.

Ms. Mitchell: Right.

Mr. Greenwood: Yeah, the 25, 35. We talked about that.

Mr. Pernula: Right.

Chair Axthelm: So it'll allow at least to the –

Mr. Pernula: If you have a 20-foot tall building and you want to increase it to 25 within the 25-foot area, this says you can't do that.

Mr. Walters: It says you can't do it without a variance.

Mr. Pernula: That's right. Why should you have to get a variance if it's under 25 feet?

Mr. Walters: I think the reason is that there's some other nonconformity of your structure in this.

Ms. Stevenson: It said it wouldn't be nonconforming with relation to height \_\_\_\_, right?

Mr. Greenwood: Right.

Ms. Stevenson: I mean, it says “...pre-existing residential or appurtenant structure that is nonconforming with respect to dimensional standards...” I mean, I think you're assuming that it's

already nonconforming with respect to height there. I don't think we're trying to say that you couldn't go up to at least what would be allowable.

Ms. Lohman: Because the way it appears to be worded, it almost suggests that if you had a structure that would – for all the other reasons – would be nonconforming except for height, it precludes you from going up.

Mr. Pernula: That's what it says.

Mr. Greenwood: It seems like an easy fix.

Ms. Stevenson: The first one says that it can be "enlarged provided the enlargement does not increase the extent of the nonconformity." So if it's not at an existing height requirement already, then you're increasing the nonconformity by making it taller. Right?

Ms. Lohman: Except then you break it down into major and minor –

Ms. Stevenson: Right.

Ms. Lohman: – which adds to the – that's where the monkey wrench comes in.

Ms. Stevenson: Okay, but it says "Enlargement or expansion that would not otherwise be allowed under this SMP..." Why wouldn't you allow the height to go up to whatever is allowed here? And I'm not trying to speak argumentatively.

Mr. Meenaghan: Because that would be major?

Chair Axthelm: Well, you do an under 200-square-foot addition to a building and it raises the peak just a hair. You wouldn't let that happen here. I don't think.

Mr. Walters: Without a variance.

Chair Axthelm: But it should really – that should be allowed if it's within the 25 feet.

Mr. Mahaffie: People do that, you know. They put a little peak with a couple little windows up at the top – you know, peak-a-boo overtop of your existing structure.

Ms. Lohman: Or even changing the pitch from a flat to a slight peak.

Ms. Stevenson: I'm going to have to think about some of this because we've tried to be really careful and we've written this so many times and there was lots of reasoning behind it, and I didn't bring all my files and we haven't looked at all of the – because Jill worked hard on this stuff, too, and when I read it today it was like, wow, this just – it lays it out so well. I see what you're saying and I understand, but I just want to make sure that that hasn't already fallen out in one of these other things above where we get down into that.

Mr. Temples: Well, Betsy, let me ask you this question. If you just simply document it as, you know, if they are in a conforming use and are following a conforming expansion within dimensional standards, it can be enlarged to the limited height or whatever within that particular zoning. And then you could have another one that says if you're nonconforming, this is what you're allowed. I mean, make it more black and white, if that's what you're trying to do.

Mr. Walters: Well, I flagged it.

Ms. Stevenson: Yeah. I understand what you're saying and the issues, so I just really want the time to go back and think about it again some more and work through \_\_\_\_\_.

Mr. Temples: What I'm hearing here is a lot of this – they're kind of mixed together.

Ms. Stevenson: Well, actually we separated them out pretty carefully. That's why I just want to make sure that –

Mr. Temples: Okay.

Ms. Stevenson: I know what you're saying. So we'll take a look at it again and just see if we can make it any clearer or if we're missing a big major point that I can't think of right now.

Ms. Lohman: Because I had the same when I reviewed back. I had written "single-story to two-story," and the word "look at" for that same item. And then I saw it almost identically written. So it left the same impression when I read it this time. But the next thing I saw, moving down on the same page, 14.26.630 Pre-Existing Structures – can we put "non-residential" after that title? Because what we talked about in the stuff above it is all residential. This is referring to non-residential structures.

Ms. Stevenson: Which is what it says in the Applicability?

Mr. Walters: Yeah.

Ms. Lohman: But if you put it in the title –

Mr. Walters: Except it's not non-residential. It's pre-existing structures that are not single-family residences and their appurtenances. So...

Ms. Stevenson: We took it out on purpose because it just was so \_\_\_.

Mr. Walters: I mean, we could add "non-residential" but that's not quite right.

Ms. Lohman: Other \_\_\_?

Mr. Greenwood: How about other? Other. "Other pre-existing structures," or something like that.

Ms. Stevenson: Yeah, except some of it towards the replacement stuff does apply, so it –

Ms. Lohman: Because you separate out pre-existing residences.

Mr. Walters: "Other" is what we did for – because they have the special rules.

Chair Axthelm: She does specifically have it in Applicability, though.

Ms. Stevenson: Right.

Chair Axthelm: It clarifies.

Mr. Walters: And I think “other” makes sense and it doesn’t cause any other \_\_\_.

Ms. Stevenson: Refer to the replacement stuff.

Mr. Walters: Yeah, but I think –

Ms. Stevenson: If you say it’s not, then somebody’s going to say, Well, wait a minute. How can that apply when it says it’s not –

Mr. Walters: Yeah, I think we can read it close enough, though.

Ms. Stevenson: Okay.

Ms. Lohman: Or maybe the ordering? Is it an ordering problem maybe?

Mr. Walters: I think we definitely wanted single-family up front because that’s almost –

Ms. Lohman: All of it.

Mr. Walters: – all of it, yeah.

Ms. Lohman: But then it doesn’t make sense then to jump – normally when you have – I would think and, you know, I may be wrong – but you have all the rules and then what follows says refer back up to what you read first, but this one in the residential section it says, Oh, you’ve got to jump now to what you haven’t read yet to capture item number (4) for Replacement.

Mr. Walters: Mm-hmm.

Ms. Lohman: So it almost makes better sense to put the Replacement with the residential because you said right up front that that’s the majority of the use or the activity. And then in 14.26.630, refer to number (4) from above.

Mr. Walters: Yeah. I tend to think that it is no more clearer either way.

Ms. Lohman: Because then when you go down to 630, you’ve put all the residential – okay, now all the residential including Replacement, you’ve talked about that. Now you’re talking about other scenarios.

Mr. Walters: One alternative would be to have Replacement simply be a separate section.

Ms. Stevenson: Mm-hmm. We had it in both places before and for whatever reason we decided to take it out to streamline that. I’m not sure that –

Ms. Lohman: Because I have the word “clarify” written in our prior version and that we put Replacement into 620, which is the one above. I mean, I don’t know what other people have written down from when we reviewed it last time.

Chair Axthelm: You know, it seems like the Pre-Existing Structures should be – sorry, I’m out of turn here – the Pre-Existing Structures should be the first one and then residential the second.

Ms. Stevenson: We went through all this and it just – it makes more sense to do the residential because that's what people are looking for. And you've already talked about the single-family residential being considered conforming. I think it's going to be more confusing. We've flipped it around every which way and had it – I know I'm – I don't think I've said this yet, but trust me on this!

(laughter)

Chair Axthelm: No, I understand where you're coming from because –

Ms. Stevenson: I will try not to use that card!

Chair Axthelm: – that's typically the complaints.

Mr. Walters: If you had Pre-Existing first, you'd read Applicability and it would say "This applies to pre-existing structures other than single-family..." which are in 640. So you'd click on 640. It would go down to 640, or turn the page – whatever Amish people do. But then you would get down to 640 and you'd get to Replacement and it would say, Well, then go back up to 630 to read the Replacement section. I don't know. Especially because this is actually a very short section. It's only three pages, I feel like it's not *that* confusing as it is.

Ms. Stevenson: I think we could probably pull out Replacement –

Mr. Walters: As a new section.

Ms. Stevenson: – as a new section by itself, because it applies to both sets of structures.

Mr. Walters: That might fix it. Yeah.

Ms. Stevenson: I mean, I don't – what about replacement of the use? It's a replacement of the structure, right?

Mr. Walters: There is no replacement of a use.

Ms. Stevenson: Yeah, it says the structure damage – so, okay, I'm just thinking out loud. So it sounds like that might be the easiest way to fix it.

Mr. Walters: Yeah.

Ms. Lohman: Because it does apply to both.

Mr. Walters: Right.

Ms. Stevenson: Right.

Ms. Lohman: So we make it a stand-alone?

Ms. Stevenson: Yeah. Maybe after –

Mr. Walters: So (4) would become a 640 and the other numbers would increment.

Ms. Stevenson: Put it just after Pre-Existing Structures, right?

(several sounds of assent)

Ms. Stevenson: That's what you just said – sorry.

Ms. Lohman: Okay, and then in section 630, the "Routine repair and maintenance is allowed by this SMP, unless precluded by other provisions of Skagit County Code." Do we need to reference where that might be or is that just in general? Just in general?

Ms. Stevenson: Do you mean sections of the code?

Ms. Lohman: Yeah.

Ms. Stevenson: I'd rather leave it like that.

Ms. Lohman: Okay. And then I wanted to make sure that, again, the agricultural language in there – because the agricultural language allows for a lot of construction activity as long as you're not closer to the shoreline. So you could actually expand as long as you are – provided it is no closer to the shoreline does not preclude – so I'm saying that it doesn't preclude expansion.

Ms. Stevenson: Where are you? I'm sorry.

Ms. Lohman: Under the RCW.

Mr. Walters: She's not anywhere in particular. So we could add that maybe to the Applicability section at the beginning of the part 610(2)(a), because it does reference aquaculture. So there could be an agriculture, an aquaculture, and then the legally divided lots. What do you think of that – sort of is similar to what we inserted at the beginning of Part III?

Mr. Pernula: That makes sense.

Ms. Lohman: Do you want the RCW cite?

Mr. Walters: No. It's in the Part IV Agriculture section.

Ms. Lohman: Right.

Mr. Walters: Yeah, so I think we'd just be pointing back to that as a –

Ms. Lohman: So where would you put that? At the beginning of this Part?

Mr. Walters: 660(2), new (a) so it's not \_\_\_\_.

Ms. Candler: So it'd be the new (a)?

Ms. Lohman: I'm finished. Josh? I'm done.

Chair Axthelm: Okay. Robert?

Mr. Temples: I'm done.

Chair Axthelm: Matt?

Mr. Mahaffie: One nit-picky little question. On page 20, (3)(b), if you put "moved horizontally by the landowner"?

Ms. Stevenson: (unintelligible)

Mr. Mahaffie: Yeah, if somebody's moving it across the yard that's different than moving it up.

Ms. Stevenson: Yeah.

Mr. Temples: But wouldn't it depend on topography?

Mr. Mahaffie: There's a big difference between putting a new taller foundation than re-siting the house.

Ms. Stevenson: We'll figure out a way to say that better.

Mr. Walters: I didn't follow that, so if you followed it...

Ms. Stevenson: Yeah.

Mr. Temples: If you raise it, why should you have to – lifting it up a foot for a foundation. You are moving it – it shouldn't apply vertically.

Mr. Walters: I like "by the landowner." So if the squirrels move it, it doesn't count.

Chair Axthelm: Okay. So anymore on that section?

(silence)

Chair Axthelm: Okay. So moving on to the next section – Administration.

Mr. Walters: So one of the things we did here was try to delete things that are simply procedures because we are allowed to have procedures be in our Procedures chapter of the development code, which is 14.06. So stuff that doesn't – provisions that qualify as procedural provisions don't need to be in the Shoreline Plan at all. And the bonus for us, if they're not in the Shoreline Plan we can change them without Ecology's permission. So the idea is that we make sure that anything that is entirely procedural in nature is not in here, and then what we'll do is we'll bring forward to you a set of revisions to 14.06 at the same time as you get the Shoreline Plan. They'll follow each other but the revisions to 14.06 will not technically be part of the Shoreline Plan. So the 14.06 revisions will say things like – oh, well, one of the things: There's a little table on page 24 of what the application levels are. Those will just be in 14.06 and they won't – we've left them here so that you can see them, but there's a little note that this will get deleted because it will be in 14.06. So we'll put it over there where there's already a list of what types of permits become what application levels. And we have tried to pull out other things like appeal procedures or that kind of – anything that we thought we could get into 14.06 we moved into 14.06. But then there's still a lot of substance left in this chapter: What is a letter of

exemption? What is a permit? What are the time limits? What are the review criteria? And the thing that we have tossed around quite a bit is the filing dates with Ecology. I would still really like to be able to pull those filing dates out and put them in 14.06 – but Betsy’s shaking her head – because we want to avoid any inconsistencies between the requirements of this part and 14.06. We don’t want 14.06 to say you publish a notice of decision and you’re done when, in fact, you do have to get permission from Ecology. So I anticipate that when you see 14.06 some of this will become clearer, and maybe if we can convince Betsy, we might still pull out the filing with Ecology sections. But I think that that is basically what we changed from this section from before.

Mr. Temples: Mr. Chairman?

Mr. Walters: Oh, and also, yes – also there’s something else – Interpretations, maybe. No, that was in there before. Oh, previously you had the jurisdiction boundary dispute process in here and now it’s in a section for Part II, which you saw at the beginning of this meeting because we felt that that was more closely related to the Environment Designations \_\_\_\_\_.

Mr. Temples: Ryan, I’ve got a quick question for you. From what I’m hearing here, is this sort of – I’m going to use the term – this section like a work in progress – you’re not fully done with it yet?

Mr. Walters: It’s basically done. If we thought that we could have removed the filing dates and put them in 14.06, then we would do that, but we’re currently – Betsy is currently not \_\_\_\_\_.

Mr. Temples: Well, I guess my question to you and my question to the Chair is is this something we’re ready to review or even talk about?

Mr. Walters: I think so, yeah.

Mr. Temples: Okay. Thanks.

Chair Axthelm: It still needs to go through a hearing, public hearing, and deliberations through us. Is that correct?

Mr. Walters: Oh, yeah. Oh, yeah.

Chair Axthelm: Okay.

Ms. Lohman: 14.06?

Chair Axthelm: No, I mean this in general.

Mr. Walters: *And* 14.06.

Chair Axthelm: So it’s not a finished finished product. It’s still – it’s got some public review.

Mr. Temples: Well, I didn’t think it really was but I was just wondering, you know, if it’s something – okay, never mind. We’ll go through it.

Ms. Candler: Mr. Chair, I have a question to follow up with Ryan.

Chair Axthelm: Yes.

Ms. Candler: You're comfortable that you can take the table out?

Mr. Walters: I guess we'll find out.

(laughter)

Ms. Candler: Is it a duplicate? Was it already in – I know you're trying to consolidate and streamline – is it already in 14.06? I mean, why would you put it in?

Mr. Walters: 14.06 right – yeah, 14.06 right now says, Here's the list of everything – all the types of permits and their application level – except for shoreline, which is now covered by shoreline. And there's a completely different process for shoreline stuff. With the new Plan there will be just the one set of processes for processing permit applications. So this table has been in here since the beginning because we needed to have a place to put it to figure out what types of permits would get what type of review. But what we're saying is this table would go away. It would be – it's actually not even a table in 14.06. It's just a list in 14.06. But it would all only be in 14.06. And that's important because when you look at 14.06 and it says "Application Level," you want to find the shoreline permits in there. And you don't right now, so it's problematic that way. But if we persisted with that, it would just not be congruent with how everything else is. Also I envision some future rewrite of 14.06 that will be awesome, because it needs it. On the 2018 work plan...

Ms. Candler: That was my main question.

Chair Axthelm: So how would it please the Commission on this for separating this section out? Do we want to cover it as a whole – that's an awful lot – or break it down?

(no intelligible response)

Chair Axthelm: Okay, I guess we will just go through quickly if you have \_\_\_\_\_. Okay, Matt, why don't you start on Purpose, then – 700?

Mr. Mahaffie: Nada.

Chair Axthelm: Robert?

Mr. Temples: I don't think I'm going to really comment at this time because I really want to go through this more thoroughly. And I don't know how the other members feel, but I don't want to rush through it.

Chair Axthelm: Okay. Annie?

Ms. Lohman: Maybe I'm stupid on this question. Is this where we want this in the book? Because, for example, Permit Procedures, chapter 14.06, is at the beginning of chapter 14. Should this be maybe at more the front of this? Because I was looking at the table of contents and because it – and it kind of – Tammy's question about are we sure we want to strike that table – if we had the – because at the beginning you have the authority, then chapter 2 is the Shoreline Environmental Designations, and then you go into the General Regulations. But this is

all about the permitting and at the end of the day that's kind of what you want to know. How do I jump in and do my project, and that's part of almost \_\_\_\_.

Ms. Stevenson: I guess about the only thing I would maybe switch it with is the Pre-Existing section that we just did. It could go there in front of that. But you need to go through Part IV to determine what kind of permits you need first. So putting it ahead of that, to me...

Ms. Lohman: Maybe it's in the right spot. But Tammy's question kind of made me think about that.

Mr. Walters: It wouldn't bother me to move it, but we would need to change some things. But I don't know why – or, rather, I don't know how it got set to be Part VII. It might have been the consultant that identified that.

Ms. Lohman: He's not here. Blame him.

Mr. Pernula: It was the consultant.

Mr. Walters: Well, we have enough numbers. But if it was the consultant, then that implies that that's where they thought that maybe it should go.

Ms. Stevenson: No, I think we moved it.

Mr. Walters: From where? That would have been quite some time ago.

Ms. Stevenson: Yeah.

Ms. Lohman: I mean it's in the back on the last version, too, but I never –

Mr. Walters: Oh, yeah. That's what I'm saying: It would have been quite a while ago that we moved it, like when we consolidated the document or before that.

Mr. Pernula: The purpose usually is the first thing in an ordinance.

Mr. Walters: Well, this is just the purpose for this part. I think that there's a purpose for each of the parts.

Ms. Lohman: I wasn't talking about just moving purposes – you know, moving Administration.

Mr. Walters: Right.

Ms. Stevenson: Yeah.

Mr. Walters: I think that that could be done. We would want to add something at the beginning to say, like, You need to go read Part what is currently III and IV to find out what permits you do need. Maybe then Part II would move because there really is not that much going on in Part II so it's kind of much less important. Maybe Part VI could come right after Part VII, what it would then be Part II.

Chair Axthelm: I think we just let \_\_\_\_\_. I'm worried about not going over content right now instead of the location of the chapter, although it's important. It's just a matter of time left. Perhaps we could answer that later – on the location?

Mr. Walters: We can think about that.

Chair Axthelm: Okay. Kevin?

Mr. Greenwood: I'm looking at the whole Administration section. And for me I only have a question pertaining to monitoring. So in the front end I feel like I've reviewed it and we've reviewed it historically to that point, so I kind of like having the Administration at a place where you find out your applicability and it lets you know if it applies to you, then you go to the section that you need to get your answers for it; now what's my next step? So, with that, I'd just pass it off to Kathy.

Ms. Mitchell: Move on from me.

Ms. Candler: I don't have anything about that. I'm just following up very briefly with what Annie was saying. I'm not suggesting we rewrite our entire code. It's always odd to me that the Definitions are in the back because the idea is to put them in the front after Purpose, I think. So I have no idea why it's like that. Maybe there's a reason. But it's different than the RCWs.

Ms. Stevenson: We have a lot more definitions than they usually have in the RCWs, too.

Mr. Walters: It's different from the rest of Title 14, too, because Title 14 puts the Definitions up front.

Ms. Candler: I don't want to belabor it, but I had the same issues, only on a different topic. That's Part VIII, I think you said, and so we're not dealing with that tonight. I apologize.

Ms. Lohman: Well, pardon me for bringing it up, too. We're at the back of the book and so technically this is the last chapter.

Mr. Walters: 14.26?

Ms. Lohman: 720, so 700.

Mr. Walters: 700?

Ms. Lohman: Wasn't Administration the last –

Ms. Stevenson: Pardon me, it's Definitions.

Ms. Lohman: Well, okay.

Mr. Walters: When it ultimately gets adopted, it will not matter very much because we have the hover definitions.

Ms. Stevenson: Can we just table what goes where for now?

Ms. Lohman: Right.

Ms. Stevenson: Is that okay, and just get through this tonight?

Ms. Lohman: But it's just a thought.

Ms. Stevenson: Oh, I know. No, no, no – that's fine we had those discussions. I'm not disagreeing at all.

Ms. Candler: I don't have anything else in the Application section.

Chair Axthelm: Kathy?

Ms. Mitchell: No. Go ahead.

Chair Axthelm: About the Permit sections, why don't we just – we could link those together? There's a few permit sections – as far as comments. Or is that too much?

Mr. Walters: 715 through 735?

Chair Axthelm: Yep, or –

Mr. Walters: Or through 740?

Chair Axthelm: Yeah.

Mr. Mahaffie: I have nothing for the rest of the document.

Chair Axthelm: Okay. Robert?

Mr. Temples: Not at this time.

Ms. Lohman: On the Letter of Exemption, I want to just make sure that it integrates with the other –

Ms. Candler: What page are you on?

Ms. Lohman: Page 25. The Letter of Exemption is under 14.26.720, number (3). I want to make sure that it integrates with the Ag chapter and the other use designation – land use designation.

Mr. Walters: What do you mean "the other land use"?

Ms. Lohman: Because you have an Ag – in the Ag section, you have that matrix. And the Ag chapter's complicated, and here you're asking us to have a letter of exemption and we have to basically lay it all out why we're exempt, when you have an Ag chapter that kind of lays that out. I was trying to figure out how I would walk that if I wanted to do something.

Mr. Walters: Maybe there should be a line clarifying that ag is not permit-exempt. It's SMA-exempt.

Ms. Lohman: Right, but there's some element of – they're also substantial development-exempt.

Mr. Walters: Right, but lot of things are substantial development-exempt and I think this covers that – the permit-exempt activities. I think what’s maybe missing is the – are the activities that are wholly exempt from the SMA.

Ms. Lohman: Because number (a) says “A letter of exemption is required for all development qualifying for a Substantial Development Permit exemption.”

Mr. Walters: Right.

Ms. Lohman: So it almost feels like a redundancy.

Mr. Walters: What do you mean?

Ms. Lohman: Because you’ve laid it out in the Ag chapter and then you’ve asked us to do it again here.

Mr. Walters: Well, but ag is not *permit*-exempt. It’s exempt from the entire Act so it has a much broader exemption.

Chair Axthelm: So this isn’t talking about the direct substantial development permit. This is talking about the *shoreline* substantial development permit.

Ms. Lohman: Right.

Chair Axthelm: So you’re not – you’re actually not – there’s two different issues, two different permits, because this is specifically shoreline substantial.

Ms. Lohman: Right, but in the Shoreline Act, agriculture is exempt from the substantial development permit. It has a very broad definition.

Mr. Walters: But it’s not –

Ms. Lohman: But it’s not exempt from the Shoreline Act.

Mr. Walters: It is exempt from the Shoreline Act. That’s what I’m saying.

Ms. Stevenson: Yes, it is. Yeah.

Ms. Lohman: Oh.

Mr. Walters: The exemption is broader because it’s exempt from the Shoreline Act. So, for instance, just looking at the flowchart in 410, if it’s an agricultural activity defined in an RCW and it was existing as of the adoption date of this SMP, then the SMP does not apply at all. So that would be sort of a full stop. You would never get to Administration because the SMP wouldn’t apply. You wouldn’t have to do anything else. You know, we’ll look in the Definitions –

Ms. Lohman: Can you say that?

Mr. Walters: What’s that?

Ms. Lohman: But it doesn't say that.

Mr. Walters: It doesn't say that here, you mean?

Ms. Lohman: Mm-hmm.

Mr. Walters: Yeah –

Ms. Stevenson: It doesn't need to. You've already stopped reading.

Mr. Walters: Well, if you were going straight forward through the – I'm suggesting that we add a line here under Exemption, or maybe –

Ms. Stevenson: I think it just confuses it if you put it in there because you've already said it doesn't apply.

Mr. Walters: Possibly.

Chair Axthelm: Because if it doesn't apply you don't have to look at it.

Ms. Stevenson: You haven't even gotten this far in the document and you get to Part IV and you read the agriculture stuff and you're done.

Ms. Lohman: That's if Betsy's behind the counter, though.

Ms. Stevenson: Then you point somebody else to that section. I mean, that –

Mr. Walters: I mean, it could go under Shoreline Permits, which is the catchall for all of these types of permits and the exemption.

Ms. Lohman: Because we have been there before where we've had to –

Ms. Stevenson: Yeah, but this is new. This hasn't been in here \_\_\_\_\_.

Ms. Lohman: I know, but I know that in the past we've had to – even with the language – the RCW language has been there a long time and we've even had to – so having had to, I want to make sure that we touch back.

Chair Axthelm: Okay. Annie, anything else?

Ms. Lohman: (unintelligible)

Chair Axthelm: Okay. We can come back if we have to if anybody thinks of anything anymore. Kevin?

Mr. Meenaghan: No.

Chair Axthelm: Okay. Nope. Kathy?

Ms. Mitchell: No.

Chair Axthelm: Tammy?

Ms. Candler: No.

Chair Axthelm: (unintelligible)

Mr. Greenwood: What section are we on now?

Chair Axthelm: We are on 7 – let's see, Variance – no – 760, Enforcement. Okay. So, Tammy?

Ms. Candler: I don't have anything on Enforcement.

Chair Axthelm: We can cover a few sections here.

Mr. Meenaghan: Enforcement to the end?

Chair Axthelm: It's only a couple pages. Might as well. Does that please the Commission?

Ms. Candler: I think we should ask if anyone has anything before Monitoring. Keith's already indicated he did.

Ms. Lohman: Yeah, let's break it up.

Chair Axthelm: Okay, let's go down to Monitoring.

Ms. Candler: I don't have anything prior to Monitoring.

Chair Axthelm: Okay. Okay, let's stop at Monitoring and then we'll take Monitoring through the rest of it. Okay.

Ms. Mitchell: Same here – pass up to Monitor.

Mr. Greenwood: Betsy indicated you were talking about a monitoring program. Can you describe what that entails a little bit, and are we doing that – at what level are we doing that now?

Ms. Stevenson: We aren't.

Mr. Greenwood: Okay.

Ms. Stevenson: I think that's kind of – it talks about here.

Mr. Greenwood: But we've been reporting to Ecology at some level our level of compliance with no net loss, right? Haven't we?

Ms. Stevenson: (negative sound)

Mr. Greenwood: They've never asked?

Ms. Stevenson: We're still under our old Shoreline Program and there's no such thing here basically. That's new under the guidelines that were adopted and now that we're updating our

Shoreline Program we need to do that. So this section on Monitoring kind of – if it doesn't describe it well enough what we're going to try to do, then let me know.

Chair Axthelm: Annie? Not including Monitoring – anything up to that point.

Ms. Lohman: No.

Chair Axthelm: Robert?

Mr. Temples: No.

Chair Axthelm: Matt?

(silence)

Chair Axthelm: The only thing I'd have concern on was with Interpretations on number (2). It says "...the Administrative Official must consult with Ecology to ensure that any formal written interpretations are consistent with the purpose and intent of RCW..."

Mr. Walters: Where is that?

Ms. Stevenson: 785.

Chair Axthelm: 785, number (2), and the concern I have is if – the Administrative Official for our County, if they make an interpretation they should be allowed to make some interpretations without having to go back to Ecology. That's quite a process.

Ms. Stevenson: Except that it's a shared responsibility between local government and the state.

Chair Axthelm: Yeah, but at some point the Official locally should be able to make the call instead of having to have it all reviewed again, because then it's not an interpretation. You're going back and dragging it through again. I think –

Mr. Pernula: That's a consultation and we would still make the decision. That's the way I would read it.

Ms. Stevenson: Yeah. I think it's smart to check with them before you do that anyway.

Chair Axthelm: Because sometimes there's usually administrative calls that you could make that are –

Ms. Stevenson: There are.

Chair Axthelm: And that's what I want to make sure can be allowed without having to go to Ecology.

Mr. Walters: I think that is definitely a floating standard. Every time you issue a permit you're making some kind of interpretation of what the code says, right?

Chair Axthelm: Yeah.

Mr. Walters: I mean, every single permit obviously you're not consulting with Ecology, so maybe it's Administrative Official interpretations, which are a defined thing under our code?

Mr. Pernula: Sure, and it says "...to ensure that any formal written interpretations are consistent..." So we would only have to consult with them if we were going to issue some sort of a written formal interpretation.

Mr. Walters: Now the thing is the WAC says any formal, written interpretation. That's the words it uses. Maybe we can get away with an – I know Ecology is listening to us right now! – but maybe we can say "Administrative Official interpretation" because that is, I think, what they're talking about.

Chair Axthelm: I'm not saying to get away with anything. What I'm saying is in the situation you've got, I mean, why send it to Ecology for something – for every little thing if it's written? I think that there should be some degree of allowance.

Mr. Walters: And I don't think that's what they mean, although that is what they wrote down. I don't think that's what they mean, so I think maybe if we substitute "Administrative Official interpretation" – which we don't do that often. You know, they're on the website and there are six of them or something – maybe that gets at what it is they want.

Ms. Stevenson: We informally normally do that now.

Ms. Lohman: Except that you almost cut and pasted the WAC on number (2)

Mr. Walters: Well, that's what I'm saying. That's what I'm saying. You know, it is required that we consult with them for formal written interpretations, but maybe if we say our formal written interpretations are our Administrative Official interpretations under 14.06, where they are, that that – maybe that covers it.

Chair Axthelm: If you think that gives some degree of allowance, that's \_\_\_\_.

Mr. Walters: I mean, if Ecology doesn't agree, then we'll be changing it back because we'll be changing it back to what the WAC says.

Chair Axthelm: Yeah.

Mr. Walters: But they might agree because it makes sense.

Chair Axthelm: Well, and there's just situations in here. I mean, we're doing things that they don't 100% agree with. So when – you can go and get interpretations that can totally change it to what they want to.

Ms. Stevenson: They're going to have to approve this and adopt it, and then it will be theirs as well as ours, so they'll be bound by whatever is approved here.

Chair Axthelm: Okay.

Ms. Stevenson: So that won't be an ongoing thing. It'll be painful when we go through it, but once it's done it's done. They can't continue to go back and try to say, Oh, unh-uh – I don't think. I would hope not.

Chair Axthelm: Oh, I bet they will. Well, I mean, that stuff will keep coming back. And that's just the nature of it. The – they'll –

Mr. Walters: Well, and some of that interaction will be on individual permits because some have to be approved by Ecology.

Chair Axthelm: Yeah. Yeah. Exactly. And we do construction projects through Department of Ecology all the time.

Ms. Lohman: So, Josh? So what are you suggesting here?

Chair Axthelm: My concern was just that there has to be some allowance of – see, with any formal written interpretations, well, that means almost anything you do. Right?

Mr. Walters: It could mean that. I don't think that's what they *mean*, but that's what they wrote down. So I think we'll change that to Administrative Official interpretations.

Chair Axthelm: Okay, if that's significant. Okay.

So Monitoring. We're at Matt.

Mr. Mahaffie: Nothing.

Chair Axthelm: Monitoring through the end. Okay, Robert?

Mr. Temples: No comment.

Chair Axthelm: Annie?

Ms. Lohman: I was stumbling because on number (2) under Monitoring it says "...outside of the critical areas and their buffers..."

Ms. Mitchell: Is that because critical areas are held to a different standard?

Ms. Lohman: I'm asking a question.

Chair Axthelm: But if it's in the shoreline jurisdiction, isn't it automatically within the critical areas and their buffers?

Ms. Lohman: I thought the most critical was that whatever the buffer and the critical area would be and then what's leftover would be a lesser – \_\_\_\_ layman's interpretation.

Mr. Walters: I can't think of a reason that it shows that "outside."

Mr. Greenwood: What page is that? I'm sorry. I missed the beginning.

Several voices: Page 31.

Ms. Mitchell: Number (2).

Ms. Lohman: Third line.

Chair Axthelm: That's an interesting question. So we don't know the answer right now.

Mr. Walters: We'll \_\_\_\_\_ at least.

Ms. Lohman: It said it last time and I flagged it last time, but I don't know – I can't remember.

Ms. Mitchell: Who does have jurisdiction over the critical areas? Is it strictly DOE?

Mr. Walters: Well, no. We have jurisdiction. I mean, within shoreline jurisdiction there's some shared jurisdiction with Ecology, but within shoreline jurisdiction we need to protect critical areas so they are protected through this Plan simply by saying our existing critical areas ordinance is going to continue protecting them.

Chair Axthelm: Anything else, Annie?

Ms. Lohman: No. That was it.

Chair Axthelm: Kevin? Keith?

Mr. Greenwood: No.

Chair Axthelm: Kathy?

Ms. Mitchell: No.

Chair Axthelm: Tammy?

Ms. Candler: No.

Chair Axthelm: Okay. And I don't have any comments additional to that. Okay, so any other comments on these sections?

(silence)

Chair Axthelm: Okay, so I'll turn it to the next portion on our agenda, the Department Update.

Mr. Pernula: And there are a few things to talk about. First of all, the Comprehensive Plan Update: March 17, which is your next meeting, will be a public workshop on the Transportation Element and you will be getting materials well in advance of that meeting.

The Board of County Commissioners today adopted a third iteration of an interim marijuana ordinance, and there's likely to be a public hearing on April 7<sup>th</sup> on this ordinance with some minor modifications, which you can provide recommendations to the Board of County Commissioners. We have it scheduled for April 7<sup>th</sup> and then deliberations on that on the 21<sup>st</sup> of April. And also on the 21<sup>st</sup> of April will be a continuation of a work session on the Shoreline Master Program.

And, as we've mentioned before, you have a pretty aggressive agenda for the Planning Commission for the next several months. That's all I have.

Mr. Meenaghan: On the 21<sup>st</sup> is deliberation, and then what was the other thing?

Mr. Pernula: The 21<sup>st</sup> will be the deliberations on the marijuana ordinance and then also work on – continued work on the Shoreline Master Program – the sections that you didn't have today.

Mr. Temples: Dale, I've got a question. Just in the news here recently they were talking about the United Nations of the tribes getting together to possibly open up marijuana facilities on the tribal lands. Have you heard anymore? Or is this something we're going to have to –

Mr. Pernula: What you have mentioned is all I've heard as well.

Mr. Temples: Okay.

Mr. Walters: We won't have to deal with it because we won't regulate on tribal property, but it may have significant impact on the recreational industry.

Mr. Greenwood: So I heard.

Mr. Walters: The other thing I'd say about marijuana is that the proposal probably comes out very soon – like next week – because the Board has already had a public hearing on the interim ordinance and they've already decided to \_\_\_\_\_, so the proposal will basically be the interim ordinance but in code language form.

Mr. Pernula: We'll send you links to that within the next several days. There will be both a memorandum that explains the process of how we got here; what's contained in the ordinance; then a copy of the ordinance.

Chair Axthelm: Okay, so the next item on the agenda is Planning Commission Comments and Announcements. Do you have any?

Is this working well – stuff – going through as we are?

(sounds of assent)

Chair Axthelm: Is everybody fine with that? I feel awkward going last, but that's – when she presented it she said no, the speaker's supposed to go – or the Chair's supposed to go last, which is awkward.

Ms. Mitchell: It worked well.

Chair Axthelm: Okay. All right. I'm feeling comfortable. I think it flows if we keep going. Okay. Yeah?

Mr. Temples: Mr. Chair? At this point in time would you want to entertain the thought of adjourning this meeting?

Mr. Pernula: Could I bring something up real quick? The Robert's Rules cheat sheet?

Mr. Greenwood: That's what he's reading, I think.

Ms. Mitchell: That's cool!

Chair Axthelm: Yes. I was running late so I didn't see it setting here on my desk until after the meeting started. So it's – or is it? Do we have a motion to adjourn? Is that what it is?

Mr. Temples: Mm-hmm.

Ms. Candler: Second the motion.

Chair Axthelm: Okay.

Mr. Walters: So I do think that you should have a vote on adjourning the meeting. I think it would be fine to also just – do you have that in there?

Chair Axthelm: I thought it was just a motion to adjourn and then a second.

Ms. Candler: There's also something called unanimous consent.

Mr. Walters: Yes. I don't see how you have a motion without a vote.

Mr. Greenwood: I think we're done, Ryan.

Mr. Walters: I do think that. If you've come to the end of the meeting and the end of the agenda, I don't think you even need a motion. But if you do have a motion, I think you should have a vote.

Chair Axthelm: Well, see, in that meeting she said we should have a – we *had* to have a motion, that I couldn't just adjourn the meeting and that's an emergency situation if I did.

Ms. Mitchell: I think you can.

Mr. Walters: Yes, except, I think, at the end when there are no further items on the agenda.

Chair Axthelm: Okay.

Mr. Greenwood: I move that we table this item that Ryan just brought up for further consideration sometime later.

Mr. Pernula: Send it to \_\_\_\_.

Mr. Walters: I do think we can figure that out.

Ms. Candler: I think that you could – can't you adjourn with unanimous consent?

Mr. Walters: Yes. Yes.

Chair Axthelm: Okay, so do we have unanimous consent?

Several Commissioners: Yes.

Chair Axthelm: Seeing – adjourned.