

**Skagit County Planning Commission  
Deliberations: Permanent Regulations for Marijuana Facilities  
May 5, 2015**

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

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

**Public Remarks**

**Commenters:**       **Carol Ehlers**

Chair Josh Axthelm: Tuesday, May the 5<sup>th</sup>. Welcome to our Planning Commission meeting. If you'll look at the agenda, Planning Commissioners, do you have any changes to the agenda?

(silence)

Chair Axthelm: I'll call the meeting to order (gavel). Okay, any changes?

(silence)

Chair Axthelm: Seeing none, we'll see on the first item on the agenda the Public Remarks. The public is reminded you have three minutes' time, and please approach the microphone. So any public comments? Okay.

Unidentified female voice from the audience: I'd like to make a comment but I think maybe I'm not allowed to.

Chair Axthelm: If it's regarding what we have on the deliberations tonight, no.

Same unidentified female voice: Okay.

Chair Axthelm: No. So seeing none, we'll proceed on to the first item on the agenda – or I guess it would be the third item on the agenda, the Deliberations. Okay. Does the Planning Department want to update?

Dale Pernula: If I could just have a couple of remarks.

Chair Axthelm: Okay.

Mr. Pernula: You have a second Supplemental Staff Report which supplements the first one that you had prior to the last meeting. It does a number of things. First of all, it provides an update on the medical marijuana legislation. It shows that it was adopted, it was signed by the Governor, and it also lists the various provisions of that particular statute. For example, only up to four – regarding medical marijuana in the cooperatives, only up to four people over 21 may participate. Each member must be a qualifying patient or a designated provider for a qualifying patient. Members must provide assistance in the growing of plants. In other words, you just can't donate money or something like that. You've got to be involved in the growing. You can't sell, donate, or otherwise provide the marijuana products to anyone else. Members may grow and process only at the cooperative and may only participate in one of those cooperatives. They can't switch out. That's been one of the problems in the past, is that people were switching out constantly – just kind of a rollover. But there will be a 60-day waiting period here, so at any one time you'll only have four people at each one of these cooperatives.

The names of all the cooperative members must be registered with the Liquor Control Board. The location cannot be within a mile of a marijuana retailer. It must be the location of the home at least of – at least one of the members. The number of plants for up to four members could allow up to 60 plants together in the same housing unit. And regardless of how many qualifying patients live together in the same housing units, without registering the cooperative they may not grow more than 15 plants total each, meaning a total of 60 among the four people. Cooperatives may possess no more than 72 ounces of usable marijuana.

I think we also tried to provide some additional information to you regarding the siting of the facilities. I hope you've each had a chance to take a look at the maps that were provided, and we can put them on the board – on the screen – if you wish us to. But it does provide a lot of information of where the commercial zones are in Skagit County and also where the 1000-foot setbacks would be applied.

I think there are some – we once again have the table showing each of the zones and where retail production/processing in opaque structure or transparent structure would be allowed. We also have a listing of the licensed marijuana producers in the – and we added the addresses; before we didn't have the addresses on – and provided some additional information. I hope you all had a chance to go over the memo. Yell if you have any questions.

Chair Axthelm: Any questions from the Commissioners?

Keith Greenwood: Not really.

Chair Axthelm: Annie?

Annie Lohman: No – yes, I do. On the signage, is that signage limitation of 1600 square inches, is that just for retail?

Mr. Pernula: I thought it –

Ms. Lohman: But is that – because there's a big sign on a side of a building that's huge – like a billboard.

Mr. Pernula: Okay, that may be in violation. I'm not familiar with it. It may have been –

Ms. Lohman: It's a bit confusing on the Liquor Control Board's website because they were asked about if they could have a billboard. The answer they said was yes, and so then I'm thinking, Well, how does that square with the 1600 square inches because that's actually just short of three by four.

Mr. Pernula: Good question. I don't know.

Ms. Lohman: So it didn't make sense to me when I read it so I was curious what our approach was going to be for advertising. And it's sticking to the 1600 inches – square inches?

Mr. Pernula: That's the way it's written right now. Yeah.

Chair Axthelm: I do have a question generally. Cooperative, a marijuana cooperative: Would that be considered a business?

Mr. Pernula: I don't think so because it's only for those people who are registered, it's got to be in the individual's home, and it can't be more than four people. And it can't be for sale.

Chair Axthelm: Okay.

Mr. Pernula: It's for their own personal use.

Chair Axthelm: Okay. So it really wouldn't be considered a home-based business?

Mr. Pernula: I don't think so.

Chair Axthelm: Because it's not only that – it's not only the person's – it's in the person's home and then has additional people that are involved in it, which would then come and visit the site. Okay. What was the question? Nope. Okay. Oh, and the other one was the smell or the smell from growing and processing. Is – like with an agricultural zone you're limited or – in an agricultural zone, when you have residences nearby you basically can't say no to a dairy or a cow.

Mr. Pernula: You know, I would defer that question to Ryan and see what his thoughts are on that.

Ryan Walters: You're thinking about the Right to Manage Natural Resource Land provision we have in our code?

Chair Axthelm: Yeah. Basically if you have a dairy down the road you can't object to the smell that's coming off the dairy.

Ms. Lohman: That's the Right to Farm.

Mr. Greenwood: There's two of them, though.

Mr. Walters: There's a Right to Farm statute. In our code there's a Right to Manage Natural Resource Lands section, and we're characterizing marijuana here as an industrial use, not as an agricultural use, and that has been sort of the position all along. If you were farming it

outdoors maybe it might be considered agricultural, but we're proposing to prohibit any outdoor growing. And I had thought that it might be prudent to even add a line in the final ordinance as adopted that says, in case there's any clarification needed, "This is not an agricultural use and we're not considering it an agricultural use in any way, in any respect."

Chair Axthelm: Okay.

Mr. Walters: And there's a lot of support for that, too. The state doesn't consider it an agricultural use, et cetera.

Chair Axthelm: Okay, so by definition. Okay.

Mr. Walters: So I wanted to clarify also, though, a little bit about the advertising. I believe that the restriction on advertising to a 1600-square-inch sign is a restriction for the facility – the on-premises advertising of that facility. So I do think that they could have a billboard off-premises – under the Liquor Control Board. But we have additional constraints in our sign code and I can't quote you those off the top of my head, but our sign code has limitations on what you can do in the rural areas.

Chair Axthelm: Okay. From your standpoint, would the cooperative be considered a business?

Mr. Walters: No. I think most definitely not. It can't sell anything so it's not going to have a business license, it's not going to have a federal tax i.d. number, it's not going to be an independent entity. And it most definitely would not qualify for a home-based business, especially if we address it in our code separately as a marijuana cooperative.

Kathy Mitchell: May I ask a follow-up question then on that? So if you have a – if somebody puts up a cooperative sign which looks like it would be a processing, producing-type facility, then the "cooperative" is not the right terminology for that business. Would the Liquor Control Board then have them change that wording or does it really matter?

Mr. Walters: Well, I don't know so let's walk through this a little bit. Right now there are no cooperatives because the legislation hasn't gone into effect yet. Right now there are collective gardens under the statute, but under case law the courts have said that the statute isn't effective because part of it is missing, having been vetoed by Governor Gregoire. A collective currently is not regulated by anybody. After the legislation goes into effect, collectives will be allowed by statute for a year, until 2016, and then they won't be allowed even by statute. Cooperatives will become allowed when the legislation goes into effect. They will be regulated by the Liquor Control Board but to a much lesser extent than the commercial facilities – the production, processing, and retail facilities. They'll have security requirements and seed traceability requirements that the Liquor Control Board will enforce like they do for the commercial facilities.

If you have a facility in your hypothetical that is putting up a sign that says it is a cooperative but it is actually an I-502 commercial-licensed facility. I think the Liquor Control Board would have a problem with that. I don't know that they currently have a rule to address that, but I think that they would deal with it somehow. And they have the ability to establish new rules. We have a much more limited ability to do that because we're functioning in the land use context. So we establish rules and then people apply and vest to them and then they are grandfathered in if those permits are issued. So the Liquor Control Board can and has issued new rules along the way as they identify new problems. And if that is a problem, I imagine they will address that. But I sort of anticipate that that won't really be a problem. There's a lot of confusion right now

because it's a new statute, and while it's available to read, not very many people have seen it summarized anywhere. And it's 80 pages so maybe not very many people have read through it. The cooperatives, I think, are unlikely to advertise if you're actually a cooperative, because what would be the point of that? You don't want to attract attention to yourself because you may, in fact, have some security issues, and if you are attempting to sell out of your cooperative you don't want to let people know that that's actually occurring because that's illegal. And there are a lot of constraints on letting that happen anyway so we assume that it will not be anywhere near as prevalent as it has been with the collective gardens, which have effectively no constraints on their ability to sell. Of course, some of that is the fact that law enforcement has somewhat turned a blind eye to the collective gardens and the reason for that, though, has been that there has been all this uncertainty until the Court of Appeals decision last year, I think it was. We thought that collective gardens were legal and we thought that the legislation was written badly to allow all this swapping out of members that Dale described. But then when the Court of Appeals ruled we learned, okay, they're not legal at all and they never have been legal, and a court is ready to back that up. But the legislature was saying, Well, we're going to come in with new rules. So I think law enforcement, as a general matter, sort of backed off and said, Okay, we'll wait for the new rules. And now that we have them we anticipate that law enforcement will work actively to eliminate the collective gardens that are out there and allow only those things that are explicitly allowed by statute, which should not have this case law problem that the collective gardens did.

Ms. Mitchell: Thank you. That's very helpful.

Mr. Walters: Does that answer that? Because there're a lot of things going on there.

Ms. Mitchell: And there's going to be confusion by the general public while this sorts out the next few months – whenever these businesses start and they understand what they can and can't do.

Mr. Walters: And we've already started drafting a memo that we could provide to marijuana applicants after the permanent rules are done. The Board of County Commissioners asked us to create a table, which we are not very far along with yet, but that would describe of the various things that you need to comply with and do if you're to run a marijuana facility; who enforces what. We suspect that will be helpful to the public as well, because if they see a problem with one of those aspects they could contact the appropriate agency and get some enforcement going. But it *is* complicated and we see definitely a need for more guidance for these facilities. We don't want them to be unclear at all about what the County rules are, at least. Some facilities seem to have been under the impression that they vest to the County land use rules that were in place at the time they got their Liquor Control Board license and that is completely wrong. You don't vest until you submit a complete application at our Planning Department. So we have some work to do there.

Chair Axthelm: Okay. Any other comments?

(silence)

Chair Axthelm: So what you want us to review and forward today is actually –

Mr. Walters: We put on the last page of the memo what we think are the remaining issues for your consideration – four bullet points there.

Chair Axthelm: Yeah. The document as a whole (that) we're doing is basically that, right?

Mr. Walters: Well, that's the code proposal, but –

Chair Axthelm: This summarized it.

Mr. Walters: Yeah. So the questions are: What zones do you want to allow which types of marijuana facilities in? And then for each of those combinations, what level of review do you want to require for each zoned facility? And then what consideration do you want the special use permit process to evaluate for marijuana facilities? That list of impacts that we have in the summary and in the code proposal.

Chair Axthelm: He's reading on page 6, if you don't have that.

Mr. Walters: And then what do you want to recommend with respect to medical marijuana growing at home? And the Department made some recommendations in the last Supplemental Staff Report based on the new legislation.

Chair Axthelm: Okay. So what is the will of the Commission? Should we proceed with those questions?

Mr. Greenwood: Well, I'd like to just –

Mr. Walters: If I could introduce one other concept to this list –

Mr. Greenwood: Go ahead – sure. Mm-hmm.

Mr. Walters: – before you get started. The Department proposal segregates the uses into retail, production/processing in opaque, and production/processing in transparent. You're not wedded to those categories. I mean, obviously you need to deal with retail production and processing but you're not wedded to the opaque/transparent difference so you could, for instance, suggest no transparent structures at all. That would simplify the table and all of our lives a lot. So you can think in those terms. Or you can break them out into more categories and complicate all of our lives.

Mr. Pernula: I think the term is actually translucent, I think, in the code.

Mr. Walters: Yeah, that's right.

Mr. Greenwood: Right.

Ms. Lohman: Josh?

Chair Axthelm: Yes?

Ms. Lohman: I have a question before we talk about whether we want to do that last suggestion, and that is when I was looking in the Ag-NRL zoning it does talk about greenhouses. As long as they're soil-based they're allowed, and then if you have to get a special use permit to have a greenhouse that doesn't fit the criteria that permit is only viable as long as you're still using it for your – and I assume it would be an ag purpose. And that is supposed to basically revert back to ag use after that, so how do you marry that with the

suggestion of just adding marijuana usage and then saying that as long as a structure was there? Because it seems –

Mr. Pernula: Good point, because it becomes an industrial use rather than an ag use in an ag zone. That's a good point.

Ms. Lohman: Right. And that was in 14.16.400 in the list.

Mr. Walters: And it would be in general a question of what is the more specific provision in the code.

Ms. Lohman: Right.

Mr. Pernula: And it's more specific as we've written here in the table, I would assume.

Mr. Walters: Yeah.

Mr. Pernula: That if it's a structure that was existing as of January 1<sup>st</sup>, 2014, you could do it with a Hearing Examiner Special Use Permit.

Ms. Lohman: Except you have conflicting language in the code.

Mr. Pernula: I think Ryan just clarified that by saying that if this is more specific than what's in the other provision – which it probably is – this would be permitted.

Ms. Lohman: So how did you choose the January 1<sup>st</sup>, 2014, date?

Mr. Walters: That date is sort of – I think it is very close to the date that the Liquor Control Board rules went into effect – so sort of the beginning of when you could have started applying for marijuana uses.

Ms. Mitchell: Do we have to abide to that date?

Mr. Walters: No. No. It just seemed like a date that made sense if you're going to pick one.

Mr. Pernula: It's there so that somebody doesn't build a new structure just for the purpose of growing marijuana.

Mr. Walters: And to back up further, I think the idea is to provide some ability for people to use underutilized buildings in agricultural land, but not to allow or incentivize further conversion of agricultural land to structures.

Ms. Lohman: I guess it's – I'm finding it difficult when you have a rule that says, Okay, we're going to use a special use permit in order to have this even though it's not a soil-based greenhouse, say. And the restriction on it is as long as you're going to use it for an ag use and after that it goes away. We're kind of driving a truck through the whole point of keeping our ag zone ag. Because now you've changed that use to an industrial use and it's not an opaque building and – because I know a few years ago we had a big debate about concrete floor-type greenhouses, whether we were going to allow them in the ag zone at all, and we said no. So I'm conflicted on while just adding it to the list and saying yeah, but we're going to allow this. Well, then it sounds like all you have to do is just add things to the list.

Chair Axthelm: Do you have a suggestion?

Ms. Lohman: That we don't allow it.

Mr. Pernula: You're saying in Ag-NRL?

Ms. Lohman: Because you're basically voiding the original underlying –

Mr. Pernula: Ag use in that structure.

Ms. Lohman: – the special use permit that allowed that structure. You're basically voiding having to have it because it was only allowed as long as you had it for that particular use, and then after that – it's almost like – it's like those dwelling units that go in on a temporary basis that then become perpetual rentals. We don't police them. I just think here you have basically created a temporary use with a special use permit, but now you're going to make it so that you can perpetuate. I don't know. I just thought you either have it one way or you don't.

Mr. Pernula: I understand your point. To me the important point there is that you may be taking what's currently an agricultural use in that greenhouse, converting it to what we call an industrial use, and it could be perpetual. So that ag use, if it's going to be maintained here it's got to go somewhere else.

Ms. Lohman: Or maybe you strike the language that says – the way that it's written, but then the whole point of the ag zone was to keep it ag. And we're even – I mean, you can't even build a house unless you can prove that it is accessory to your agricultural operation. And so here it's – you're allowing an industrial use. And you could call it whatever kind of industrial use. If you wanted to not say marijuana you could almost say something else. To me it just doesn't track.

Mr. Walters: I would say that point is definitely not off base there. It's just whether you want to allow a limited exception for marijuana growing or not. So you just need to make a recommendation one way or another or come up with some other criteria.

Mr. Greenwood: I was just going to say I'm a little bit troubled by our sacrifice of one zone for another where – because 502 was passed, that doesn't mean everybody necessarily wants it or should necessarily have it in their back yard. Because we approved to have a new jail, that doesn't mean it has to fit in everybody's back yard. There might be a right place for it. But if we're going to take what's – I don't know. It *seems* kind of agricultural because we're growing something, but we've decided because it's a controlled substance we're going to make it industrial because of some of the processing associated with it. But maybe – what is a more compatible use than ag? Is it industrial forestry? Because that's not very compatible there either but it's less conflicting than it is in some of the places where we already have it, which is next to residential, which is even more of a confliction as far as sticking it in somebody's back yard.

So I don't – I'm still trying to find out where it fits. I'm sure there's a place where it fits. I just drove across the state and I drove through several counties and I found it in a variety of places. And I guess some looked a little better to me than others because they were away from too many other people, you know, so the parcel size had some value to me. Some of the distances from residential had some value to me. Some of the vegetative screens that I saw, you know, away from the freeway, up on this hill, back away from stores and houses and stuff seemed a little more soft to me. So compatible uses I think are – I mean, if our job is to protect the



innocent, I think in this case we need to find out who the innocent parties are in this allowance of this activity so that we don't have incompatible uses adjacent to one another. So, you know, again, kind of like Bayview Ridge a little bit, I'd rather sacrifice some potato ground for kids if we're going to build a new school than stick it next to an airport. So it kind of goes back that way to me where, What is our highest value that we're trying to protect in a particular use? So, you know, maybe I made it complicated but I just think, you know, I'm not going to tell you where I think it should be either, but if we don't allow it in the ag and we don't allow it in the industrial forest setting because we don't want things to catch fire through a process, and we don't want it in the commercial industrial zone because it's next to residential which is squeezed between other ag, then where are we going to put it?

Mr. Pernula: I'm not sure. I think Annie was talking about the greenhouses in the ag zone, not necessarily –

Ms. Lohman: Right.

Mr. Pernula: – existing opaque structures.

Ms. Lohman: I just thought it was interesting when I was looking at the zoning codes – because I was looking at the code in correlation with the maps that they sent – and I tripped on that language and I was going, What? So then it's like well, How can you just add that to the list if you have this restrictive language for that type of greenhouse?

Ms. Mitchell: It's basically a lot like a loophole really, is what –

Ms. Lohman: And so that was my whole point of bringing it up, was – wait. Maybe we can't just blanketly allow it.

Mr. Greenwood: Where's it growing besides greenhouses then if it's in an –

Ms. Lohman: Well, in an old barn or, you know, an outbuilding of some sort. It could be a different kind of structure. It doesn't have to be a greenhouse.

Ms. Mitchell: They could do it in an old barn with lighting and such.

Ms. Lohman: It could be an old dairy barn.

Mr. Pernula: In fact, most of them are in existing opaque structures.

Chair Axthelm: I had Ryan pull up the Ag-NRL regulation, or the 14.16.400, Agriculture-Natural Resource Lands, in the code. So looking at the definition of it...

Mr. Greenwood: Do you want me to read something?

Mr. Walters: Permitted uses in the Ag-NRL zone include commercial greenhouse operations that are an integral part of a local soil-based commercial agriculture operation, which the Department reads to mean you're using the soil underneath the greenhouse, as opposed to having a floor on the greenhouse that replaces the soil. And then there's a special use for – an Administrative Special Use – for greenhouse operations that are not permitted as a permanent use, an outright permanent use. So ones that don't use the soil. "Greenhouses operating in the Ag-NRL zone as an" admin "special use, should they cease operation, shall be required to

return the land to its former state or otherwise place the land in agricultural production.” And we’ve had some discussions internally about that. We’re not aware of any that have ever returned the land to its former state. In my view, this is not a very functional provision of the code, but it does express the policy that we want to avoid the conversion of agricultural land where it’s not necessary – to support the agricultural industry.

Ms. Lohman: But it also says commercial greenhouse operations that are integral to part of a soil-based commercial ag operation.

Chair Axthelm: What I was getting at with this was that you could look at the general definition – it’s agricultural for the most part, but they do allow some industrial-type uses. Because if you’re considering marijuana production facilities as industrial, then how do you – do you allow it in the Ag-NRL land with some restrictions? Annie, do you want to make a proposal on that one?

Ms. Lohman: Well, I think that at the minimum that we need an Administrative Special Use Permit because there’s an awful lot of details because our – you know, when GMA came along things were already established on the land and some maps were done and land designations were made, and not all of them were a good fit for the lay of the land, but that’s just kind of what we’re working with. And, I mean, the same thing goes to these residential clusters out in the Ag-NRL. They’re out in the timberland on the fringes in Rural Resource lands, too. And without an Administrative Special Use or *something* you’re just giving a blank check and saying it’s okay to go anywhere.

Ms. Mitchell: If I can add to that – I was fully prepared – whether it’s specifically about exactly what you’re talking about or as we get into more detail – with suggesting that it’s not appropriate in that zone at all. And we can get into some of that later. And that’s just part of the reasoning why.

Ms. Lohman: Percentage-wise, the ag zone is only – it’s less than 10% of the county acreage. It’s like 90,000 acres out of nearly a million acres for the whole county. So, I mean, we lose perspective of that and everybody thinks that the whole – a lion’s share of the county is ag, but in reality as Ag-NRL it is not. And then within that you also have areas that aren’t tillable. You know, there might be a cluster of homes or there might be something, but for whatever reason they’re zoned Ag-NRL.

Chair Axthelm: But Ag-NRL doesn’t necessarily just mean tillable. It can have other things there that –

Ms. Lohman: No – I mean, Blanchard: Ag-NRL. Going up Chuckanut Drive kind of on the – when you come over that bridge where all those pilings are, that’s zoned Ag-NRL. So there is definitely places that are definitely not ag or used for ag.

Chair Axthelm: That’s true.

Ms. Lohman: But they’re under that zoning.

Mr. Walters: If I could offer some options: You have the option of recommending just no greenhouses anywhere in the county, which has maybe some benefits because it’s the greenhouse use that brings along the security fencing and the cameras. Or you could allow greenhouses, including in Ag-NRL, but require the same types of requirements that are in the code already for other commercial greenhouse operations, like the removal of the structure if

the use discontinues and restoration of the land how it was before. I don't really recommend that because I don't think that's a very workable provision as it is, but, you know, you could harmonize that. The current proposal is a Hearing Examiner Special Use. That provision could be wrapped into a Hearing Examiner Special Use. It doesn't have to be an Admin Special Use to make that happen. Hearing Examiner is a higher level of review. But you have those types of options. Or you could just recommend to the Board that they reconsider. You know, you don't have to have a complete answer to the question. You can just suggest that they reconsider allowing marijuana in greenhouses or marijuana in greenhouses in Ag-NRL or marijuana *at all* in Ag-NRL – whatever it is your pleasure.

Mr. Greenwood: Well, doesn't it – Ryan, in our table that you provided, doesn't it say permitted only in structures existing as of 1-1-2014, or did I get it –

Mr. Walters: Right.

Mr. Pernula: That's correct. That's right.

Mr. Greenwood: So we're not talking about building new greenhouses anyway, right?

Ms. Lohman: Yeah, but technically they should have been torn down, according to the code. If they're just sitting there vacant, waiting to be repurposed, the code says they need to be torn down if they're not soil-based.

Ms. Mitchell: Because that language is letting loopholes stand really.

Chair Axthelm: Is 'soil-based' considered in pots, as well – not just necessarily in the ground?

Mr. Walters: No. The Department has interpreted it as meaning in the soil, in the ground.

Chair Axthelm: In actual soil.

Mr. Walters: Yeah.

Ms. Lohman: But doesn't it also have that caveat of being integral to –

Mr. Walters: Yeah.

Ms. Lohman: – an ag operation. So either way it seems – the words seem to me like they're supposed to go away if they're not used. But then you have these other buildings that are – and I can understand the desire to repurpose an old dairy barn or something. But the table just has it as an outright permitted use without any examination.

Chair Axthelm: Would you like to change it to a Hearing Examiner?

Ms. Lohman: I would like to – I don't know what – where we want to go but I think we want to be at *least* an Administrative Special Use. Because when you look at the Bayview Ridge Light Industrial area it's also permitted, but then if it's a greenhouse structure it can't be within 1000 feet.

Mr. Walters: It *can* be just a Hearing Examiner –

Chair Axthelm: Greenhouse operations are already Administrative Special Use in Ag-NRL.

Ms. Lohman: Yeah.

Chair Axthelm: So we need to roll.

Ms. Lohman: So do you want me to make a formal motion?

Chair Axthelm: I believe so.

Ms. Lohman: Okay, I would like to make a motion that we require at least an Administrative Special Use Permit for siting a marijuana production/processing facility in an opaque structure for any of the zones.

Mr. Greenwood: Oh, for any zone.

Ms. Lohman: Any zone.

Chair Axthelm: Annie, do you want to do it – start out with that as big or do you want to start with ag? It's up to you. It's your motion.

Ms. Lohman: We can do it however you want. We could go line – item by item. I can change my motion to be that we require at minimum an Administrative Special Use Permit for locating a production/processing marijuana facility.

Chair Axthelm: You can do whatever you want. I was just –

Ms. Lohman: Okay.

Chair Axthelm: So whatever. You'd like to have it for the whole thing?

Ms. Lohman: Mm-hmm.

Chair Axthelm: Okay.

Mr. Pernula: Is that in opaque structures?

Ms. Lohman: Yes.

Mr. Pernula: Okay.

Chair Axthelm: Okay. So the motion has been made to –

Amy Hughes: Second.

Chair Axthelm: – to \_\_\_\_. The motion has been made to make marijuana processing in any structure of the county – is that correct? – any opaque structure in the county as Administrative Special Use.

Ms. Hughes: I second.

Chair Axthelm: You have a second. Okay, any discussion on the – on it? For and against?

Mr. Greenwood: I just had – I'm not going to sound – I hope I don't sound like an advocate, but I also had some Administrative Special Use Permit-required requests, but when it came to production/processing I didn't think that the Bayview Ridge Light Industrial or the Bayview Ridge Heavy Industrial should necessarily require an Administrative Special Use. But I was also looking to make a recommended proposal that we consider some additional triggers for that Administrative Special Use, that being within 1000 feet of residential, similar to the transparent. So that's why I was thinking that at least those two would be okay in my mind because that's where I think industrial belongs, but I could live with the other one as well.

Ms. Mitchell: Can I add something? With thinking along the lines of what both of you all have said and what I had come to mind with research up to this point, in my mind I'd already decided that I think that we should have Administrative Special Use Permits for all of the zones and for all three uses. And the reason being is that this is not just any business, and if the County is going to be pressed to keep an eye on these things as they grow and as we learn and new legislation comes along, that way the County will be right on top of everything for every situation that comes across. And I think we had discussed in the meeting a couple weeks ago that maybe somewhere down the road if we do find that within the county that things can be loosened up, then maybe at a later date that could be. But I'm more inclined to have more restrictive in the beginning so the County knows exactly what's at its fingertips. And if we did have the Administrative Special Use Permits, wouldn't we have that?

Mr. Walters: Would we have what?

Ms. Mitchell: The County would know exactly for every zone what's there for each facility.

Mr. Walters: We would have more information and more controls over each facility.

Ms. Mitchell: Exactly.

Mr. Walters: We would know where they are because they would have a license from the Liquor Control Board but –

Ms. Mitchell: But it's beyond having the license to knowing exactly what's going on versus what had been permitted. Because just like with any zone, any business, anywhere, just because somebody got a permit for one thing doesn't mean that's actually what they end up doing later on. And so that's my reasoning at this point.

Mr. Greenwood: We did want to retain the prohibition on Guemes Island as in the chart? We're still okay with that one? Because that one doesn't.

Ms. Lohman: Well, and maybe the motion's a little premature because I did have a question on whether we wanted to have production in Rural Village Commercial, because when you look at that zone you kind of trip on that when you compare it to all the other things in the list of allowed activities, even getting down to what's in the Hearing Examiner Special Uses. So I'm not – maybe we should go back and just do item by item.

Chair Axthelm: So would you like to withdraw the motion?

Ms. Lohman: Yes, please. It seems like the more you talk about it the more –

Mr. Greenwood: I don't think – once she makes it and it's seconded then it's our motion. Is that correct?

Ms. Lohman: Yes.

Ms. Mitchell: But it could be amended.

Mr. Walters: I might suggest that you just characterize these motions as – for instance, maybe Annie's could be re-characterized as change all the "Ps" in the second column to "ADs." So you wouldn't be changing the "Xs" and you wouldn't be eliminating the prohibitions, and then you could go back and say, All right, except in Rural Center – or something like that – we want to change that one. So you just take it one piece at a time rather than try to –

Chair Axthelm: So leave the prohibited areas but minimally it's Administrative Special Use.

Mr. Walters: And then I'll make the changes on the screen as you do that so you can see how you're progressing. And if you have to go back and reconsider one of those then, you know, you can do that.

Chair Axthelm: Okay, and – Amy?

Ms. Hughes: Time and time again we've heard that communities haven't known what's coming into their community, and I think that the numbers we're dealing with right now, it's a cost of business to let your neighbors know if you're a resident or a business owner what's going to be happening in your community, and I think this is a process for doing that. I think that public hearings should be required as we get going on this and things are changing. There's right spots for this and there's wrong spots for this and the public should voice into that. So I would agree that this is a good way to go.

Chair Axthelm: Now does Administrative Special Use give us – it doesn't give us public – Hearing's Examiner would?

Mr. Walters: Correct. So the Administrative Special Use gives you the opportunity to comment in writing and notification, but it doesn't give you a public hearing. A Hearing Examiner gives you an independent official, the Hearing Examiner, making the decision, and the public hearing.

Mr. Greenwood: And the notification is for people within 300 feet?

Mr. Walters: It's within 300 feet or up to 500 feet if the Admin Official decides that that's where it needs to go.

Chair Axthelm: That's with Hearing Examiner?

Mr. Walters: With both.

Mr. Pernula: Either one.

Chair Axthelm: Okay, so both is notification but not necessarily you have the right to a public hearing or –

Mr. Walters: No. You have the right to input with both, you have the right to notification with both, but you only get to speak at the podium with the Hearing Examiner.

Chair Axthelm: Okay.

Mr. Walters: Otherwise you just send letters.

Chair Axthelm: Go ahead, Amy.

Ms. Hughes: Are we able to expand that area so maybe it's consistent – like 1000 feet – like it's consistent with the RCW and the WAC? Does it have to be 500 feet or could we go 1000?

Mr. Walters: It doesn't *have* to be 500 feet or 300 feet. It could be 1000, but then it becomes a matter of how it is we are trying to administer that. Because the standard process is 300, or 500 if the Admin Official decides it's farther, so we would need to create another process.

Ms. Lohman: But we could, right?

Chair Axthelm: We could stipulate with marijuana facilities.

Mr. Walters: You could just – yeah, just make that recommendation.

Mr. Greenwood: Yeah, we could recommend that it be further, even if we just recommend to the Commissioners that it be further and make a suggestion. Give them options?

Ms. Lohman: Even staying at the AD – Administrative – level rather than going to the Hearing Examiner we can expand that, right?

Mr. Walters: Right.

Ms. Lohman: Okay.

Mr. Walters: Yeah, I mean, you can recommend *anything*.

Ms. Lohman: I did see Dale sent something – somebody sent something about the Hearing Examiner versus the –

Mr. Greenwood: It was in one of the reports, wasn't it?

Ms. Lohman: Yeah. I saw it but I –

Mr. Walters: There was a little table comparing the two in the latest Supplemental Report.

Mr. Greenwood: Page 6.

Ms. Lohman: Was it page 6? Oh, there it is.

Mr. Pernula: On page 6 right at the top.

Ms. Lohman: I didn't recognize what SUP was on this one! SUP!

Ms. Hughes: Well, and along with that, even 1000 feet, the point was made last meeting that when you're out in the agriculture it could be further than that, so we could even throw in possibly adjacent landowners would need to be notified.

Mr. Walters: It is, I think, always adjacent landowners. It's written something like "300 feet of the perimeter of the property owned by the applicant." So if you own this parcel and all the parcels around you, you don't get to measure 300 feet from the interior parcel. You measure from the external.

Mr. Pernula: It's from the property boundary.

Ms. Hughes: Okay. That's good clarification. Thank you.

Mr. Walters: Yeah.

Mr. Pernula: That table on the top of page 6 provides some information about who makes the decision, how much the fees are, how long it takes, and so on for each Hearing Examiner and Administrative Special Use Permit. That's on the second supplement.

Chair Axthelm: Okay. So any more discussion on that?

Tammy Candler: I have just one comment. When we're talking about the industrial areas, whether it's going to be a P or an AD or an HE, I just wanted to bring out one thought for people to consider. It's along the lines of what Keith was saying. If we – if you have these fees and these things you have to do, it seems that people who are trying to do this activity might prefer to just go try to get a permit rather than doing the other things, so we are kind of directing where we want that activity to go by these selections. And so, in my opinion, that is a reason to consider leaving a P in a couple of these areas in the Heavy Industrial areas.

Mr. Walters: The other rationale for that is that if you look at the allowed uses in, like, Bayview Ridge Heavy Industrial you can build like a nuclear waste facility or – I mean, crazy things in the Heavy Industrial area because it is for heavy industry. And, like, the transfer station would not mind having the marijuana facility next door.

Ms. Candler: So if we're saying – yeah. Well, that's the reasoning. Yeah. Thank you.

Mr. Pernula: I'd take that a little bit further and say that so often the uses go where the least resistance is. And if you have a particular place where you think it should go, make it the one with the least resistance. So, you know, kind of following up with what Keith said, having – if you want to have an Administrative Special Use Permit in, like, Bayview Ridge Light Industrial, it might be most appropriate only within 1000 feet of like a residential use. That seems most appropriate to me.

Mr. Walters: You can have an armored car depot without any kind of special permit in HI.

Ms. Candler: It's just that if we put AD for everything and you have this cheaper land, I mean, I feel like we're just opening that up for all these uses where we don't want them. So that's my concern with your –

Ms. Lohman: That's a good point. That's a really good point. But not all industrial zones are the same, like the NRL Industrial zone. And there's a difference between the NRI for agriculture and



maybe the timber use. Maybe it's an old log yard that's abandoned up in the timber country, and that has a totally different scenario than down in the ag zone. And so just blanketly saying all industrial should be a P – I think we should be cautious on that.

Mr. Greenwood: Well, I – can I comment on that, Josh? Just that I like what Dale in his discussion mentioned that we could have – for example, in Bayview Ridge – Heavy Industrial you could have would be P with an Administrative Special Use Permit when it's within 1000 feet residential, which is similar to what was required for the transparent structures with the Hearing Examiner. So you can make 1000-foot trigger for this special use permit in the industrial.

Chair Axthelm: Okay. I think that idea starting with that – she suggested all AD. Is there any – would you like to amend the proposal to be everything except for the – like Ryan has suggested, everything except for the areas where it's not permitted. So any of the Ps, change it to AD? I'm just trying to start somewhere.

Ms. Lohman: What are you asking?

Chair Axthelm: Well, what Ryan suggested is that everywhere on there in the first column – or second column – is that everywhere where it has a P change it to AD. And then start from there and then back it back off.

Ms. Mitchell: Right, and I think because you guys were suggesting start that way and then we go down it together?

Ms. Lohman: Yeah.

Chair Axthelm: Yes.

Mr. Walters: Because you were not going to construct a motion that has all the cells perfectly –

Mr. Greenwood: No, I don't think so.

Chair Axthelm: Now do we want to have AD only in structures existing as of 1/1?

Ms. Lohman: You could find an exemption almost in any zone or a certain circumstance in almost any zone, but I think Tammy's point is well taken.

Chair Axthelm: You want to direct it to a certain direction?

Ms. Lohman: I think if we start out and then as we find those things where we want to change it back we can, or change it to something else.

Chair Axthelm: Okay. So starting with Ag-NRL, would that be AD instead of P up there?

Ms. Lohman: Yeah.

Chair Axthelm: And leave the rest of the text.

Mr. Walters: So I'm going to change P to AD in this column.

Ms. Candler: Just in the first line.

Mr. Walters: Just in the first line?

Ms. Candler: Ag-NRL, I think, is what we're talking about. Right?

Chair Axthelm: Yep, just Ag-NRL.

Ms. Candler: Just in the first column.

Chair Axthelm: Any objections? So start with that.

Mr. Walters: So start with that or just do all those?

Chair Axthelm: Just AD and leave the rest.

Mr. Walters: Leave the rest.

Chair Axthelm: And then Bayview Light Industrial.

Ms. Candler: I think I liked Keith's language – AD within 1000 feet of residents.

Mr. Greenwood: So that would be P and then AD when within 1000 feet of residential.

Mr. Walters: Well, wait. Before we do that, are we doing the rest of this column?

Chair Axthelm: Go ahead and do that. Let's start with that. I think that we're – it's not the final answer here.

Mr. Walters: No. No, and you can change it back.

Chair Axthelm: Yep.

Mr. Walters: Okay, so now you've got the column.

Chair Axthelm: And we all saw what it looked like before that point. So now back up to Bayview Ridge Light Industrial.

Ms. Lohman: I mean, we can even ask him to throw the map up there if we need to.

Chair Axthelm: So any proposals to adjust that in the Bayview Ridge?

Ms. Candler: Yes.

Chair Axthelm: Tammy?

Ms. Candler: "P, AD when within 1000 feet of residences."

Mr. Greenwood: Can I just – for clarification, are we talking about a residential zone or are we talking about a residence? Because there is a difference. I prefer it that it's a residence than a residential zone because we ran into problems where we have the zoning issue – it might not be zoned residential but it's within.

Mr. Walters: I don't think we have that problem in this zone, though, because this is very new.

Mr. Greenwood: No, but to be consistent I think it might help if we stick with the residential but –

Chair Axthelm: You have some residences in the Bayview Ridge Light Industrial, right?

Mr. Pernula: Yeah, there's one or two along Peterson.

Chair Axthelm: Yeah.

Mr. Walters: On Peterson?

Mr. Pernula: Mm-hmm, between there and the airport.

Mr. Walters: The flip side of that, however, is if you have residential zoning that doesn't have a residence then you could locate within 1000 feet of where a residence may soon locate.

Mr. Greenwood: Add "or zone" – "residence or residential zone."

Chair Axthelm: So protecting the existing residence and the zone.

Mr. Walters: So I am not going to type these things until you say something like "If there's no objection, we'll do that."

Chair Axthelm: Okay!

Kirk Johnson: Could I just stop for a comment? So if you have a residence in an industrial zone, in a way you're wanting to see the residence or the few residences that you have disappear over time because what you want in the zone is industrial. So while I understand the desire to protect existing residences, if you've made the kind of broader decision that that area is for industrial purposes then maybe there's not as much justification for protecting that isolated residences therein for a residential zone.

Mr. Greenwood: So are we going to have the movie with the little old guy in the house again with the balloons or what?

(laughter)

Mr. Johnson: I don't really care. I'm just kind of presenting that as a perspective on, you know, when you have a zone that's for a certain use, then the presumption is that over time that's the direction that zone is going to go. That is a general concept in planning, I think.

Chair Axthelm: Okay. Let's go with Kathy.

Ms. Mitchell: I understand what he's saying. The only thing I can think of is I drove around and walked around up there to see what that was like a few months ago when we needed to, and there's an awful lot of existing structures that are somewhere nearby. And obviously we are moving to Light Industrial and Heavy Industrial up there, but those residences are probably going to be there for a long time to come and I do believe that they would have the first right of protection because the industrial for the most part is coming afterwards. And so from that

standpoint – I do understand what you're saying, but from that standpoint I would say have the Administrative use kick in if it was within 1000 feet of either a residential zone or existing residences because that would tie in for both. Even if a house were to be built later on an empty lot to come in, that would still cover it because it would be a residential zone. Is that correct? Then that would cover both scenarios.

Mr. Walters: And the Administrative use requirement won't *prohibit* the use from locating. It will just require that additional level of review. The other thing I would add, though, is that residences that are in the Light Industrial zone are getting no protection from any other industrial uses that locate near them.

Chair Axthelm: Well, and chances are the residences in the Industrial zone are owned by a developer that may be renting it out. Just a guess, but...

Mr. Walters: Yeah, I didn't think there were any but do you know any more about them?

Mr. Pernula: On?

Mr. Walters: In Light Industrial Bayview Ridge?

Mr. Pernula: I thought that there was one or two kind of towards the fire station.

Ms. Mitchell: Mm-hmm, there are. There are.

Mr. Pernula: Not many at this point.

Mr. Walters: Yeah.

Ms. Mitchell: That is true but they do know that those changes have happened as well. It's not like that's a surprise, but this is – I think the argument that I'm looking for on this one – if anybody else either agrees or understands my logic on this – this is a whole brand new use coming in that's a special case *entirely*. It's not like anything else that we've had before.

Chair Axthelm: Tammy, did you have something else along this line?

Ms. Candler: Right, just – I agree with – the point is well taken and I think that that doesn't mean that the use isn't going to happen. It means that that neighbor's going to get to be heard on, right? So over time we could get the \_\_\_ that you're talking about, but in the meantime the resident doesn't feel like it's – they have no voice at all.

Chair Axthelm: Any other discussion? Annie? Amy?

Ms. Lohman: Not yet. I'm looking at the map of Bayview Ridge because it – maybe we should throw that map up there so we can see it.

Chair Axthelm: Okay.

Mr. Greenwood: We probably have a map number, don't we?

Ms. Lohman: It's at the very bottom of the list. You have to scroll through the maps that we were sent.

Mr. Greenwood: Map 24 shows a parcel of Bayview Ridge Light Industrial adjacent to Ovenell Road and Eagle Drive, and I've got the photo and the Comp zone to go with it.

Chair Axthelm: But that adjacency would restrict it just because it's next to a zone.

Mr. Greenwood: It might not allow it.

Chair Axthelm: It wouldn't allow it necessarily.

Mr. Greenwood: Which would be okay, right?

Chair Axthelm: Yeah.

Mr. Greenwood: We don't have to allow it everywhere.

Ms. Mitchell: Because there's plenty of Light Industrial and Heavy Industrial further up the hill.

Ms. Lohman: Well, then you've got the Farm to Market side.

Chair Axthelm: I guess it's kind of a motion, isn't it?

Mr. Walters: So there may be a house right here.

Chair Axthelm: A motion to put it as – should we phrase it that way? It's a motion to put Agricultural – sorry – to put – how would you put that with a special use?

Mr. Greenwood: Residential – within 1000 feet of residential? 1000 feet of a residence or a residential zone.

Chair Axthelm: And my opinion, I see that as a residential zone would be good in – if it isn't protecting any other industrial use – if those aren't protected by any other industrial uses I think that would be appropriate to have it just be the zone, not the residence itself. From what you were saying is it's – any other industrial use is not protected. You could put a nuclear power plant next to that residence and they would have no right to object.

Mr. Walters: Well, in Light Industrial only a *small* nuclear power plant.

(laughter)

Mr. Walters: No nuclear power plants anywhere but \_\_\_\_, yeah.

Mr. Greenwood: Okay, let's use a different example!

Mr. Pernula: I do see kind of a split on the Commission, though.

Chair Axthelm: Okay.

Mr. Greenwood: Should we vote on it?

Chair Axthelm: Let's take a – yeah – a vote. All those in favor –

Ms. Mitchell: Of which language?

Mr. Walters: You have to repeat the language.

Chair Axthelm: Of residence and residential zone as 1000 feet.

Ms. Lohman: I thought it was P slash 80.

Ms. Candler: P comma – P comma.

Chair Axthelm: Go ahead and change that so that it shows that way, at least for now.

Mr. Greenwood: Do you need a second on that change?

Chair Axthelm: Yeah, is there a second on that?

Ms. Mitchell: Second.

Chair Axthelm: Who proposed it?

Mr. Greenwood: I did.

Chair Axthelm: Oh, okay. So all those in favor of the wording on the screen right there or as highlighted.

All Commissioners: Aye.

Chair Axthelm: Okay. The ayes have it. Nays – or is it – are you supposed to say nay?

Mr. Walters: Or no.

Chair Axthelm: Or the nos.

Mr. Walters: Just be sure to always call for the opposition.

Chair Axthelm: Okay. So there's no nos. Right? Good. Let's move on to the next one – Bayview Ridge Heavy Industrial.

Ms. Candler: I propose that that or move that that be a permitted area.

Chair Axthelm: Okay. Any second?

Ms. Mitchell: Second.

Chair Axthelm: Okay. Further on to discussion.

Mr. Greenwood: Are there places where the Heavy Industrial would be adjacent to a residence as well? I guess I'd have to see it on a map.

Mr. Walters: I don't think so.

Chair Axthelm: Or a residential zone, for that matter.

Mr. Walters: I think Light Industrial buffers all the Heavy Industrial. I do have the map here.

Ms. Lohman: It's off to the west, Ryan.

Mr. Pernula: Yeah, go to the southwest.

Mr. Walters: So this map doesn't show the other zones but this is HI and I think this is going to be Ag-NRL around it.

Ms. Lohman: What is the white right above that?

Mr. Pernula: That's the airport.

Chair Axthelm: So you have Heavy Industrial with Ag-NRL next to it, which possibly could have a residence next to it. Correct?

Mr. Walters: Well, it could.

Mr. Johnson: I think that's Rural – it's either Rural Reserve or Rural Resource so it could also have – there could be houses or farmhouses.

Mr. Greenwood: Would anyone be opposed to having that be the same language as we had in the previous, Light Industrial?

Mr. Walters: Well, let me offer this. If you are inclined to do that, then we don't have to put it in the table. We could just add a separate line saying anywhere within 1000 feet.

(sounds of assent)

Mr. Walters: We'll deal with how it gets written into the code.

Chair Axthelm: Amy?

Ms. Hughes: I'm still concerned about business owners also having a voice or – a voice! – a say, a letter written. I'll clarify what my 'voice' means – that they have some impact. So even a business owner might have – throughout the whole Skagit County we have so many unique places it's impossible for us to sit here and be able to pinpoint, Is that unique place there? And I think I need to know, Should business owners also get some ability to have a comment?

Ms. Mitchell: Would they have that with that 1000-foot notice?

Mr. Walters: Notice goes to surrounding properties.

Ms. Mitchell: So that's business and/or anything else really.

Mr. Greenwood: If it's Admin.

Ms. Mitchell: If it's Admin.

Ms. Lohman: But if you're – if the only way that happens, though, is if it's residential, then if it's just a P that doesn't happen.

Mr. Walters: Correct. Also I'd point out that BR-HI is adjacent to Rural Reserve in this upper left corner here.

Ms. Lohman: Where it's not allowed, right?

Mr. Walters: But it's separated by Farm to Market here. And this is – this little green – is Small Scale Business.

Chair Axthelm: Now there's restrictions as far as locating – even when it's zoned that way, there's restrictions to the property line for that industrial use. You've got screening and setback requirements.

Mr. Walters: Could you –

Chair Axthelm: When you're adjacent to residential uses.

Mr. Walters: When you're adjacent to residential uses in BR-HI?

Chair Axthelm: For example, yes.

Mr. Walters: The screening requirements that are in the proposal are for special use permits. There are landscaping requirements between zones, but I can't tell you offhand when they kick in. They're general provisions in the code. But I don't know that those would be sufficient in this case.

Chair Axthelm: Because of the 1000 feet.

Mr. Walters: If you had a solid structure, you could have *any* solid structure in BR-HI. If you have a transparent structure, you may end up with the fence and the security cameras. But if you're in BR-HI, I mean, there's a fence stretching most of Farm to Market Road already for PACCAR. So – I don't know. I do think that you need to keep in mind comparison to the other uses that are allowed in these zones, because a marijuana production facility, especially one in an opaque structure, is going to have less impact than the transfer station or the composting facility next to the transfer station or even PACCAR.

Ms. Hughes: Or Hughes Farms who is right there, too!

Mr. Walters: Yeah.

Ms. Mitchell: I would like to do whatever this language would be to encourage them to go into the industrial zones, as opposed to some of the others, if that helps when we get to some of these.

Mr. Walters: And that encouragement is going to be by elimination of the special use permit requirement, and if there's anywhere it's appropriate it's BR-HI. It is *the* most intensive industrial zone in the county.



Chair Axthelm: So allow it as a permitted use. Let's go back to the matrix. Okay, so we had a motion?

Ms. Candler: For it to be a P.

Chair Axthelm: For it to be a P, just a P. That's it. No 1000-foot to it.

Mr. Greenwood: 1000-foot industrial or 1000-foot residential, but we talked about having that just be a general requirement in each zone, even if it's permitted.

Ms. Lohman: That was an option.

Mr. Greenwood: That's an option, sure. Okay.

Chair Axthelm: Okay, that was an option but as far as this one here –

Mr. Greenwood: You want to just leave it P?

Ms. Candler: I do.

Chair Axthelm: A P in general – okay. But we still – all right. Any other proposals then?

(silence)

Chair Axthelm: Okay, so change it and then we can vote on it.

Ms. Lohman: Amy, did you have something on that?

Ms. Candler: An amendment? Is that what you were asking for?

Ms. Hughes: A question because, again, I have to trust what's being told but I still think I'm sensitive to businesses as well at least being able to bring a point out that the permitting process may not see.

Mr. Walters: Yeah, so for any special use permit, anyone within 300 feet is going to get a notice. There's also a publication in the paper. Yeah, "anyone" means any property, so it gets mailed to property owners adjacent. There's also posting of the property with the big yellow sign and publication in the paper, and anyone can comment, even if you're not within 300 feet. Anyone can send a letter in. Those things only apply, though, if a special use permit is required. Otherwise, there is no land use approval process. It's just a building permit process.

Ms. Hughes: So up to this point did we have that when we've had these facilities being put into these residential areas – our history of where we've been the last three months, did they have that same notification? It seemed to catch people by surprise.

Mr. Walters: Yes. Well, that's an important distinction, I think, because in many of the examples you've heard about, those are unpermitted facilities altogether and they're under code enforcement.

Ms. Hughes: Okay.

Mr. Walters: But we had at least one, Challenger Ridge –

Mr. Pernula: We had two that I can – Challenger Ridge and then there was one out there on Chuckanut Drive.

Ms. Lohman: Where it was a llama place – the former llama place.

Mr. Pernula: The llama place, right.

Mr. Walters: And those ones don't have Liquor Control Board licenses yet. They're not operating, but they've gotten special use permits so that they can go obtain Liquor Control Board licenses.

Chair Axthelm: I'd like to raise a point on that, though, is that the ones that were not permitted are not under our control as a planning commission. Is that correct? We don't have any say whether that's enforced or not.

Mr. Walters: No.

Chair Axthelm: That's not – that's under the Commissioners' control. It's not under ours at this point.

Mr. Walters: Right.

Chair Axthelm: As much as we'd like to have them.

Mr. Walters: And the ones that you have heard about are subject to code enforcement and they're in that process right now.

Ms. Hughes: But typically if they had gone through the process properly the neighbors and the businesses directly around them would have been notified?

Unidentified female voice in the audience: No!

Mr. Walters: Well, which ones in particular are you talking about?

Chair Axthelm: I'm sorry. The public is not part of the discussion.

Mr. Walters: Which ones in particular are we talking about?

Ms. Hughes: Okay. Now this isn't production, but the retail place in Conway: Were the neighbors notified?

Mr. Walters: I believe that one was properly permitted and I don't know the answer to whether the Conway one was notified or not. I imagine *not*.

Mr. Pernula: It was not, as far as I know. But it was properly permitted.

Ms. Hughes: It was properly permitted.

Mr. Pernula: As far as I know, yeah.

Chair Axthelm: Which would mean it went through notification.

Mr. Pernula: No, it did not. It did not have to.

Chair Axthelm: Oh, it didn't have to.

Ms. Lohman: See, that's the difference. With out and out permitted, you don't have to go to that next level.

Chair Axthelm: So we're permitting it – well, I think – is everybody understanding there's a general statement of 1000 feet on everything?

Mr. Walters: You haven't agreed to that yet so I haven't written it down.

Chair Axthelm: We haven't agreed to that yet so that's – we need to understand if we're putting the P we haven't agreed to the rest of it.

Ms. Lohman: But Tammy's proposal is to *not* have that.

Ms. Candler: Just a P, and the reason is because if – well, for the reasons that – like Ryan was stating, the uses already allowed at that place are consistent sort of with – not consistent with that, but up to and maybe exceeding the impacts on neighbors already with no requirements whatsoever, and if it's easier to get a permit in that area and that's generally the area we want it to be in it will encourage it to go into that area.

Chair Axthelm: Okay, so let's handle it that way. The motion has been made to have P on Bayview Ridge Industrial – or Heavy Industrial. Heavy Industrial. Do we have a second on that?

Ms. Mitchell: Second.

Chair Axthelm: Okay. So we've had a discussion on it. All those in favor of having P as Heavy Industrial – or sorry – Bayview Ridge Heavy Industrial as a P.

Ms. Mitchell, Ms. Lohman, Ms. Candler and Chair Axthelm: Aye.

Mr. Greenwood: No. I want the 1000-foot residential.

Ms. Lohman: Call for the nay.

Chair Axthelm: Nays? Or, all those opposed –

Mr. Greenwood: Nay.

Chair Axthelm: – say “no.”

Ms. Hughes: No.

Chair Axthelm: So two nos and four for it. Okay.

Ms. Mitchell: So how would you do – do we still have the option for making recommendations that they put 1000-foot notice for any facility regardless? May we do that?

Mr. Walters: Yes.

Chair Axthelm: Okay, so now we four against – or, sorry – two against and four for, how does that work as far as voting?

Mr. Walters: You're done. That passed.

Chair Axthelm: That passed?

Mr. Walters: Yeah.

Ms. Lohman: Because you had a majority.

Chair Axthelm: Okay. So we can amend it more or we can –

Mr. Walters: Oh, yeah. Yeah, yeah, yeah. Especially when you're dealing with this three-dimensional table here you're going to really have to get through it all.

Ms. Lohman: But even if we get to the bottom, that doesn't mean you can't go back again.

Mr. Walters: Right.

Chair Axthelm: Go back again and change it?

Ms. Lohman: Yeah.

Chair Axthelm: Okay. All right. So the Ps now. So let's go on to the next section then. Not that we can't discuss it. I think that would be a good discussion. Hamilton Industrial.

Mr. Walters: So remember there *is* no Hamilton Industrial. It has all been incorporated into Hamilton but we still have the zone. It could get designated in the future.

Chair Axthelm: Okay. So at this time –

Ms. Lohman: Why would we want a blank check if we don't have it then?

Chair Axthelm: So do we have a motion for the Hamilton Industrial?

Mr. Greenwood: AD. I'd like it to be AD.

Mr. Walters: It is. It is AD.

Mr. Greenwood: It is AD but it wasn't previously?

Ms. Mitchell: Right.

Mr. Greenwood: We just changed them all. Oh, I got you. Okay.

Chair Axthelm: We had changed to AD by motion. So any changes to that? Because we've already voted on that motion, right? Okay. So Natural Resource Industrial. Annie?

Ms. Mitchell: Can I? My viewpoint on that is I'd like it not to be permitted – that zone entirely, and the reason being is the Natural Resource Industrial zone was created for natural resources and I don't believe that is what this is.

Chair Axthelm: Okay. So the motion has been made to change on Natural Resource Industrial to not permitted, or I guess it would be X, which is prohibited.

Mr. Greenwood: I'll second that.

Chair Axthelm: And we have a second. Go ahead, Dale.

Mr. Pernula: The one point I'd like to make is sometimes there's old gravel pits and stuff like that in this zone and they're a perfect place for it.

Ms. Mitchell: Well, yes and no, except for the fact if the – my thought on that – I had thought about that – my thought on something like that is if in fact this kind of industry went into that zone then that would preclude somebody from using that natural resource from using that spot.

Mr. Pernula: True.

Ms. Mitchell: And so from that standpoint my reasoning was protect those – because there're so few of them and they're pretty narrow little slots here and there – my thought was to protect those natural resources zones for those resources as they were originally intended. There's plenty of places to go for industrial otherwise without hitting those. That's just my thoughts.

Chair Axthelm: Okay. Any other discussion?

Ms. Lohman: Well, my question is is there – down in the Ag zone, I think, the zones tend to be fairly small or very, you know, basically surrounding the perimeter of what's there now. But when you go upriver and you look at some of the old log yards – and then like Dale said, maybe an old gravel pit – the land, it is a bigger piece of ground. Because if you looked at your maps you'd notice as you go east those parcels are larger. And I don't know the timber industry so I don't know if it's something that they're willing to surrender. But when you read what the purpose is for the Natural Resource Industrial –

Mr. Greenwood: It's to support that industry.

Ms. Lohman: It has a pretty strong caveat, but then I know that there has been a repurposing of an NRI upriver. So I can't speak for the timber industry.

Mr. Greenwood: That's why I seconded the motion. I think, similar to the industrial that supports the ag, it's a limited supply that's out there and we'd like it to – I think it's beneficial to save it for that activity.

Ms. Mitchell: For instance, if ten years from now something changed in the industry again where they could open up another saw mill or something like that then they should be able to do that. Because the – I think he's right. Looking for those is protecting that sliver the same way we would protect that sliver of ag if it were Ag-NRI. It'd be the same thing for the forest.

Ms. Lohman: That being said, when you look at the list there's an awful lot of things in the list that you could argue aren't ag or whatever.

Ms. Mitchell: I know. They probably shouldn't have been allowed.

Ms. Lohman: But they got allowed and so –

Mr. Greenwood: Well, petition for rezoning.

Ms. Lohman: You could do that.

Chair Axthelm: Amy, any discussion? Annie, any further discussion? Okay, so it's been motioned and seconded to change Natural Resource Industrial to not permitted – or prohibited. Excuse me. So if you could change it to X and we'll do a vote on it. So all those in favor of changing it to prohibited, say "aye."

All Commissioners: Aye.

Chair Axthelm: Okay. All those opposed, say "no."

(silence)

Chair Axthelm: The ayes have it. Okay, Rural Business is shown as not permitted – or prohibited. Any motion to change it? Seeing none, we'll move on to Rural Center. Rural Center is shown as prohibited. Any wish to change that? Or motion to change? Seeing none, we'll move on to Rural Freeway Service – is shown as – is prohibited. Do we have any motions to change that one? Seeing none, move on to Rural Resource-Natural Resource Lands, which currently says AD, Administrative, and then except prohibited on Guemes Island.

Ms. Candler: I would make a motion to make that an X as well.

Ms. Mitchell: I would second that.

Chair Axthelm: To prohibit through the whole zone. Okay, so the motion has been made to change our Rural Resource-Natural Resource Lands to prohibited for all land throughout Skagit County. And do we have a second?

Ms. Mitchell: Yes – second.

Chair Axthelm: Any discussion? Annie?

Ms. Lohman: Why would you do that, but then you allowed it in Ag-NRL? What's the distinction? You allowed it with a special use permit and the notification.

Ms. Candler: I think the distinction was the motion that was made. I think that's the only distinction that I have.

Ms. Mitchell: If we came back around, I'd hit it again.

Ms. Lohman: You would prohibit it in the ag zone, too?

Ms. Mitchell: If you're asking for logic on that, the logic I have for that was the same thing as when I looked at the plates for the Natural Resource Industrial. Again, this is a small sliver, and if you look to where these lands are, too, and you go through plate by plate they end up getting little dots here and there on places that you can argue one place okay but if you take that zone there's plenty of places where you wouldn't want it. And, again, because it's a natural resource land, I think those were intended to be specifically for certain uses. And, again, the same reasoning with this being an industrial use, do everything to push it back towards the industrial use and keep it out of the natural resource lands, whatever the designation is.

Chair Axthelm: Okay, any other discussion?

Ms. Hughes: Can we ask for comment?

Chair Axthelm: From?

Ms. Hughes: From the Planning Department?

Mr. Johnson: Well, I was just wondering if there's some confusion between the Rural Resource-Natural Resource Land and the Natural Resource Industrial zone, because Rural Resource *is* a resource land and it's not going to be isolated parcels. It's generally going to be 160 or more acres, I think. So I think the question that was asked – why would you strike it from Rural Resource but keep it in Ag? – and it sounds like maybe you're not intent on keeping it in Ag – I think was a good question because I guess as I think about resource lands, Ag is a higher quality generally resource land than Rural Resource. Sometimes land that doesn't fit into the Ag-NRL category still has potential for agricultural uses. It's just not the prime soils. So I think it was a good question. Again, I'm not going to – I have no opinion on the conclusion but I think it was a good question that was asked. I mean because you might have existing buildings that were there from a prior use, just like you would in Ag.

Chair Axthelm: I'd like to refer to the definition – or the description of Rural Resource-Natural Resource Lands on 14.16.430. It says "These are lands generally not managed as industrial resource lands, because of less productive soils, parcel size and"...geographic location, but are managed on a smaller scale and provide support for the industrial natural resource land base. It is the intent of this district to restrict incompatible non-resource-related uses and to retain a long-term, commercially significant natural resource land base." Does that help any?

Mr. Walters: I do think we excluded the Rural Resource lands from the map book online because there were so many of them everywhere.

Ms. Mitchell: Mm-hmm. They're everywhere.

Mr. Walters: Same reason Ag-NRL is excluded from the map book – because it's such a large area.

Mr. Johnson: Yeah, my understanding was what was included in the map book was only the rural commercial-industrial zones, which Ag-NRL and Rural Resource-NRL are not in that category.

Ms. Lohman: But you could go on the GIS and pull up the County's Comp Plan map.

Mr. Johnson: Yes.

Ms. Mitchell: You can, and if you do there's lots – and it comes back to the same reasoning as before. There're so many you're going to certainly find some locations that you might think are okay in one but a lot that you wouldn't think another. And you get the zone or you don't, so you don't split the baby with the zones, right?

Chair Axthelm: Well, also what this zone has as a permitted – it says “Commercial uses supporting resource uses, such as packing, first stage processing and processing that provides added value to resource products as long as there is no permanent conversion of the forest land.” And then right underneath it it has – where was it? – it has composting, “an incidental agricultural operation to a working farm with no net loss of soil.”

Okay, so any change or any further motion to this?

(silence)

Chair Axthelm: Okay. We didn't vote on it, so all those in favor of Rural Resource lands – Rural Resource-Natural Resource Lands as prohibited, say “aye.”

Mr. Greenwood, Ms. Mitchell and Ms. Candler: Aye.

Chair Axthelm: All those opposed, say “nay.”

Ms. Lohman: Okay, I'll vote no.

Chair Axthelm: Amy?

Ms. Hughes: I'll abstain.

Chair Axthelm: I'm abstaining.

Ms. Lohman: I really wanted to abstain. I don't know!

Chair Axthelm: Okay, so any adjustment we want to make to that?

Mr. Walters: You might want to \_\_\_\_\_.

Mr. Greenwood: No.

Mr. Walters: No?

Chair Axthelm: No, three in favor, two abstained and one against.

Mr. Walters: So it passed.

Chair Axthelm: Okay.

Mr. Walters: Okay.



Chair Axthelm: Okay, so let's leave it at that for now. And Rural Village Commercial is currently as Administrative. Any changes to Rural Village Commercial?

Ms. Lohman: I believe it should be X'd. I'd like to move that it was an X.

Ms. Hughes: Second.

Chair Axthelm: Okay. Any discussion?

Ms. Lohman: Yes. I'm back to looking at what's already allowed in that zone. Production – an industrial use doesn't fit the rest of the list. It's an anomaly, and I almost question whether it was a mistake when the table was drafted – that they were thinking retail – but I don't know that for sure.

Chair Axthelm: Any further discussion?

Ms. Mitchell: I'll just say when I looked at the plates for where all those sites could be they dot different places, one across from another in Rural Villages and Rural Businesses, so you get a Rural Business across the street that you didn't want it in and if we were to approve this you could end up with one again. So this is one where I'd say again it's inappropriate and to put it in industrial.

Mr. Greenwood: My only point would just be that I had it for Administrative Special Use simply because some of those locations are somewhat remote and removed. And to have it be the only commercial outlet that they have, if they chose that they wanted to have that type of production there –

Ms. Lohman: How are they isolated if they're a Rural Village?

Mr. Greenwood: Well, isn't Alger? Is that like a Rural Village?

Ms. Mitchell: Yeah.

Ms. Lohman: Yeah.

Mr. Greenwood: They have a commercial zone?

Ms. Lohman: Yeah. Look at the map.

Ms. Mitchell: But they can be across from each other as in literally across the street from each other.

Mr. Greenwood: I'm not saying I want it there, but I want them to be able to decide. You know, I want them to be notified and I want them to decide what they want there. And maybe they don't have enough control through notification. Maybe that's not enough information for them. So I'm not a strong advocate. I just think it's a long way to drive through Burlington to get your marijuana, I think, and if they want to grow it up there maybe they should be allowed to do it.

Chair Axthelm: But they can't buy it. You can grow it there, you just can't buy it there.

Mr. Greenwood: Have a medical condition and you can grow it. Okay, that was my only reasoning for having it be the AD, but I'd go along with prohibition, too – for the growing. I don't think you need to grow it everywhere.

Chair Axthelm: Some of these uses don't have to stop at AD. They can go to Hearings Examiner as well.

Ms. Mitchell: Did we actually put a motion up on that one or not?

Mr. Walters: When I hear the second I mark it with track changes.

Chair Axthelm: We didn't officially say a motion.

Mr. Walters: I heard a motion and a second so I \_\_\_\_\_ some changes. And when you vote, I will accept the change and you'll see it in black.

Chair Axthelm: Okay, so all those in favor of changing Rural Village Commercial to prohibited, say "aye."

All Commissioners: Aye.

Chair Axthelm: All those opposed, say "no."

(silence)

Chair Axthelm: The ayes have it. So the next item is Urban Reserve Commercial, URC-I.

Ms. Mitchell: Industrial.

Chair Axthelm: Oh, excuse me: Urban Reserve Commercial-Industrial. And currently it has AD shown, Administrative.

Ms. Candler: Chairman, can I ask –

Chair Axthelm: Yes?

Ms. Candler: Can I ask – Annie, do you have the uses for that that you'd be willing to – or Josh, either one?

Ms. Lohman: I've got it.

Ms. Mitchell: Could you put up one of those plates, like that one in Mount Vernon that has that, for us?

Chair Axthelm: Limited Commercial Industrial – non-residential uses.

Ms. Mitchell: And that's both blue sections. Is that right, Ryan?

Mr. Walters: Oh, this little square that's covered up by the command bar?

Ms. Mitchell: Yeah. That one is as well, correct?

Mr. Walters: Right here and this.

Ms. Lohman: I can't find it in the list.

Ms. Mitchell: I think Josh found it.

Chair Axthelm: Yeah, I've got it. Do you want me to read the main section?

Ms. Lohman: What's the number?

Chair Axthelm: 14.16.195.

Mr. Walters: Do you want the list of uses for that zone? I have that: art galleries; business professional offices; community club; family daycare; gasoline stations; historic sites; storage facilities; kennels; loft living quarters above storefronts; mini-storage; minor public uses; natural resource support services including office uses and wholesale, retail, and service businesses serving local natural resource industries; sales of new and used boats; owner/operator caretaker quarters; preschools; production, repair, and servicing of specialized tools and equipment; retail and service businesses; restaurants; retail and wholesale nurseries and greenhouses – and that's why those zones are listed for that. Based on the memo – the guidance memo from a year or so ago – where wholesale greenhouses were allowed we added –

Chair Axthelm: Is that the industrial portion of the zone? It seems to me that a lot of that isn't industrial. It's commercial.

Mr. Walters: More retail, yeah.

Ms. Lohman: And it has a light industrial use because it has small-scale production and manufacturing.

Ms. Mitchell: For the folks that really know Mount Vernon well – because I do not – the yellow zone on the left side of the screen and then the white and then the pink – the pink, I understand, is downtown Mount Vernon. What is the yellow zone?

Mr. Walters: The yellow is – yellow on all these maps is Ag-NRL.

Ms. Mitchell: But what does the neighborhood look like, or the area look like?

Mr. Walters: Well, this white area right here is Dunbar.

Ms. Mitchell: And that is residential. Is that right?

Mr. Walters: Well, it's zoned Ag-NRL but it has a high number of residences on smaller-than-the-minimum lot size.

Ms. Mitchell: Is it the same thing on the southwest side of that map?

Mr. Walters: In here?

Ms. Mitchell: Mm-hmm.

Mr. Walters: I think that's true.

Mr. Johnson: Ryan? The white is not Ag-NRL.

Mr. Walters: No, the yellow. The yellow is Ag-NRL.

Ms. Mitchell: Right.

Mr. Johnson: So the white is probably Rural Reserve, would be my guess.

Ms. Mitchell: And what would that look like? Is that neighborhood or not?

Mr. Johnson: Well, as you drive out of Mount Vernon on the west side you go through basically – so you're saying the white area?

Ms. Mitchell: Yeah. I don't know what that looks like. I can't recall.

Mr. Johnson: There are some houses on five- and ten-acre lots probably.

Mr. Pernula: There's a few houses, there's some commercial uses. It's kind of a mixture. To the west there's more and more residential.

Mr. Johnson: So basically Urban Reserve Commercial-Industrial is a holding zone to hold things in place until Cities decide to annex those areas and apply urban, commercial, or industrial zoning to them. So I think it spans a lot of different uses, depending on which part of which urban growth area it's located in.

Chair Axthelm: We're talking production and processing in opaque structures inside buildings.

Mr. Walters: So the white here on this map, the white is Rural Reserve, the yellow is Ag-NRL, and then this area right in here is URR, which is Urban –

Mr. Pernula: Reserve Residential.

Mr. Walters: Yeah.

Ms. Mitchell: So you really have neighborhoods on either side in \_\_\_.

Chair Axthelm: In this particular one.

Ms. Mitchell: In this particular one – right.

Chair Axthelm: What do we have for the Bayview Ridge Light Industrial? What was the decision? I didn't write it down. I should have.

Ms. Lohman: P/AD if it's within 1000 feet.

Chair Axthelm: So it's permitted except within 1000 feet.

Mr. Greenwood: Within 1000 feet required Administrative Special Use Permit.

Chair Axthelm: Okay. So do we have a motion on this one?

Ms. Mitchell: I move that we not permit that.

Mr. Greenwood: Prohibit?

Ms. Mitchell: Mm-hmm – prohibit it.

Chair Axthelm: Okay, the motion has been made to prohibit the use in the Urban Reserve Commercial-Industrial. Second? Or do we have a second? Excuse me. We do not have a second. The motion fails.

Ms. Candler: I have a motion. I have a motion that we make it HE.

Ms. Lohman: Second.

Chair Axthelm: The motion has been made to make it a HE, Hearings Examiner. A second has been made. Any discussion on it?

Ms. Mitchell: The only discussion that I have is that that neighborhood didn't look that much different than the area where people were coming in and saying how they were complaining about the Dunbar Lane area all around quite a bit. And if I understand the map right, it's pretty close by. Is that right, Ryan?

Mr. Pernula: It is.

Mr. Walters: Yes, and I believe this is the only example of URC-I. Is that right?

Ms. Mitchell: Okay. Those two spots – is that right?

Mr. Walters: Right. I don't know if there's URC-I anywhere else.

Ms. Mitchell: Well, there was one in Sedro-Woolley but that was a 1000-foot zone that covered it anyway. Was that right?

Ms. Lohman: But the controversial – but that controversial marijuana place on Dunbar, that's outside of that. It's in the Ag-NRL, right?

Mr. Pernula: Yes.

Ms. Mitchell: Is the neighborhood – does it look like it did?

Mr. Pernula: It looks similar. You know, there's some higher density residential development and some mixtures of uses.

Ms. Mitchell: Okay.

Mr. Pernula: Probably more mixtures of uses as you get closer to town.

Ms. Mitchell: Okay.

Mr. Pernula: It's hard to characterize \_\_\_\_\_.

Ms. Lohman: But there's, like, a bank and then there's a – further down there's a car dealer. There's a whole bunch of things. There's the greenhouse outfit, there's the landscaping outfit.

Mr. Greenwood: But it's not just what it looks like. I don't think that's where the complaints are coming from necessarily.

Ms. Lohman: No, no. But it's kind of an eclectic mix, but none of them are heavy industrial.

Ms. Mitchell: Well, and if we come back to some of the reasoning before – and you guys decide whatever you want – my reasoning is still holding the same as if – if the main understanding is if this is an industrial use is to try to put it into industrial areas, and this sounds like it is a mix of things. And if it does have some industrial to it, it sounds like it's more Light Industrial rather than Heavy Industrial, unless somebody can say differently. Is that – you guys know that stuff better than anybody.

Mr. Pernula: This would be Light Industrial.

Ms. Mitchell: If, in fact, some of it were industrial, perhaps it's Light Industrial. If that's the case, then we would want more notification if we were consistent with what we did earlier.

Chair Axthelm: Mm-hmm.

Ms. Mitchell: And from that reasoning then it would flip right to saying whatever you guys would want on that. *But* consider the uses on how we looked at them before.

Ms. Lohman: I mean, once it gets swallowed up by the City, then it's their –

Ms. Mitchell: It's their problem.

Ms. Lohman: – hot potato to decide.

Chair Axthelm: Okay, Amy?

Ms. Hughes: Well, and that's my thought on this, is we're zoning for something that will become somebody else's possibly in the future. Is there a conflict in doing that?

Ms. Mitchell: What do we do?

Ms. Hughes: I'm asking the Planning Department.

Mr. Pernula: Well, I don't think that we should take something that we know is going to be a problem and dump it off on a City. I think we need to deal with it the best that we can. And in the meantime, you never know if they're ever going to be annexed anyway so it may remain in the county for a very long period of time.

Ms. Lohman: So technically then, it's very similar to the Rural Village Center – or Commercial, RVC, right above it.

Mr. Greenwood: Ryan, can you put up page 49 also?

Mr. Walters: Of the map book?

Mr. Greenwood: Yeah, of the map book.

Mr. Walters: Yeah, there's a little bit of it.

Ms. Mitchell: What's that like?

Chair Axthelm: Well, look at residential right beside it. We're not far away.

Ms. Lohman: Is that where you get into the lumber yard and that stuff?

Mr. Greenwood: I think so. I could be wrong, but I think it's part of the old –

Mr. Walters: That's not the hospital there. Here's Sedro-Woolley High School.

Ms. Mitchell: There was another plate that was similar on the north side of the hospital. I thought that was the same designation, but I could be wrong. Yeah, that one. Is that the same?

Mr. Walters: Oh, yes. Right there. Yeah, yeah.

Ms. Mitchell: And that puts you right next to the hospital with residential on the left, or on the west side. And so just from the reasoning, if we look at the zones because there are several different cases, whether it's Mount Vernon or up here, some are more towards the city, with some commercial or perhaps light industrial around it, but if there's others where they are clearly surrounded by residential and if we do one we have to think which way we want to go with it.

Mr. Greenwood: Do we have confidence that the Hearing Examiner can appropriately place it? Do we have confidence that the Planning Department can appropriately ascertain and mitigate for the situation that's being proposed in that zone?

Mr. Pernula: In this zone? You know, what I think is the use that has the biggest impacts are those translucent structures, not so much the solid structures that we're talking about right here. They have far fewer impacts. They don't have the security cameras. They don't have the lights. They don't have those kinds of impacts that you do with a translucent structure.

Mr. Greenwood: So if they put it in an opaque greenhouse-like structure, they don't have to have the security fences that they have?

Mr. Pernula: No – security fences or cameras.

Mr. Greenwood: Okay.

Chair Axthelm: I've seen it in metal buildings. Down in Snohomish County they'll be in metal buildings. And just in an industrial development or even –

Mr. Pernula: You won't even know it's there.

Chair Axthelm: Yep. Exactly. No smell, no –

Mr. Pernula: That's what we're talking about in this column.

Mr. Walters: And the other issue with greenhouses is that we do have this other requirement in the proposal that would require you to prevent the odor – we talked about last time – and that may be much more difficult to accomplish in a greenhouse than in a metal building that you're standing up, or can build whatever HVAC you need in.

Ms. Mitchell: The only cautionary thing – I understand everything everybody's saying and unfortunately I agree with a lot of what everybody's saying, but there's one more thing that sticks in my mind and that comes back to the safety aspect. You can't legislate safety. I understand that. But accidents do happen. And depending on where these places could go and where they could be that's kind of the consideration that we would have to think of in the long term. And if you have anything that's close to let's say possibly a hospital or a neighborhood, I have much more reason to object with than maybe something that is an industrial zone. And so just from the cautionary standpoint on that, just to keep that in the back of your mind.

Ms. Lohman: What is the motion on the table for this one?

Ms. Mitchell: The what?

Ms. Lohman: What is the motion?

Mr. Greenwood: Hearing Examiner.

Ms. Mitchell: Hearing Examiner.

Chair Axthelm: The motion is for Hearing Examiner. Want to call the motion? Any other discussion on it?

(silence)

Chair Axthelm: Okay. Let's vote on it. So the Urban Reserve Commercial-Industrial has been proposed for – the motion is for a Hearing Examiner. All those in favor, say "aye."

Ms. Lohman, Ms. Candler, Ms. Hughes, Mr. Greenwood and Chair Axthelm: Aye.

Chair Axthelm: All those opposed, say "nay."

Ms. Mitchell: Nay.

Chair Axthelm: Okay, five ayes and one no.

Ms. Lohman: Would you extend that notification then to 1000 feet? Because currently for a Hearing Examiner it's 300 feet to 500 feet if needed.

Chair Axthelm: So would you like to make that in a motion form or simple – should we do that for just that one or all the uses except for Bayview Ridge?



Ms. Lohman: Well, I don't know that we want it for *all* of them.

Chair Axthelm: So I'm saying all the ones that are like AD and the Hearings Examiner. If we put the 1000 feet on those –

Ms. Lohman: Oh, yeah.

Chair Axthelm: – as a general statement. Permitted use wouldn't need it. It's permitted, right? So we need a motion to that effect.

Ms. Lohman: I make a motion that we extend the notification to 1000 feet for Hearing Examiner and Administrative Special Use Permits.

Ms. Hughes: Second.

Chair Axthelm: Okay, any discussion? Tammy?

Ms. Candler: My only concern with that is just the logistics nightmare for the Department or whoever's doing the noticing to have to remember just this very limited piece is different than everything else they do. So that's my concern.

Ms. Lohman: But the marijuana thing is different than everything else.

Ms. Candler: Yeah, and that might be enough of a trigger. It's just that if, for some reason, they do what they normally would do in any case and send it out 500 feet – I guess it's just a lot of – I would just wonder what would happen in that circumstance. I guess the process would start over or – I'm not sure.

Chair Axthelm: And this is our recommendation too. \_\_\_\_\_ make a mistake but that's the whole point. Each of those things are individual anyway.

Ms. Candler: Well, but they're not – the process isn't. The process, as I understand it – maybe I'm wrong – the process, as I understand it – I mean, the Planning Department gets a lot of things that they have to notice that don't involve this specific topic and they know what their notice requirements are. But then in this one specific area it's something different. I'm concerned about what that does to the Department to have to –

Ms. Lohman: But there's other things in code that require 1000 feet and different notification outside of this Administrative Special Use Permit structure. Isn't there?

Mr. Pernula: There might be. I'm not aware of anything. Our notification processes are pretty much rote, you know. We see it and then we react to it and we do it automatically. We can do this. We can change it to whatever distance you think's correct, but the more times you do that in a code the more chance there is for an error where you have to start all over again from the beginning and start notice – just do it all over for a second time. Those kinds of things happen.

Mr. Greenwood: Dale, isn't there – the 300 to 500, isn't there – so there's an alternative to go to 500 feet.

Mr. Pernula: You could recommend that we do it consistently at 500 feet.

Mr. Greenwood: Right. That's a thought. I think you capture a lot of people when you go 300 feet from the boundary.

Mr. Pernula: It depends on the density. In a fairly dense place, 500 feet you notify a lot of people.

Ms. Lohman: But I remember on another thing there was a lot of people that were upset that they didn't get the postcard and they thought that they should have gotten the postcard.

Ms. Mitchell: Yeah, the pipeline.

Mr. Pernula: That's still a good point because they still knew about the hearing.

Ms. Lohman: Yeah, because it spread like wildfire!

Ms. Mitchell: Some of us got on the phone.

Mr. Greenwood: That's what usually happens. Those most affected rally.

Ms. Mitchell: Let me ask you this from an administrative standpoint: If we were to make a recommendation for 500, 1000 feet or something like that, anything that we make in any of these charts regardless, if the recommendations go to the Planning Commission then the Board of County Commissioners will do what they choose. Is that correct?

Mr. Pernula: That's correct.

Ms. Mitchell: So they could choose to do something different anyway?

Mr. Walters: And to expand on that a little: You'll make a recommendation; we will take that to the Board; we will get the Board's input on what direction they want to go. For instance, they could just say, No, we're not doing any of those things that the Planning Commission said. We're just going with the original proposal. Or they could say, We're going to do all of the things the Planning Commission said. Or they could say, We're going to do those things and more. You know, anywhere in there. Then that proposal will, in this case, clearly be outside the scope of what has received public comment thus far so it will have another round of public comment, and then the Board will make a final decision.

Ms. Mitchell: Another question – as far as notices go, who bears the burden of the cost of something like that?

Mr. Walters: The applicant.

Ms. Mitchell: The applicant bears that burden.

Mr. Walters: I believe that the County provides the list of addresses and the applicant provides self-addressed, stamped envelopes – or not self-addressed – well, they address them – addressed, stamped envelopes and then the Department, I think, sends them out. I think.

Ms. Mitchell: If that's the case the way it is, I would suggest that that is a cost of doing business for a cost of doing a business.

Ms. Hughes: Josh?

Chair Axthelm: Amy?

Ms. Hughes: Regarding the 1000-foot distance, weren't we going to go back and add that to all the ones that didn't have a P so it was consistent?

Chair Axthelm: That was the proposal, yeah, that we just mentioned right now. That's currently on the table.

Ms. Candler: Well, no. I think what's currently on table is adding a notice requirement –

Chair Axthelm: Adding a notice requirement to Urban Reserve – yeah.

Ms. Lohman: It was to add a notice requirement of 1000 feet to wherever there was an Administrative or Hearing Examiner Special Use Permit.

Ms. Hughes: Okay.

Chair Axthelm: Okay. Because we did have – we already voted on HE.

Ms. Lohman: And we're in the discussion part of that. Josh?

Chair Axthelm: Yeah – Annie?

Ms. Lohman: I'm asking the question of you: Wouldn't you want more people to know if you're in a more dense? You're talking about a production facility that could possibly be doing some other – not just growing, but maybe some other manufacturing type. Wouldn't you want in a tightly bound location – that you would want more people to know about it? Because the impact of it getting away could affect more businesses, whereas if it's out in the tullees where there's nothing around it if they have something go south on it it's not going to affect so many people.

Ms. Mitchell: I would think that something like that would be true. Just for food for thought, over our lifetimes I've lived a lot of places that were rural to very, very urban, as in extremely dense urban, and it seems to me that, in my own case, I've noticed that the more dense a place I lived the less people knew each other. And I know that sounds like it's a paradox but that's just the way it was. It was harder to know everybody. You might know a couple, a few or something like that. And so it may be such that in some of the more rural areas where you say right now, How could you not know all your neighbors? Well, you do for all the farms around or something, but sometimes if you are in more urban or dense areas it's not necessarily – that network may not be as thorough as one might think. And so I'm falling back to what Amy had suggested before is that maybe if we can find vehicles to offer the idea of having more people the chance to know, that would be a good thing.

Chair Axthelm: So he has up there: "Increase the notice radius for special use permits for marijuana facilities to 1000 feet." Okay? So that's regarding all special use permits. That covers Hearings Examiner? I guess it does. Okay. So all those in favor of changing that, say "aye."

Mr. Greenwood, Ms. Hughes, Ms. Mitchell, Chair Axthelm and Ms. Lohman: Aye.

Chair Axthelm: All those opposed, say "no."

Ms. Candler: I'll abstain.

Chair Axthelm: And Tammy abstains. Okay, so the ayes have it. All right. So now the second – actually, before we go on further on our agenda we have the Shoreline Master Program Update. It appears to me that we may not be getting to that tonight. I just don't want your staff to have to stay here if we don't get to it.

Mr. Walters: Does that mean I get to go home?

Chair Axthelm: I think she may have already – I saw her poke her nose in a little earlier.

Mr. Pernula: She probably figured that out.

Mr. Johnson: I could go tell her.

Chair Axthelm: So I just – is that – is that the will of the Commission to say we'll just cover that next time? Okay. Thank you. We don't want you to have to stick around if you don't have to. If we get to it and if we have time, if you want to that's up to you.

Betsy Stevenson: (unintelligible)

Chair Axthelm: Okay. I'd say we're not going to cover it tonight. I'm really sorry. I should – is that the will of the Commission?

(sounds of assent from the Commissioners)

Chair Axthelm: Okay. Unanimous – you can go home. You'd like to see it go through, wouldn't you?

Ms. Stevenson: I'd like to come back at some point in time!

(laughter)

Chair Axthelm: So would we – the sooner the better.

Okay, so the next column: Production/Processing in a Translucent (sic) Structure. Is there any – oh, is there anything else in the Production/Processing in an Opaque Structure that we want to cover or revisit at this time? There was some discussion of Agricultural-Natural Resource Lands and changing that.

Ms. Hughes: Dale, may I ask you a question – and I don't know how pointed I can ask this. There was discussion of a possible site for processing/production along the freeway. Does what we just do exclude –

Mr. Pernula: Processing along the freeway.

Mr. Walters: I think that's the one –

Mr. Pernula: Are you talking about the guys on Cedardale Road?

Ms. Hughes: Yeah. Have we excluded them?

Mr. Pernula: They are in Ag-NRL. They have a small parcel of land that's fairly isolated. It's next to a potato processing facility. I believe they – they may have their permit now from the –

Mr. Walters: I don't think so.

Ms. Hughes: So places like that we have just said under a Hearing – or under an Administration Special Use there's an option.

Mr. Pernula: Right now it says it's an Administrative Special Use Permit only in structures. They could still do it.

Chair Axthelm: But that's only in structures existing.

Mr. Pernula: Yes, and that's what they have. They have a solid structure that's existing right now, and they would have to get an Administrative Special Use Permit.

Ms. Hughes: Okay.

Chair Axthelm: Any change at this time? Okay, seeing none let's proceed to the production/processing in a translucent (sic) structure in Ag-NRL lands. Do we have a motion?

Ms. Lohman: I move that we not permit it because of the language already in the Ag-NRL zoning code.

Ms. Hughes: Second.

Chair Axthelm: Okay, so the motion has been made to prohibit the use of – prohibit the use in Ag-NRL, Natural Resource Lands, and we have a second. Any discussion?

(silence)

Chair Axthelm: Tammy, any discussion?

Ms. Candler: No.

Chair Axthelm: Kathy?

Ms. Mitchell: No, sir.

Mr. Greenwood: No.

Ms. Lohman: We kind of already did.

Chair Axthelm: Okay. All right. \_\_\_\_\_. I guess then we vote on it. So all those in favor of prohibiting Ag-NRL – prohibiting the use in Ag-NRL, say "aye."

All Commissioners: Aye.

Chair Axthelm: All those opposed, say "nay."

(silence)

Chair Axthelm: The ayes have it. Okay, Bayview Ridge Light Industrial. Any motion on that? Currently it's permitted with the Hearing Examiner within 1000 feet.

Ms. Mitchell: I move to let it stand with language as-is.

Ms. Lohman: Can I ask a question first?

Chair Axthelm: Mm-hmm.

Ms. Lohman: Dale? Are there any greenhouses in that area now? I don't recall there being any. And if there aren't any, it's kind of moot.

Mr. Pernula: I don't think that there are; however, this wouldn't have the same prohibition that the Ag-NRL would have so they couldn't build them there.

Ms. Lohman: Oh.

Ms. Candler: Unless you're proposing language that says "existing use" or something.

Ms. Lohman: Okay. I see this distinction. I didn't see that distinction – sorry.

Chair Axthelm: Okay. So you're proposing to leave it the same as it is right there, or next to it.

Ms. Candler: I just want to point out we don't have the word – it's not the same wording as – we didn't add "or a residence" in that one.

Ms. Lohman: It does say it.

Ms. Candler: It says it in the opaque but it doesn't say it in the translucent. So just to make it consistent, I think I would propose that we –

Ms. Mitchell: I would like her amendment to make the language identical.

Chair Axthelm: Okay.

Ms. Lohman: But it does.

Ms. Candler: Well, it would say "P/HE" but "or a residence."

Ms. Lohman: Oh. Oh, oh, oh, oh – okay.

Mr. Greenwood: Because that would include just include the zone.

Ms. Mitchell: So "and residences." Sorry – I should have said that better.

Chair Axthelm: So the motion has been made to have a Hearing Examiner within 1000 feet of a residential zone and residence.

Ms. Candler: Or a residence.

Chair Axthelm: Or a residence. Okay? Any discussion on that motion? Seeing none, it stands. We don't even need to vote on it, right?

Mr. Walters: No. No. In all these cases, if you don't think –

Chair Axthelm: I forgot about that. That's the quick –

Mr. Walters: Right. Right. You can just say "If there's no objection..." Yeah, yeah.

Chair Axthelm: Fast track! Okay, so the next one is the Bayview Ridge Heavy Industrial. It's currently permitted. Any change? Seeing none, we'll leave it as permitted.

Hamilton Industrial. It's currently shown as permitted in a translucent structure. Any change to that?

Ms. Lohman: I think it –

Mr. Greenwood: It has to – at least AD.

Ms. Lohman: I think it should be the same as the Bayview. Why would it be different? Why would you –

Ms. Mitchell: It's Heavy Industrial versus Light Industrial?

Ms. Lohman: But it's not there yet. Oh, wait.

Chair Axthelm: If you look at the difference in the Hamilton – the description of Hamilton Industrial versus Bayview industrial, there's a difference in what's allowed.

Ms. Lohman: But isn't the Hamilton one not there yet? Isn't it not existent?

Mr. Walters: There's no map zoning for that. That's correct.

Mr. Greenwood: But we've already said AD for opaque structures and we would be less restrictive if we permitted it with the translucent structure.

Ms. Lohman: But it should be a Hearing Examiner.

Ms. Candler: One of the two.

Chair Axthelm: So the motion's been made to change to AD.

Ms. Lohman: HE.

Mr. Greenwood: HE.

Chair Axthelm: HE. Okay, HE.

Ms. Mitchell: I like HE.

Ms. Candler: I like HE.

Chair Axthelm: Okay. Is there any opposed to HE? Okay, seeing none, we'll move on to the next item, the Natural Resource Industrial. Currently it's permitted.

Mr. Greenwood: Prohibit it.

Chair Axthelm: The motion is made to prohibit.

Ms. Mitchell: Second.

Chair Axthelm: And seconded. Any discussion? All those in favor?

All Commissioners: Aye.

Chair Axthelm: The ayes have it. Rural Business.

Mr. Walters: You should call for the opposition in every case when you do call for a vote.

Chair Axthelm: Yeah, I didn't mean to do that! Any opposed, say "nay."

(silence)

Chair Axthelm: The ayes have it – unanimous. Okay, Rural Business. Currently it's prohibited.

(several sounds of assent)

Chair Axthelm: Any change to that? Seeing none, we'll move on to the next one – Rural Commercial – or Rural Center. Rural Center. Any change to prohibited?

Several Commissioners: No.

Chair Axthelm: Okay, Rural Freeway Service. Any change to prohibited?

Ms. Mitchell: No.

Chair Axthelm: Seeing none, Rural Resource-Natural Resource Lands. It's currently AD except is prohibited on Guemes Island.

Ms. Candler: Same issue as before – what Keith pointed out. It needs to be just as prohibitive, so I move to prohibit it.

Chair Axthelm: The motion has been made to prohibit.

Ms. Mitchell: Second.

Chair Axthelm: And a second. Are any opposed to – is that – ah!

Mr. Greenwood: You're doing fine. Keep going. You're doing good.



Chair Axthelm: Are there any opposed to having it as prohibited? Seeing none, it's prohibited as stands. Rural Village Commercial is currently prohibited. Any change?

Ms. Candler: No.

Chair Axthelm: It stands. No discussion. It stands. Urban Reserve Commercial-Industrial currently shows HE, Hearing Examiner. Any change?

Ms. Mitchell: I recommend that we prohibit it like we did up in the Ag-NRL.

Ms. Candler: Second the motion – same reason.

Chair Axthelm: We have a recommendation and – or a motion to prohibit and a second.

Mr. Greenwood: I'll second that.

Chair Axthelm: That's a third.

Mr. Greenwood: Okay.

Chair Axthelm: Let's go with that just in case. All those in favor of prohibit for Urban Reserve Commercial-Industrial.

Mr. Greenwood, Ms. Mitchell, Ms. Candler, Chair Axthelm and Ms. Hughes: Aye.

Chair Axthelm: Ayes have – or, sorry – all those opposed, say "nay."

Ms. Lohman: Nay.

Chair Axthelm: So Annie has a nay. Would you like to give – I should have discussed it before that point. I'm sorry. Annie, was there any discussion or any point that you'd like to make?

Ms. Lohman: It would be the same argument as the Urban Reserve in any structure.

Mr. Greenwood: Except that translucent has the light issues and some of the others.

Ms. Mitchell: Wasn't that the same reasoning that we had back – that you had for Ag-NRL?

Ms. Lohman: But they'd have to have their fencing and their lighting and they would be boxed in so...I mean, if you want to be that brave...

Chair Axthelm: Any further discussion?

Ms. Mitchell: I'm okay with that.

Ms. Lohman: So prohibit was the will of the majority?

Chair Axthelm: Okay, so prohibit stands.

Ms. Mitchell: Would you do a revote just to make sure \_\_\_\_\_?

Chair Axthelm: Let's do a revote on that one. So all those in favor of Urban Reserve Commercial being prohibited, say "aye."

Mr. Greenwood, Ms. Candler, Chair Axthelm, Ms. Hughes and Ms. Mitchell: Aye.

Chair Axthelm: All those opposed, say "nay."

Ms. Lohman: Nay.

Chair Axthelm: It's five to one – the ayes. Right? So now back up to retail. Agricultural-Natural Resource Lands shows prohibited.

Ms. Candler: I'm fine with that.

Chair Axthelm: Any opposed to that? Any discussion or change?

(silence)

Chair Axthelm: Bayview Ridge Light Industrial. Any change to prohibited?

(silence)

Chair Axthelm: Bayview Ridge Heavy Industrial. Any change to prohibited?

(silence)

Chair Axthelm: Hamilton Industrial. Any change to prohibited?

(silence)

Chair Axthelm: Natural Resource. No change to prohibited?

(silence)

Chair Axthelm: Okay, Rural Business is permitted. Any change to permitted?

Mr. Greenwood: I'd like to propose we change that to at least Administrative Special Use Permit, so AD.

Ms. Lohman: Which one was that?

Mr. Greenwood: Rural Business.

Ms. Candler: I'll second the motion.

Chair Axthelm: Okay, we have a motion to change it to AD and a second. Any discussion?

Ms. Mitchell: I do. My only reasoning is I think the retail – there's going to be a lot of locations that are available. I think we have – the County \_\_\_\_\_. Is that correct, Ryan, at this point in time? Right.

Mr. Walters: And the towns.

Ms. Mitchell: And the towns. I'm fine with making more restrictive argument for where the retail could be since there are so few slots as they are slotted now within the county, and the only reasoning I have – any of us may or may not agree with it – is to move to some specific location. And I came upon the idea of Rural – the Freeway Service places and I can make arguments all the way around. The reason I'm asking for a restriction for the locations here is, once again, when you dot throughout the county for where the Rural Villages are you've got – on a lot of the plates you have Rural Business on one side of the street or one corner, with Rural Village Commercial on the other, and as we go through each of those zones that means you can have the retail facilities any one number of places. My only thought is this – is if you are careful on what that 1000-foot buffer is because of where kids can be for parks, schools and all those kinds of things, the same thing follows with Rural Villages. They're all over the Rural Villages running around for the same reasons. So that's my only standpoint for that.

Ms. Lohman: But I think, too, on the retail side it's almost safer to have them in that kind of a Rural Village-type center because then there's more scrutiny of what's going on. It tends to kind of discourage the riffraff because there's more people to see something.

Ms. Mitchell: That may be. I know that one of the other Commissioners had told some stories where there was one that was working and functioning quite well. Is that correct? But I'm just falling back on – I was trying to have consistent reasoning, if you will, and from that standpoint it's just a personal opinion.

Ms. Hughes: Well, and to follow up on that, it seemed to quietly go in but there is a need that the neighbor be notified and had a chance to ask for a fence to buffer the business and some others. And I see if we do it under Administrative that would have happened and it would have even been better. So I would support the Administrative on that one.

Mr. Greenwood: Ryan, can you pull up 26 in the book? I think it shows some Rural Business in an area of concentrated residential interspersed with Rural Business. So I looked at the aerial photo there and that looks like a place where I would definitely want the community to be notified before you went ahead and did that.

Mr. Walters: I think Kirk might have some input into the question of Rural Business based on its history as a zone.

Mr. Greenwood: Okay. That's in the area of Avon-Allen and Bennett.

Mr. Johnson: Yeah, so GMA gives you different slots to fit commercial uses into, and if a commercial use was existing but it didn't fit into one of those slots – like it wasn't in a Rural Village or it wasn't Natural Resource Industrial or it wasn't Small Scale Recreation and Tourism – then it basically was an isolated business that had developed back when that could happen and it got a Rural Business, which kind of allowed it more latitude than a preexisting nonconforming use that you basically wanted to go away over time. But it also doesn't have the latitude of a broader commercial zone. So, yeah, they can be just right in the middle of a residential neighborhood.

Mr. Greenwood: But not necessarily all of them.

Mr. Johnson: No. I mean, there are some Rural Businesses that are in Rural Villages but they're not quite clustered with the other Rural Village Commercial uses – they might be up here – and it just might have depended on the use, as well.

Chair Axthelm: Any further discussion? Let's go back to the matrix. Okay, so the proposal – do we just have a motion or \_\_\_?

Ms. Mitchell: It wasn't seconded, was it?

Chair Axthelm: Yeah, it was seconded. Okay, so let's vote on the motion as Administrative Special Use Permit for Rural Business. All in favor, say "aye."

Ms. Candler, Mr. Greenwood, Chair Axthelm, Ms. Hughes and Ms. Lohman: Aye.

Chair Axthelm: All opposed, say "no."

Ms. Mitchell: No.

Chair Axthelm: Okay, Kathy is no. Five ayes in favor. Okay, Rural Center has permitted. Is there a motion to change?

Mr. Greenwood: I'd like to recommend that we change that to Administrative Special Use Permit as well – Rural Center.

Chair Axthelm: Do we have a second?

Ms. Candler: Second.

Chair Axthelm: So any discussion?

Ms. Mitchell: I'd just like to go on the record for the same reasoning as before as no.

Chair Axthelm: Okay. Any further discussion?

Mr. Greenwood: I think if you look at where those RCs are, I don't think you'd think it's the same as Rural Business, but... It's not directed at anyone in particular. It's just to look at it a little more specifically I think you'd find something else.

Ms. Mitchell: I did look at every plate every place and I did see places where there were things across the street from each other like that, and it was – I understand your reasoning. It's not that. It's just that I was just trying in my mind (to) be consistent on why I'm choosing what I'm choosing.

Mr. Greenwood: That's fine.

Ms. Lohman: Could we – Josh, would it be okay if we ask Ryan to put map number 5 up where it shows – this would be up by the Bow post office and across the street is the Rhododendron and the second-hand place, and then behind the post office is a – well, now it's a gun shop and upholstery. So there's a little community center kind of thing going on.

Ms. Mitchell: And there's the children's daycare there right next door, as well.

Mr. Walters: And daycares are one of the excluded entities. We don't have a map layer that shows all the daycares so they're not on these maps, but you couldn't locate within 1000 feet of them.

Ms. Lohman: So that would wipe out that particular locale just by that overlay.

Chair Axthelm: In this particular location.

Ms. Lohman: But then if you –

Ms. Mitchell: If you go to Bow proper, isn't that one of those that has Bow? I'm getting them confused.

Chair Axthelm: This is Rural Center.

Mr. Greenwood: Yes.

Ms. Lohman: But Allen is another Rural Center. It's map number 9.

Mr. Greenwood: Yes. Correct. And it shows it's within the buffer so it would be excluded. So if you don't want marijuana next to your place you open up a daycare center – is that the recommendation? Or if you have a certain number of kids maybe that qualifies you.

Mr. Walters: It has to be licensed by the Department of Early Learning.

Ms. Mitchell: Downtown Alger – isn't that one of the ones that has both right across from each other? I believe that's one of those that does, now that I think about it. Yeah, and see they've got both and look how close they are to each other. This is just an example I was trying to say earlier, how they can be right across the street from each other. This is another good example of that.

Mr. Greenwood: So are you advocating then that it be prohibited or AD?

Ms. Mitchell: I'm only going to say that I think that both zones should be prohibited. I think everybody else is going to make their own decisions, but I just wanted to be consistent with the reasoning for you to understand why.

Mr. Greenwood: True. I thought you were going to \_\_\_\_\_.

Ms. Mitchell: Oh, no.

Chair Axthelm: I would like to say something. I don't smoke. I don't believe in it. But I also believe that, you know, people have different beliefs and want to do their life differently and I can agree with that too. One of the things that I did is I went out and I looked at some of these facilities, and the two facilities I looked at, one was actually very secure, very well done but nice and clean. And the other facility that I looked at was also quite clean. It didn't have quite the security but I'm sure the cameras are right there, too. And they – everything's packaged. It's not a place where the people can – you don't have the smells from growing it. It's a sales place. To that defense, I mean, I have my issues with it but I think that it's hard to prohibit it. There's a lot

of other things that I don't like either but, you know, how do you say no to it all really, in all fairness?

Mr. Greenwood: Did you buy any?

(laughter)

Ms. Mitchell: Just so everybody understands, I'm not saying that I disagree that we have to make allowances for them in certain places. I do believe that there was one zone where I think it's better than the others and that was the Freeway Service one, and the reason being they're far – there's far fewer neighborhoods that butt up to them where kids could be walking and riding their bikes and those kinds of things, and that's just solely my reasoning. It's not to say that the stores aren't going to exist or there aren't going to be places because they will be. And we certainly will probably see them in Mount Vernon and Burlington and other, you know, more city-type areas. We'll be seeing them around.

Chair Axthelm: So any further discussion?

(silence)

Chair Axthelm: Okay, so the motion is to change it to Administrative Special Use. All those in favor, say "aye."

Mr. Greenwood, Ms. Candler, Ms. Hughes, Chair Axthelm and Ms. Lohman: Aye.

Chair Axthelm: All those opposed, say "no."

Ms. Mitchell: No.

Chair Axthelm: Kathy opposed but all the rest are in favor. So the ayes have it.

Rural Freeway Service is a permitted use. Any discussion or change, or a motion?

Ms. Hughes: I'd like to put it Administrative just to keep it consistent.

Chair Axthelm: Okay, a motion has been made to keep it Administrative. Do we have a second?

Ms. Mitchell: Second.

Chair Axthelm: Kathy seconds. Any discussion beyond that?

Mr. Greenwood: Can I ask for clarification? Amy, was that area down in Conway – that was not Freeway Service. It was Rural Business – is that – what was the zoning there? Do you remember?

Mr. Pernula: I don't recall.

Ms. Lohman: I thought it was Rural Center.

Mr. Johnson: So the main cluster of businesses and all in Conway is Rural Village Commercial.

Mr. Greenwood: Oh, okay.

Mr. Johnson: But I don't know where any particular –

Mr. Walters: Yeah, RVC is most of Conway.

Chair Axthelm: What's a prime example of Freeway?

Mr. Johnson: Cook Road and I-5.

Mr. Greenwood: There's other similar-type businesses \_\_\_\_\_.

Mr. Walters: The bikini barista and the tattoo parlor.

Mr. Greenwood: Yes, and the snack shop all in the same spot.

Ms. Mitchell: Yeah, there were plates number 12, 13, 19 and 34 were the Freeway Service ones, right?

Mr. Pernula: Is this Conway?

Mr. Walters: This is Conway here.

Mr. Pernula: They're right at the north end – northeast – right there.

Mr. Greenwood: What plate is that?

Mr. Walters: This is 33.

Chair Axthelm: And the old barn. Okay, is there any further discussion on the motion?

(silence)

Chair Axthelm: So all those in favor of changing Rural Village Service to –

Mr. Greenwood: Rural *Freeway* Service.

Chair Axthelm: Rural Freeway Service to Administrative Special Use, say "aye."

Ms. Hughes: Aye.

Chair Axthelm: All those opposed?

Ms. Mitchell, Ms. Candler, Ms. Lohman, Chair Axthelm and Mr. Greenwood: No.

Chair Axthelm: So the nos have it. It stays permitted.

Rural Resource-Natural Resource Lands. It is prohibited. Any change to that? No change.

Rural Village Commercial currently has permitted. Is there a motion to change?

Mr. Greenwood: I'd like to propose that that be changed to AD, Administrative Special Use Permit for Rural Village Commercial.

Ms. Candler: Second.

Chair Axthelm: So we have a motion to change it to AD and a second. Any discussion from the Commissioners?

(silence)

Chair Axthelm: Okay, seeing none it stands as AD – or change it – yeah, change to AD.

Mr. Walters: So it was a no objection?

Chair Axthelm: No objection.

Ms. Mitchell: I'd still like to register no on that. No, I thought we were going to vote. I'm sorry.

Chair Axthelm: All right. So that's good.

Mr. Walters: That's the purpose of saying "no objection."

Ms. Mitchell: I was thinking something else – sorry.

Mr. Walters: No, he didn't say it. So you would say "no objection," Kathy would say "objection," and then there would be a vote.

Chair Axthelm: So all those in favor of Rural Village Commercial being changed to AD.

Ms. Hughes, Ms. Lohman, Ms. Candler, Chair Axthelm and Mr. Greenwood: Aye.

Chair Axthelm: All those opposed, say "no."

Ms. Mitchell: No.

Chair Axthelm: Would you like to state a reason?

Ms. Mitchell: Same as before.

Chair Axthelm: Same as before. Okay, good. Thank you. So it changes to AD.

Urban Reserve Commercial-Industrial currently has permitted.

Mr. Greenwood: I'll go ahead and move that we change that to Administrative Special Use Permit as well for the Urban Reserve Commercial-Industrial.

Chair Axthelm: Do we have a second?

Ms. Candler: I will second that.



Chair Axthelm: And a second. Any discussion on it?

Ms. Mitchell: Yes. I'll just register now the same objections before and reasonings before.

Chair Axthelm: Same. Do we have any other discussion?

(silence)

Chair Axthelm: So all those in favor of Urban Reserve Commercial-Industrial as AD, say "aye."

Mr. Greenwood, Ms. Lohman, Ms. Hughes, Chair Axthelm and Ms. Candler: Aye.

Chair Axthelm: All those opposed, say "no."

Ms. Mitchell: No.

Chair Axthelm: Okay, so the next – looking at it, do we have – we'll go back to the chart in general. Overall, is there any further discussion or motions? Annie?

Mr. Greenwood: Ag-NRL: Did you want to change that on the growing, Annie?

Ms. Lohman: Okay, he doesn't have the whole chart. I was going wait, wait. \_\_\_\_\_. I didn't see \_\_\_.

Chair Axthelm: No further – okay.

Ms. Lohman: I do have a – I'm sorry, Josh – I do have a question.

Chair Axthelm: Yeah?

Ms. Lohman: When we talked about having the 1000-foot notice for the special use, does that go over to the retail, too, or was that only for the production?

Ms. Mitchell: How did you –

Mr. Walters: It was written as "All."

Chair Axthelm: For all – it's for all special uses.

Ms. Lohman: For marijuana.

Chair Axthelm: Yep. So the next item is – or the next suggestion.

Mr. Pernula: On page 6 there were four major questions. I think you've answered the first two bullets. I think you've covered that.

Chair Axthelm: Yep. "What considerations" – so the third one's "What considerations do you want the special use permit process to evaluate for marijuana facilities?"

Mr. Pernula: Then on page 4 beginning – are all the special use permit criteria, then on the middle of page 5 there are six additional criteria that we’re adding for additional special use permit criteria. And I guess the question is if you want to add more. The middle of page 5.

Ms. Mitchell: I’d like to! You were expecting that, weren’t you? You know where it says in (a), where it says “address impacts on surrounding properties, including but not limited to the appropriate distance of the facility from residences, schools, daycare facilities, public parks, other public facilities, and other marijuana facilities”? I’d like to throw up for consideration two things that I do not see mentioned that I do think where kids, especially young kids, and families go, and that would be near nursing homes and hospitals.

Chair Axthelm: Okay. So I guess the – okay, so we’re looking at this proposal adds?

Ms. Mitchell: Right, and that was that first paragraph. I’m on the same page as you guys, page 5. Is that right?

Chair Axthelm: Yeah.

Ms. Candler: And did you want those –

Ms. Mitchell: Just to add those where we have the list of residences, schools, daycares, et cetera, add nursing – if the others are amenable to it – or discuss it.

Chair Axthelm: What does the state requirements say?

Ms. Mitchell: What do they say?

Mr. Walters: The state requirement is basically this list. It doesn’t include nursing homes.

Ms. Mitchell: Or hospitals?

Mr. Walters: It’s “elementary or secondary school, playground, recreation center or facility, childcare center, public park, public transit center, library, game arcade where admission is not restricted to persons age 21 or older.”

Chair Axthelm: So the state requirement would still stand regardless except if it gets changed. Is that correct?

Mr. Walters: Also I don’t think the state requirement is going to get changed. This list comes from the federal government. It’s the area where I think there may be some federal statute that increases penalties for drug use or sales within 1000 feet of these areas. I think that’s the providence of this list.

Chair Axthelm: Okay. But let’s say the state requirement does – I mean, as it goes throughout the states and it does change. We have a restriction here so it wouldn’t automatically change until we say it gets changed, right?

Mr. Walters: Well, so we have – the state has the prohibition on these facilities within 1000 feet of that list. We have in our code, or the proposed code here, a requirement for the special use permit to address the appropriate distances. So it could be more. It can’t really be less because you wouldn’t be able to get a license for less, but it could be more.

Chair Axthelm: No, what I'm saying is if the state takes out, let's say, daycare facilities, takes it off their list, it's still on our list.

Mr. Walters: It's still on our list so any special use permit that we issue would have to address that distance, but our requirement doesn't say it has to be 1000. It just says it has to be addressed.

Chair Axthelm: Okay.

Ms. Lohman: Josh, may I ask Ryan a question?

Chair Axthelm: Yes.

Ms. Lohman: So how does the Hearing Examiner or the Administrative Official then determine that distance if we don't write it down?

Mr. Walters: The way the Hearing Examiner determines conditions for all permits. They take comment from the public and they try to judge what the likely impacts that the proposed use will be on the neighboring uses or the uses that people comment on. So if people say that – I'm not generally that good at generating hypotheticals on the fly, but there's a straight-line distance of 1500 feet to a carnival – that's not on the list because it's not a public park or a transit center – then maybe the Hearing Examiner would address that in some way by requiring screening, or if it could be located somewhere else on the same lot requiring the facility to be located elsewhere on the lot. It does seem to me that if you have an Administrative Special Use Permit or a Hearing Examiner – if you have a special use permit for an opaque building that no one's going to see inside, then the comments can't be, We don't like marijuana. The comments have got to be something like, We think that children or other users of the neighborhood are going to be negatively impacted because of traffic, or some other actual impact. It has to be related to something that the proposed use is actually going to do. And that's the same for all special uses. That's how they work. When the neighborhood says, We don't like something, that is not usually good enough to impose a condition. The Hearing Examiner, I think, in most cases tries to translate the comments of the public into conditions that make sense, but it's sometimes harder when you don't get specific information about what the actual impacts will be.

Ms. Lohman: It does have the key words "not limited to."

Mr. Walters: And remember there's that other list above the proposed special list for marijuana that would apply anyway, and it has things like neighborhood character and –

Ms. Mitchell: Cumulative impacts – is that the one?

Mr. Walters: Right.

Ms. Mitchell: Yeah.

Mr. Walters: No undue noise, odor, heat, vibration, air and water pollution impacts, privacy. I mean, a lot of these things are addressed as a general matter. It's just providing a little bit more guidance in some of these areas and more concrete restrictions in others, like odor – you may not detect it at all off the property.

Chair Axthelm: And it gives us the marijuana-specific items in there, like the hazardous processing. Any other discussion? Amy?

Ms. Hughes: Regarding any additional controls on hazardous processing methods, can we open discussion until this gets defined a little bit better that we stay away from hazardous processing methods in Skagit County until there are more boxes drawn around that issue?

Mr. Walters: Well, the WAC does include rules right now that require any hazardous processing to be done in a closed-loop system. The concern is not about processing or extraction, but it's about using the hazardous chemicals. There's the alternative to hazardous chemicals, and that's the CO<sub>2</sub>-based system. And I heard yesterday about one involving maybe a washing machine, but that uses water. Anyway – so I don't remember where I was going with that. Oh, yeah, so theoretically we don't really know, not being marijuana processing experts, whether the CO<sub>2</sub> system is as effective at producing the oils that they're trying to extract. Some people have said that it doesn't produce the same quality of product, but other people have said that it's just more expensive to buy the CO<sub>2</sub> system. So we don't really have good information about that.

Mr. Pernula: But I would say this item (b) is still good to have in there so that you have the ability to regulate it if some system comes along that may be questionable.

Ms. Hughes: Yeah, we have – this gives the County ability to regulate it, but we don't have all the answers yet.

Mr. Pernula: That may be true.

Ms. Hughes: And so it seems to me by putting pressure on the industry – what are the standards for this? – by saying we will not accept this until the standards are set, we might get those standards quicker. My concern isn't just the neighbors' or residents' businesses around a facility that might be using this, but it's also the safety of all the volunteers/responders that we have. Our county is dependent on volunteer responders and what are we asking them to do.

Ms. Mitchell: Just to clarify, we do have the ability to recommend stricter recommendations, correct?

Mr. Walters: And the other thing I would add to that is that in another section of the proposal outside the special use criteria, it also says that a marijuana processing facility may use hazardous or flammable solvents or gases for processing, but only in a professional grade, closed-loop extraction system that is designed to recover the chemicals and that is labeled for such use by the manufacturer. Now the WAC – the Liquor Control Board rules – also includes that provision, but our Fire Marshal wanted it in our code so that we could also enforce it. So if we discovered a system that was not the closed-loop system that we wouldn't just call the Liquor Control Board; we would also just shut them down or, you know, do our enforcement procedure to prevent them from using a system that's not on the – at least the Liquor Control Board's okayed list. But that doesn't, I don't think, address Commissioner Hughes' concern about whether or not we should allow them at all. I'm just providing that background.

Ms. Mitchell: I think she makes a good argument.

Chair Axthelm: Any wording you'd like to propose?

Ms. Hughes: Oh, wow.

Chair Axthelm: Or any suggestions?

Ms. Hughes: Well, my suggestion – I don't know how much latitude we have on this, but it would be to restrict the use of hazardous processing methods in the county until we have a clearer definition of what is acceptable and safe.

Mr. Walters: So I would say we do have that definition. The way it's currently written, you must use the closed-loop, professional grade extraction system. But the Hearing Examiner, or the staff, where a special use permit is required would be able to go beyond that and say, assumedly, You're not going to be able to use that for this special use permit because of possible injuries.

Chair Axthelm: So it is a tested system.

Mr. Walters: It *has* to be a tested system.

Chair Axthelm: For the chemicals itself, not specifically to marijuana but chemicals for processing itself.

Mr. Walters: Yeah, the hazardous chemicals are the butane or whatever chemical they're using to extract the marijuana.

Mr. Greenwood: Can I offer a suggestion? Just looking at the code section, if we were to strike the new section on page 4 of the draft. I've got 3/12 – maybe I have the wrong version, but I'm looking at 3/12/2014 –

Mr. Walters: That's right.

Mr. Greenwood: Page 4 at the bottom it has "A marijuana processing facility may use hazardous or flammable solvents or gases for processing, but only in a professional-grade closed-loop extraction system that is designed to recover the chemicals...labeled for such use by the manufacturer," and maybe just strike that language so that that particular section does not – we do not allow it.

Mr. Walters: Well, if you want to not allow it, you might not strike it but insert the word "not."

Mr. Greenwood: Okay. That's a better suggestion.

Mr. Walters: Or just construct a sentence and we'll figure it out. Because it's just your recommendation so you could just say "prohibit."

Mr. Greenwood: A marijuana processing facility may not use hazardous or flammable solvents or gases for processing –

Mr. Walters: Period.

Mr. Greenwood: Period. Does that make – does that address what you're looking –

Ms. Hughes: Well, and I'm throwing it out for the whole Commission, too. You know, I'd like to hear both sides if there *is* two sides to this issue.

Chair Axthelm: I think that'd be a Hearing Examiner option – is they could have that as a part of the proposal. If it's in an area where it's not – it's, like, a heavy industrial area then I would assume that it would be okay to be there.

Ms. Lohman: But there's only – Josh, there's only two, three times that we go to that level. For the majority we said the Administrative Use, which is a lesser. Does it have the same list of criteria that you would be scrutinizing?

Mr. Pernula: Yep.

Ms. Lohman: It would?

Mr. Pernula: Yes, it's done by staff instead of by the Hearing Examiner and there wouldn't be a public hearing.

Ms. Lohman: But it would be the same criteria.

Mr. Walters: Yes.

Ms. Lohman: Okay.

Chair Axthelm: See, in some areas you could – in some areas – industrial areas – doing those processes it's okay compared to other areas where it may not be. So I'm just saying with the Hearing Examiner –

Mr. Greenwood: But if we say it's okay, Josh, then they're going to use it and they're going to use that language against you.

Chair Axthelm: Yeah. Okay.

Mr. Greenwood: Just thinking of it that way. If we already say it's available and okay, then they're say, We are using a closed-loop system. What's your problem? And you have to raise the level of concern to a point where you could say you've already allowed it, but we're saying now we can't do it here not because we don't like it but because we don't think it's safe: Prove it. So the shoe is on the other foot. I think if you prohibit it then you have to then get this code changed to allow a process that is verifiably safe. If we're unsure about the safety of it, I don't think it's – it doesn't seem wise to allow it and then try and back-pedal out of it.

Chair Axthelm: Did you change the wording to match what he had said?

Mr. Walters: No, I haven't written anything yet. I didn't hear a motion. I didn't think –

Chair Axthelm: Okay, so do we want –

Mr. Greenwood: I was just addressing. Do you think – does that make sense to you to prohibit it, or do you want different language?

Ms. Mitchell: I want language to prohibit it. But I also want language so the Fire Marshal, if they trip across things, to handle the situation – and that's where I got a little confused at separating those two concepts.

Mr. Walters: If there were language that simply prohibited it, you –

Ms. Mitchell: We'd cover all bases whatsoever.

Mr. Walters: Yeah.

Ms. Mitchell: We can make those – if that's the will of the Commission, you can make that recommendation.

Mr. Greenwood: Well, she had a motion and we need to address the motion, I think.

Ms. Hughes: Well, it wasn't actually a motion. It was more of a discussion point that I was \_\_\_ latitude, but if we need to throw it into a motion...

Mr. Pernula: I think you were asking if there was an argument from the other side, and I'm not sure I can argue it very well, but a couple of points. One is that there are many other hazardous chemicals that are used in other processes, other kinds of industrial processes. And also you could argue that if you have something that is potentially hazardous that's regulated it might be a better outcome than something that's done unregulated behind closed doors somewhere.

Mr. Walters: I think that's an important point because internally when we came up with the current interim ordinance, didn't we at one point have a line that simply prohibited them? Do you recall?

Mr. Pernula: I recall something like that, yes.

Mr. Walters: And the Fire Marshal indicated he didn't want to prohibit them because – mainly because he was afraid that people would do it anyway. He wanted to provide a pathway.

Mr. Pernula: There apparently is a market for things like edible marijuana products – I don't know, brownies or whatever – and that requires some sort of extraction which is either done with certain chemicals or CO<sub>2</sub>.

Ms. Hughes: I think that this conversation even goes further – that Colorado has found that they need to watch the chemicals put *on* the marijuana so it doesn't go into the user's systems. And so they're back-pedaling right now. I think that this is a whole issue of how do we go forward.

Ms. Mitchell: I've got an idea. I don't know if this will – you might shoot me down right away on this one because I'm trying to come up with something that fits both bills – but what if we in our recommendations ask them to ensure a requirement for the County to prohibit the butane extraction in any other zone but the Heavy Industrial? Does that allow them, since they would be Heavy Industrial like any other Heavy Industrial nuke plant, like we've discussed earlier, where they are already required to do a higher degree of things – would that cover that or not?

Mr. Pernula: It would help.

Ms. Hughes: Because I know, you know, even on the farm we have to store our chemicals in certain ways and we have to have certain building to store certain chemicals. I just want that assurance that this industry is being regulated also.

Ms. Lohman: Well, and industrial – other industrial processes, they are regulated as well. They don't just have a blank check.

Ms. Mitchell: Right. The refining plants, for instance, are good examples.

Ms. Lohman: Sure.

Chair Axthelm: Get this to a motion \_\_\_\_\_ to move it forward.

Ms. Mitchell: This is a very heavy lift for these kinds of things.

Chair Axthelm: So we did have a motion to prohibit it anywhere except for the Heavy Industrial.

Mr. Greenwood: There is a portion of – it was on page 5 rather than page 4 of the draft language. It goes on to say “In Ag-NRL, a marijuana processing facility may not use any hazardous or flammable solvents or gases for processing.” So that would be a place where we could specify a particular zone or specify where it's allowed.

Ms. Lohman: Why not instead of – I don't like to write code that's a negative because it would almost be easier if you just said “The marijuana processing facility may use hazardous or flammable solvents or gases for processing but only in a professional grade, closed-loop extraction system” blah blah blah to the manufacturer “only in the Bayview Heavy Industrial zone.” And then you could – in the Ag-NRL and those other zones – you could say “It is prohibited to use that method.”

Ms. Hughes: Right. That would probably be better language.

Ms. Mitchell: I think you're right about the positive construction – sentence construction.

Mr. Greenwood: I think we need to put a “may” and a “should” in there somewhere, or “shall.”

Mr. Walters: Well, okay, so you're not writing the code –

Ms. Mitchell: But we're making recommendations.

Mr. Walters: Right, right, right. So don't worry too much about those details. Just tell us what you think.

Chair Axthelm: Okay, so what Annie proposed?

Ms. Mitchell: I like what Annie said – yeah.

Chair Axthelm: Okay, so let's take \_\_\_\_\_.

Ms. Mitchell: She's moving that – do you want to read that with adding the Bayview at the end?

Ms. Lohman: It would be item number 6.

Mr. Walters: So let's remember it's going here in the recorded motion, so I would suggest simply saying “Prohibit the flammable processing other than in Bayview Ridge Heavy Industrial.”



Because there's going to be a whole bunch of code changes \_\_\_\_\_ these recommendations.

Chair Axthelm: And the fire department's going to have its whack at it too.

Ms. Lohman: Because that's really the only straight-up P, permitted, in that whole chart.

Ms. Mitchell: In – there's another piece I'd like to add to this since it's tangential for the recommendations on that language and that is – and I know you – it was in the memo before this last staff memo, and that's to ensure the requirement that the County notify appropriate local fire departments of newly approved marijuana production and processing facilities. And I know that you guys had put that in two staff memos ago.

Mr. Walters: That's number 12 on this draft recorded motion.

Ms. Mitchell: Just to make sure that it's there.

Mr. Walters: We could move that up to 4 or something.

Ms. Mitchell: Yeah, I'd like to have them together because it makes sense for flow, if you will.

Chair Axthelm: Any objection? No?

Ms. Lohman: Dale, the only thing I saw missing was, What do they do with all the byproducts of their processing? That's not written in your list. What's their disposal scheme supposed to be?

Mr. Pernula: That might be a very good addition to the list.

Chair Axthelm: Does it go into the septic system which then – hazardous chemicals, I think, would be regulated.

Ms. Lohman: Well, it isn't just the chemicals. It's what do you do with the product or the stuff that's no good to do anything with – the sludge or the leftover plant material that's now contaminated, I would think.

Chair Axthelm: If it's hazardous, then I would assume you'd have to do like any other \_\_\_ waste.

Ms. Lohman: I don't know anything about marijuana.

Chair Axthelm: Neither do I.

Ms. Lohman: Yeah. But I'm thinking about, like, when you extract mint then you get something left while you get the oil off the mint in the distilling process.

Mr. Walters: So in all special use permits, waste disposal is addressed. The Health Department provides recommendations and then the special use permit conditions address disposal. In situations where there isn't a special use permit – so where it is outright permitted – you're just on your own to properly comply with the law, which means you're not supposed to be dumping stuff in the septic system. It doesn't go in a septic system or in a sewer, because Bayview Ridge Heavy Industrial – I'm pretty sure – most of Bayview Ridge anyway is served by sewer. You

can't just have piles of stuff on your property within some constraints, so, I mean, there are other laws that are going to govern that. But – what's that?

Ms. Hughes: Environmental?

Mr. Walters: Yeah. I mean, you can't burn some of this stuff. So there are other constraints. But for the special permit use consideration list, there's no reason not to put in that list something about proper disposal of waste from processing or production. You might as well highlight it.

Mr. Greenwood: What do you think, Annie?

Ms. Lohman: Yeah. But it isn't just waste. It's the byproduct.

Chair Axthelm: All right, anything else?

Ms. Mitchell: (inaudible)

Mr. Walters: This was the draft recorded motion from last meeting. It's not one of the memos.

Mr. Pernula: The one that has the title \_\_\_\_\_ I believe at the last meeting.

Ms. Candler: Chairman, I just wanted to indicate that it's nine o'clock and I don't know if you wanted to leave time for a Department Update or –

Chair Axthelm: So it's nine o'clock. We're pretty close. Do we want to just stick with this and run through it?

(several sounds of assent)

Ms. Lohman: So was that the third bullet?

Mr. Pernula: That was the third bullet. There's only one more bullet.

Mr. Greenwood: Well, before we leave that bullet I think this would be an appropriate time if I can get some support on this. I wanted to pull from one of the interim ordinances – ordinance number O20140009 – an additional recommendation. And it says "Except within municipal UGAs where municipalities' development regulations apply" – and then it gives a list of those – "marijuana production or processing facilities must comply with the following." And it has "a structure constructed with transparent or translucent siding" – and that could be changed – "and any security fencing, must be set back at least 250 feet from any residence not owned by the facility operator." It also has an additional setback "at least 100 feet from any residence not owned by the facility," and then it has a requirement that the Natural Resource zones, Ag-NRL and Secondary Forest-NRL, "a marijuana production or processing facility must be situated on a lot of at least five acres." And the precedent for that is set by many other Counties. Cowlitz County has a 250-foot setback; Whatcom County has a 300-foot setback unless remote; Ontario, Canada has 70 meters, and that's converted to 225 feet setback from residences or zone; Snohomish County happens to have a 30- to 50-foot, but it also has to be greater than 100-square-foot lot, so 2.3 acres.

So I like the five-acre requirement that it has to be a hurdle that has to demonstrate that there's a lot problem that is prohibiting it from doing something appropriate. And I also don't think 250

feet is enough. I think it should be 400 feet from any residence, and that should be any structure which includes security fencing. And I think that takes care of some of the Bayview Ridge Light Industrial where I see one parcel that is too close and it doesn't belong there, and someone should justify why it's on that parcel. So if you go 300 feet plus I think it eliminates a lot of problems. And so I think that should be a requirement in the Administrative Special Use.

Chair Axthelm: Are you taking that directly out of the –

Mr. Greenwood: Out of the ordinance. I've got some, you know, strikeouts in it – so to add 400 feet instead of 250, and I could show you what that proposed language looks like. But I think that there's a place for it.

Ms. Candler: I'm sorry. I missed some of that. 400 feet from a residence or 400 from anything?

Mr. Greenwood: From any residence not owned by the facility operator.

Ms. Candler: But it could be up next to a different type of building, like another industrial building?

Mr. Greenwood: It just talks about residence not owned by the facility operator.

Ms. Lohman: Was this the middle? Weren't there three?

Mr. Greenwood: There were three.

Ms. Lohman: Is this the middle one?

Mr. Greenwood: This is (b), which covers within the municipal UGAs where we don't have jurisdiction there. Then it says item (i) is a setback where they had 250 feet initially and it talked about constructed with transparent or translucent siding. And then (ii) is a setback of 100 feet from a residence not owned by the facility operator. That would deal with any structure.

Chair Axthelm: (unintelligible)

Mr. Greenwood: Yeah, and I could read it as I would propose it and I could give you a written copy of it as well.

Mr. Walters: We heard a couple of comments on that and that's why we moved away from that.

Mr. Greenwood: I know that, and there was some justification for it. So if I show it to you, see if there's a – I can make a more formal motion.

Chair Axthelm: And these are our recommendations, so can we just tack it in there, or do you have a certain part of that that you really can't do?

Mr. Walters: A couple of things: I mean, first of all you should, I think, consider the fact that if you're calculating from a residence you are using some of that residence's property as the setback for a use. It isn't owned by the residents. And that was –

Chair Axthelm: This would be residential property.

Mr. Walters: Right. If it said another neighboring residential parcel then that would maybe solve that problem.

Mr. Greenwood: Well, this language is very similar to – and I can show you the language from other Counties that have adopted similar setbacks, and I think that when they define how to measure – and we could add that as well – how to measure from a structure, and I could show you any –

Chair Axthelm: You were saying measuring from the structure versus somebody has a five-acre parcel has a house on the corner then they could use \_\_\_ parcel. They could still put it right next to that parcel.

Ms. Candler: From the property line rather than the corner of the house.

Chair Axthelm: Yeah. So it's increasing that from the property line.

Mr. Greenwood: One example from Whatcom County is "The facility should not be located within 300 feet of any existing residential unit not located on the same parcel as the facility. The distance shall be measured as the shortest straight line distance from the closest point of a single-family dwelling structure to any structure or fence used for the production of marijuana." That's pretty clear to measure.

Ms. Candler: That's clear but it's also clear to measure from the property line and give them the additional setback from their property so they can have a barbeque or something.

Mr. Greenwood: Well, part of the marijuana production has oftentimes an associated fence and cameras and those sorts of things, which are also a conflict with neighboring uses. So I think to measure from that fence line –

Ms. Lohman: Whoa, whoa – I think there's a little confusion there. That fence and the camera is *only* if you have a translucent building.

Mr. Pernula: Or an outdoor grow. That's right.

Ms. Lohman: Or an outdoor.

Mr. Greenwood: And if we're prohibiting that then...

Chair Axthelm: The requirement. It doesn't mean you still won't have the cameras.

Mr. Walters: That is an important distinction. You could on your own decide to put up a fence and cameras.

Ms. Lohman: True.

Mr. Greenwood: If it's part of the production facility I think it needs to be set back from residential.

Ms. Candler: But why not the neighbor's property yard instead of their building? It's more restrictive. It's more – further than what – so, like, okay, so you have a yard and you want to be

in your yard and your yard is 400 feet from your door they can build their fence right next to your yard as opposed to 400 feet beyond that. So which are you preferring?

Mr. Greenwood: Well –

Ms. Candler: That was the comment that Ryan sort of pointed out – to have that setback start from the resident's property line rather than the resident's siding of the house.

Mr. Greenwood: Because if the neighbor is on a 20-acre parcel and his house isn't next to it, it shouldn't affect it adversely like it would next to his residence. I think it's a residence that's the issue, and protecting those existing uses I think was kind of an issue that we addressed up in industrial, whether it's an industrial park now or whether heavy or light or ag with a house on it. I think I want to protect those people who are existing there.

Ms. Lohman: But didn't we say that?

Mr. Greenwood: There's no setback discussion –

Ms. Lohman: Yeah, we did. On the Bayview Light Industrial it was 1000 feet of a residence or a residential zone.

Mr. Greenwood: Yeah, that's for notification. That's for notification, not a setback.

Mr. Pernula: Just to let you know, the other problem we ran into is in the Ag-NRL zone if you have too much of a setback, like from a right-of-way, a lot of those people can meet it but what they're going to do is put that building right out in the middle of their ag land. They're not going to put it up near the road where it's –

Mr. Greenwood: But that's less conflict. I see a lot of ag properties, at least the ones I drove past that looked like marijuana facilities on the eastern side of the state, a lot of those structures are kind of in the middle. They're not right next to the road anyway. And those that are right next to the road, they don't have to be next to their neighbor's house.

Chair Axthelm: It's the preservation of farmland. So in that case, the preservation of farmland would stand, wouldn't it? Because you can't put your house in the middle of the property unless you can show –

Mr. Pernula: This would be not a house. This would be this production facility and, you know, we saw several of them where they could meet the setback but it put it right in the middle of their field and wiped out –

Mr. Greenwood: But the setback from a house, not the setback from a public road.

Ms. Lohman: But, Keith, in the Ag zone you have to be within 200 feet of the road. We're not allowed to just go build something in the middle, unless there's a –

Mr. Greenwood: Well, there's no setback from the road. Where's the setback from the road? We're not talking about that. I'm talking about a setback from a residence.

Ms. Lohman: I know, but the majority of the structures on an ag parcel are near the road.

Mr. Greenwood: Well, even if it's 200 feet that doesn't make it next to your neighbor's house, does it?

Ms. Lohman: Well, I'm thinking of a neighbor –

Mr. Greenwood: We're using an existing building.

Ms. Lohman: Right. There's a bunch of one-acre lots – real small lots – on Thomas Road, which is very near me, and the houses are fairly close together. And there's a couple of them where there's just a – I mean, I can think of one in particular. It's just a garage, or a pool building that they're using as a garage.

Mr. Greenwood: Is that an appropriate place to put it?

Ms. Lohman: It depends on whose –

Mr. Greenwood: We didn't even talk about – we were wrestling with whether it should even be allowed in that zone, let alone, you know, next to small parcels of farmland or residences.

Ms. Lohman: But I thought at the last meeting that we were at there was a bit of discussion on how you logistically manage certain setbacks without conflicting with the underlying zone itself.

Mr. Greenwood: I heard that too and that's why I did a little research to find out who else has them, and it includes a neighboring country that has been wrestling with it for some time, too. And that's why – Ontario, Canada. They have a setback as well and they're not sure that it's big enough.

Ms. Lohman: What is the average setback that you found?

Mr. Greenwood: I found 225 – 50 feet – 30 feet was the lowest – that was Snohomish County – and the highest was 300.

Ms. Lohman: From the property line or from the structure? Structure to structure?

Mr. Greenwood: From the structure – structure to structure. Some had property lines as well.

Mr. Walters: If you had a setback from an existing residence or a residential zone, that might not cause conflicts with uses that wouldn't be causing conflicts. I would think that that would accommodate both uses that are unlikely to have conflicts and protect residences. I think that's only slightly different from what you're saying. So if it's a residential zone, then it'd be measured from the zoning boundary and the property line. And if it's an existing residence then it would protect that existing residence, but if the existing residence would be the place you would measure from only for a residence that's not in a residential zone.

Mr. Greenwood: Correct. Correct, correct, correct.

Mr. Walters: So if you're a residence that's in an ag zone, well, then you have some different expectations than if you're a residence in a residential zone.

Mr. Greenwood: Right, and you're already going through an Administrative hearing, whether it's a Hearing Examiner or – not the Hearing. Excuse me. It might be at least a special use consideration.

Ms. Lohman: I'm not sure that what you said if people would agree with you 100%. Because I think if you're – even if you're a country person your residence is still your residence and that you should have the same privacies and same respect towards your dwelling as if you were in a residential zone. I mean, it's –

Chair Axthelm: Amy, did you have a thought?

Ms. Hughes: Well, I'm trying to overlay this with the work we've done the last few hours. What areas are we really looking at that we need this protection on? Can you make that smaller so we can see our whole evening's work? I'm needing to review. So like in the Agriculture – so if we implement what you're thinking of, where would that go in there? Where does it apply, because we, you know, are limited? You're just talking production, right? Production and processing?

Mr. Greenwood: Yes. Yes. Yep.

Ms. Hughes: And so we pretty much limited it in agriculture.

Mr. Greenwood: Limited it to what?

Ms. Lohman: Existing buildings that are already built.

Mr. Greenwood: And we required that the Administrator review it and offer a special use permit, right?

Mr. Walters: Correct.

Ms. Hughes: Light Industrial – it's permitted there.

Mr. Greenwood: So I would say if you've got an existing structure within 250 feet of your residence in the Ag land, having it go from horses or whatever people use barns for these days, to marijuana, I think that is significant.

Ms. Lohman: Which is why we wanted the noticing.

Mr. Greenwood: And you're satisfied that the noticing will address your concern. I think a setback is additional protection.

Chair Axthelm: So let's form it into a motion.

Mr. Greenwood: Okay.

Ms. Lohman: I don't know.

Chair Axthelm: Let's form it into a motion or put it into some terms, and you go to write it in so we can write in what he's proposing. And we're getting pretty late in time. Let's get this written and then see where we go from there.

Mr. Greenwood: All right, here's the language I'm looking for: "A structure and any security fencing must be set back at least" – and I said – "400 feet from any residence not owned by the facility operator."

Chair Axthelm: Okay, so that's his motion – to add that. So do we have a second on the motion? Then we can discuss it and amend it.

Ms. Hughes: Second.

Chair Axthelm: Second – so we have a second. Okay, so discussions. Yeah?

Ms. Candler: I would not support that language as it's written for the reasons – like Annie talked about. We discussed this at the last meeting. It's forcing – it's contrary to other uses potentially. It's not putting – it might restrict it from being where we actually want it to be and so it's a little bit arbitrary. It could end up in a worse result.

Ms. Mitchell: Is there any language or part of that language that would be okay? Or is the whole idea not acceptable?

Mr. Pernula: After looking at some of the facilities around here, I would strongly suggest that the translucent structures that normally have their fences and security cameras and light have far more impacts than the solid structures.

Ms. Candler: I think that's too far. If anything, less distance but –

Chair Axthelm: This is if it's required, right? Because in all options it isn't required.

Ms. Lohman: But he's not limiting it to only translucent.

Mr. Greenwood: I think it's a subset of potential places for this stuff to take place and so I think it narrows it down to the appropriate places rather than allow it to be forced.

Ms. Candler: Okay, that gave me an idea. I think maybe where you want that kind of language is in the – not in our recommendations but in our recommendations of the consideration for the Hearing Examiner or the use permits.

Mr. Greenwood: That's where I'm –

Ms. Candler: Because you're putting it –

Mr. Greenwood: That's where I'm promoting it.

Ms. Candler: Okay, but this isn't that. This isn't that.

Ms. Lohman: No.

Ms. Candler: This is something different. The problem is we've switched back and forth between those considerations that we were talking about a while ago to our actual recommended changes to the proposal.



Mr. Greenwood: Okay, because this is consideration of the factors that the Director would evaluate for whether it is compliant with – does that make sense, or no?

Ms. Lohman: Would it be acceptable if you just said “an appropriate distance from existing residential structures” and throw it back to the Hearing Examiner? Because that way you could take in the site – you know, every site is going to be unique, especially when you’re repurposing buildings.

Mr. Greenwood: I don’t think they’re as unique as you think, but I –

Chair Axthelm: Ryan or Dale, maybe either of you can answer this. If you have – this is my example in my e-mail was if you have a tire facility or a wrecking yard, is there a setback that that has to be from a different property? It’s the same look.

Mr. Pernula: Those are in fairly restricted zones. There may not be – you know, I’d have to look it up.

Chair Axthelm: But that would be the screening and landscaping requirements basically.

Mr. Pernula: Right. But in some zones there may be very little setback at all.

Chair Axthelm: We can call a vote on this and see if – I mean if that’s –

Mr. Greenwood: Yeah, it doesn’t even have a second so –

Chair Axthelm: Well, no, it did. She said it.

Mr. Greenwood: Oh, did it? Okay.

Ms. Candler: It did because we went into discussion.

Chair Axthelm: Well, we can call a vote on it.

Mr. Walters: The other thing that we found when we had this in the interim ordinance before was that there are some marijuana facilities that are operated by someone other than the owner of the real property. And the real property may have a house on it owned by that owner and they’re leasing out the back 40 for –

Mr. Greenwood: Sure, and some of the code language allowed for if you got written permission from the – or agreement that it’s acceptable from those who are affected, those residences that were affected, but I didn’t offer that up as additional clarification. But that is in there. They waived the spacing requirement from residential use if the owners of all existing residential units within 300 feet provide a notarized written agreement as provided by the Department and consenting to the facility and the waivers of proof. Their administrative approval process and then they have their code section.

Mr. Walters: And I would recommend only using language like that in extremely limited circumstances because it invites holdouts that will extract payment in exchange for those notarized waivers.

Mr. Greenwood: Hmm. How much do you get?

(laughter)

Mr. Walters: It provides a veto for neighbors, which is not the approach that we take in almost any other context. We take comments from neighbors but evaluate them and determine if those can be addressed by conditions. In some cases they can't be addressed by conditions in which case a special use permit is denied, but in all cases there is some third party.

Chair Axthelm: Okay, we need to go somewhere. Tammy?

Ms. Mitchell: What if – so the Board of County Commissioners understands that this is an important point, at least to a subset of the committee enough that they want it voiced – what if this went under the recommend – I mean, under the considerations?

Mr. Walters: Well, it's already under the considerations section in the proposal – the appropriate distance to residences – but you can't really put a number in there because it's a consideration. If it's a numeric thing then it's a requirement rather than just a consideration.

Ms. Mitchell: Okay. Even if you say "at least"? "At least" is not a lawful enough – for consideration?

Mr. Walters: In the considerations? It's a requirement at that point so you might as well just list it in the requirements.

Mr. Greenwood: So it needs to be more than that – at least that.

Ms. Lohman: So the – where it mentions the – it's number (c) on page 4.

Mr. Greenwood: I can't see any place where 400 feet is closer is appropriate. That's my opinion – without adverse effect on the neighbor. Okay?

Chair Axthelm: So we have a motion. Anybody want to call for a vote?

Ms. Lohman: Is this for production? This is for the processing and production.

Mr. Greenwood: Yes. Yes.

Chair Axthelm: Okay.

Mr. Walters: If you mean it for it to be production and processing, maybe we should insert that.

Mr. Greenwood: Yes.

Chair Axthelm: And/or processing?

Mr. Greenwood: Yeah. In the ordinance it was under the heading of production and processing.

Chair Axthelm: Is it "and any security fencing" or "with"?

Mr. Greenwood: And.

Chair Axthelm: And – okay.

Mr. Pernula: And would this just be an additional consideration for a special use permit?

Mr. Greenwood: Yes.

Mr. Pernula: Okay. So it'd have the same language as item number 5.

Mr. Walters: Well, I don't see how it can be a consideration if it's a set number.

Ms. Lohman: No, add the last.

Mr. Pernula: I see what you mean.

Ms. Lohman: Oh.

Chair Axthelm: Okay, so which \_\_\_\_ is adding to the list of special use permit considerations. Oh, but you're saying it's not a consideration because of the 400 feet.

Ms. Lohman: It's prescriptive.

Mr. Walters: Right.

Chair Axthelm: Okay. Well. \_\_\_\_\_ and go from there.

Mr. Greenwood: It's an appropriate distance which is at least...

Chair Axthelm: This is our recommendation, but whether the Commissioners use it –

Ms. Mitchell: Is a whole other thing.

Chair Axthelm: Yeah. Let's vote on it. Does that sound good?

Mr. Greenwood: Sure.

Chair Axthelm: Is that all right with the Commission to go ahead and vote on it like that? Okay. So all those in favor of adding "a production and processing facility, any security fencing must be set back" – it says right here, "must be set back at least 400 feet from a residence not owned by the facility operator." All those in favor, say "aye."

Mr. Greenwood, Ms. Mitchell, Ms. Candler and Chair Axthelm: Aye.

Chair Axthelm: All those opposed, say "no."

Ms. Lohman and Ms. Hughes: No.

Chair Axthelm: We have four – **three** ayes and two nos.

Ms. Lohman: Did you want to know why?

Chair Axthelm: Yes.

Ms. Lohman: I think it's too restrictive on the site criteria. And there's going to be some unique properties that *are* the perfect location and you'll cut them out of the mix, partly because if you just look at the Ag-NRL, you're repurposing potentially abandoned buildings. They're already – they're not greenhouse-type structures. You've already got quite a bit of siting criteria in the list. I think, while I don't want – I personally don't want something right on top of my house; I mean, I understand that – but I'm questioning logistically how you'd do it.

Chair Axthelm: My reason, I'd rather push to the 400 feet and have the Commissioners come back and say, You know that's a little too far. Let's go to 25, than give them the 250 and have them push back to 100.

Ms. Lohman: That's a good point.

Ms. Mitchell: Or have something not at all. The way I'm looking at it at this point – and they could just say, We don't think this is the way at all – but what this says is that a certain number of people, even if it's a subset, think that that is a consideration, whatever form it takes, for them to seriously consider as they move forward.

Ms. Lohman: But I think – do you realize if that was a square, 400, isn't that like two acres?

Mr. Greenwood: 100 feet's not that far.

Chair Axthelm: It's not that far.

Mr. Greenwood: It's from a residence. It's not very far from a residence.

Ms. Lohman: It *is* a recommendation.

Mr. Greenwood: Yeah.

Mr. Walters: From a Robert's Rules perspective, (a) you need to have the discussion before the vote.

(laughter)

Mr. Walters: And (b) after the vote the Chair needs to say – no reasons – but (b) you need to – after the vote you need to say – after the vote the Chair needs to say “The motion carries” or “The motion failed.”

Chair Axthelm: The motion carries. How's that?

Mr. Walters: Yeah.

Chair Axthelm: Okay, so it's now 9:30. I'd \_\_\_ like to get through this, but –

Ms. Lohman: We have one – the last item is about medical marijuana. Are you guys good to chug through the last item?

Ms. Candler: I don't know how long it's going to take, but we haven't been moving very quickly so far. What do you mean by “the last item”?

Ms. Mitchell: I'm happy to chug.

Ms. Lohman: The medical.

Chair Axthelm: Do you want to place a limit on it?

Ms. Lohman: Can we go another 15 minutes and see if we can, and then decide from there?

Ms. Candler: We still have Department Updates.

Mr. Pernula: That's just going to be scheduling and that's getting kind of scary. We've got a whole bunch of hearings coming up and we've got a lot of work before we can schedule hearings.

Mr. Walters: There are several statements left in the recorded motion draft, but they're all about one item, and that is how to deal with the new medical marijuana cooperatives. So it could, in fact, be condensed to just a higher level discussion not about the statements but about the question of how do you want to deal with marijuana cooperatives. And the proposal is to allow – is to not treat marijuana grown individually for medical use at home under the state statute as a land use. Don't try to regulate individual growing of medical marijuana under the state statute – complying with the state statute – as a land use at all. Just ignore that. And then for the marijuana cooperatives, which are up to four patients in one of their houses; they all have to contribute labor; they can't swap out; and they're only limited to the number of plants on each of their medical marijuana cards, and they can't sell any of them. To allow those anywhere in the county that you can have a residence because it has to be in a house. Those have to be registered with the Liquor Control Board. They have security requirements from the Liquor Control Board and seed traceability requirements from the Liquor Control Board, and the Liquor Control Board will not allow them to locate within one mile of a retail facility.

Ms. Lohman: Are we going on?

Ms. Candler: Do you that boiled down to the language for our recommendation somewhere? Is that on –

Mr. Walters: Yes, it's in the draft.

Chair Axthelm: We need consensus from the Commissioners. Are we going to go on another 15 minutes?

Ms. Lohman: Yeah, or whatever.

Ms. Mitchell: I'd like to go on and get this done.

Mr. Greenwood: Please.

Ms. Mitchell: I feel like we're on a roll.

Chair Axthelm: Amy? Okay, good. It appears that all are in favor of going on another 15 minutes.

Mr. Walters: So the statements –

Chair Axthelm: Do I have anybody opposing that?

Ms. Candler: I'd rather spend the time discussing \_\_\_\_\_.

Chair Axthelm: So the question – medical marijuana growing at home. Really you're talking a person growing marijuana at home, not within a cooperative –

Mr. Walters: Right.

Chair Axthelm: Yes, that's specifically different. They can't sell it, they can't –

Mr. Walters: Right.

Chair Axthelm: – produce it for anybody else. It's just a personal thing and it's limited to small quantities.

Mr. Walters: Right.

Chair Axthelm: Okay. A cooperative, on the other hand, has higher quantities available.

Mr. Walters: Yes. Well, it's the same personal amount but up to four people in one place.

Chair Axthelm: My thought – I shouldn't jump in and speak out of turn, but I have the mic – my thought to me a cooperative is a business.

Mr. Walters: It is not a business.

Chair Axthelm: I understand. What I'm saying is because it's not just one person. You're bringing in three other people that don't belong to your household and that, to me, is a business.

Mr. Walters: So may have similar impacts as a business, you mean?

Chair Axthelm: It's not a financial situation, but it has similar impacts to a business, yes. And so I think that that, even though it may not be defined as a business has the characteristics of a business.

Mr. Walters: That's possible. For instance, we have home-based businesses under our code and I can't quote you all the details of a home-based business, but one of them allows you to have employees and one of them doesn't allow you to have employees. So one of them has significant traffic limitations because you can't have employees coming inside or customers coming inside. I think home-based business 1 maybe includes, like, everybody who's selling Beanie Babies on EBay but obviously they're not getting permits from us to operate that type of business. So if you wanted to analogize the cooperatives to that you could say where home-based businesses are allowed you could have a cooperative, or something. I'm just throwing that out.

Ms. Lohman: I think when you get to the cooperative level you're talking up to 60 plants and I admit I Googled how big – I don't know anything about marijuana. How big do these things get? And if you –

Chair Axthelm: Eight feet. Eight feet is what I heard.

Ms. Lohman: – prune them. Yeah, but if you keep them reasonably pruned you're still talking a three- to five-foot plant. That's a bush. So it says in your home. Does that mean not in your outbuilding or not in your garage?

Mr. Walters: The statute says "domicile," which is not very specific. But you could constrain that further. Also in addition to the number of plants that you're allowed, you're allowed only up to I think it's 72 ounces of usable marijuana, which does have a definition. It means dried marijuana flowers. So you couldn't have unlimited sized plants because you might end up with producing too much usable marijuana.

Ms. Lohman: Are all of these cooperatives licensed then?

Mr. Walters: None of them are licensed but they must be registered with the Liquor Control Board.

Ms. Lohman: Okay. Somebody is coming to inspect that they're within the rule?

Ms. Hughes: Yeah, that's another whole issue that could take another hour: enforcement.

Mr. Greenwood: We don't do that part.

Ms. Hughes: Right now the sign ordinance is out of compliance, and, you know, something as simple as the sign is out of compliance – what's something like this going to be? We make rules but without an enforcement factor – either through the Liquor Control Board or the County –

Ms. Mitchell: Well, it's beyond enforcement. It's checking.

Ms. Hughes: Pardon me?

Ms. Mitchell: Well, it's beyond enforcement. It's the checking – who's periodically checking?

Ms. Hughes: Right. And right now it's for the people to complain and then there's enforcement? Well, I talked to a person today that – "Well, I didn't know I could complain." So, you know, again I've gone to the next spot. But we can sit here and make rules but unless we have an enforcement factor that goes with it or an inspection factor that goes with it...

Ms. Mitchell: So maybe we'd need to make sure that was in with the recommendations. Would that fulfill the bill?

Ms. Lohman: Who does that inspecting? Is it the state or is it the County?

Mr. Walters: We cannot do inspections.

Ms. Mitchell: You can't? But what can you do about enforcement?

Mr. Pernula: We have a whole enforcement procedure that we follow. The enforcement officer just left a few minutes ago. But we've been investigating and enforcing some existing compliance issues on marijuana for the last few months. It's slow, but we've been doing it.

Mr. Walters: If we believed that there was a violation of the state statute on marijuana cooperatives, we would turn that over to the Sheriff's office or the drug task force. Because it's in a home, they can get a warrant under the criminal statutes and they can go take care of that. And it's a Controlled Substances Act problem at that point. If it's a land use issue – well, under the proposal it would not be a land use issue because you could have them anywhere. The commercial facilities – the ones that you just dealt with – those would be land use issues because you're allowed to have them under the state statute; it's just *where* you're allowed to have them under *our* code. So under land use, we'd take the normal land use enforcement road. For these marijuana cooperatives, if they're not complying with the statute that would be a criminal investigation.

Ms. Mitchell: Now for what we're looking through here, this is state statute – I'm just asking because we're getting really dull-headed now. We have the ability to make a recommendation that would be more restrictive than this. Is that correct?

Mr. Walters: Yes.

Ms. Mitchell: This looks pretty restrictive.

Mr. Walters: On the land use side.

Ms. Mitchell: On the land use side. But this looks pretty restrictive as it is. I don't know. Does any –

Mr. Walters: What does?

Ms. Mitchell: Their whole list. Their whole – what the –

Mr. Walters: Their siting requirements for the cooperatives?

Ms. Mitchell: Yeah.

Ms. Candler: So what are we discussing? Is there a proposed recommendation, like some language –

Mr. Walters: Well, see, as the proposal was written before the legislation was passed it would try to regulate all marijuana facilities including any storage, use, production anywhere because that was all we were talking about was the commercial. Now we're talking about allowing the medical where it's consistent with the statute. So we need – if we're going to do that – we need to back out of the definitions of marijuana facility things that are consistent with the statute for the cooperatives. So those are the statements here: To back out marijuana cooperatives and marijuana grown at home from the definition of marijuana production, and to change the definition of marijuana processing to exclude marijuana cooperatives and marijuana processed at home for medical use, consistent with the statute, and change the definition of marijuana production/processing facility just to mean any combination of marijuana production/processing – just a little tweak to make it consistent with those previous statements – and then create a new definition of marijuana cooperative that is precisely consistent with state law.

Ms. Candler: Thank you.



Chair Axthelm: Did you change any of that right now? Or that was already there.

Mr. Walters: Right. This is in your draft. So it does go on. And then rename the section a little just to cover both so it's not just all the I-502 stuff, and add a paragraph saying that the medical growing of marijuana at home and marijuana cooperatives in any zone when done consistent with state law but prohibiting any hazardous chemical processing anywhere other than a marijuana processing facility would be allowed. And add a paragraph to that section prohibiting the "growing or processing of marijuana and keeping marijuana plants not in compliance with state law governing the growing of medical marijuana at home." And I believe that's in quotes because it's directly from the statute as a thing that we can regulate and are apparently tasked with regulating. And the next one is add a paragraph to that section prohibiting the – and then this next section is in quotes because it's right out of the statute – "the storage or growing of plants if any portion of such activity can be readily seen by normal, unaided vision or readily smelled from a public place or the private property of another housing unit" – because we anticipate that the Liquor Control Board will not be doing that. They prohibit it, but we anticipate that they will not be enforcing that section. So then we cannot enforce the Liquor Control Board rules; we need to have our own rule to allow that.

Chair Axthelm: If the cooperatives can have up to 60 plants, that seems to me to be significant enough to be just like a production facility, and so I would propose that that be underneath the same requirements as a production facility – with the potential of having that many. Because a single person can have up to 15, so if that's a single that's – 15 plants is still kind of significant, but I would think it'd be grown \_\_\_ in a home. To go up to 60 plants, that to me seems like a lot more significant.

Mr. Walters: The only problem is we would have no ability to enforce a lower number of plants.

Ms. Lohman: But you could enforce the odor control.

Mr. Walters: Because you can detect it from – I mean, the whole thing is if you detect it from outside.

Chair Axthelm: What I'm saying is if it's a cooperative at all, which means you could have up to 15 plants but after – if it's not a cooperative, then it wouldn't be regulated and we leave it alone because it's on a home-based – it's a home situation that we stay out of. Then take above that and say if it's a cooperative – it's a registered cooperative – it has to be in the same areas or have the same restrictions as what a production and processing facility would have.

Mr. Walters: Oh, you're saying *all* cooperatives.

Chair Axthelm: Yep.

Mr. Walters: Okay, we could do that.

Chair Axthelm: I think it's just a backdoor little business and I think that really is just a bit –

Ms. Lohman: Is that your proposal?

Chair Axthelm: That's my opinion.

Ms. Lohman: Is that your motion?

Chair Axthelm: That's my – well, can I make a motion?

Ms. Lohman: Yeah. Yeah.

Chair Axthelm: I guess I can. That's my motion.

Ms. Lohman: You need a second.

Chair Axthelm: That's my motion – that a cooperative be considered as a production or processing facility.

Ms. Lohman: Do you want a second?

Chair Axthelm: Yeah, if I can get a second.

Ms. Lohman: I'll second.

Chair Axthelm: Okay, we have a second. So do we write it in there somewhere?

Mr. Walters: No. I'm still thinking about it.

Chair Axthelm: For the purpose of zoning or for the purpose of land use.

Mr. Walters: I think you would be basically prohibiting them in that case, because they *must* be in a home and you have not allowed them in –

Chair Axthelm: 60 plants in a home. That just – I'd prohibit it. That's my opinion. I'd prohibit it.

Mr. Walters: Well, that would be simpler. It would be simpler to simply prohibit the –

Chair Axthelm: And if you look at it in your home-based businesses – if you look at the home-based businesses, then (I) is you have to operate out of a home and it's you. You can't have any outside people come in. The second one, I think home business (II) still does not allow outside people into it – not until the third level does it allow anything. Yeah, you can have up to three employees with a – up to three employees with a home-based business (III). But you're talking a home-based business still. You're not taking a cooperative with a – basically a production facility. You've got 60 plants.

Mr. Greenwood: You just have to get four people together that agree they want to do it and grow for each other.

Ms. Mitchell: So is this possible, Ryan? I think what he's getting at – and correct me if I'm wrong – is it possible to recommend that a home-based medical marijuana be limited to the one person thing?

Mr. Walters: Well, you wouldn't have to say that because you could just prohibit the cooperatives.

Ms. Mitchell: Okay, and we are able to do that as the County, is what you're saying?

Mr. Walters: As far as we currently know. There was a large debate at one point about whether or not we could regulate the locations of marijuana facilities at all, but the Attorney General sided with us and so have the courts so far.

Chair Axthelm: I just think that's too many plants. I'm surprised they limited it to home-based because I would think that would be more – with 60 plants, that would be more in a commercial location, although you have private offices that people can't enter that are a private business that's not publicly accessible.

Mr. Greenwood: Can we raise that to a vote at this point?

Ms. Candler: Do the cooperatives require a permit process? I mean, how would the County even know these are going on?

Mr. Walters: They have to register with the Liquor Control Board their location and they have to follow the Liquor Control Board rules. They would be inspected by the Liquor Control Board. Liquor Control Board would have security and seed traceability rules for them. But there isn't a license that allows a discretionary level of review like there is for the commercial facilities, I-502 facilities.

Ms. Candler: So if the County's not permitting that process –

Mr. Walters: Well, we're not issuing the licenses for the commercial facilities either. We get notice of them. We have the ability to object to their location. It remains to be seen if the Liquor Control Board listens to our objections. But the – I don't think we know if – I don't recall from the statute if the statute says that we would get the same notice that we get for liquor locations and the commercial facility locations.

Chair Axthelm: Well, here's another standpoint, is if you take a cooperative and say, Okay, sure, it has to be in a residence, then put the 1000 feet on it – it can't be within 1000 feet of another residence. Either that or review – the other neighbors around it have to agree. How do you state that?

Mr. Walters: Only one cooperative may – under the rules, only one cooperative may be located per tax parcel; it must be the domicile; and it can't be within a mile of a retail facility.

Ms. Lohman: What is the definition of that – domicile? Because I live on a farm. I've got all kinds of buildings.

Mr. Walters: There isn't a definition in this statute, but I think the – I don't know if the definition would distinguish between a house or a house garage or a detached garage or anything like that.

Ms. Mitchell: Or a year-around residency or anything like that.

Mr. Walters: I think it would get at the fact that you need to be a resident.

Ms. Lohman: So I couldn't go use my flat barn – an old milking barn.

Mr. Walters: I don't think so. There's not a lot of detail there.

Chair Axthelm: Oh, I see what you're saying – because it has to be in a residence.

Mr. Walters: Right.

Mr. Greenwood: I think it's a good thing to prohibit to start with and then you could change it later.

Chair Axthelm: I think that's too open-ended the way it is right now.

Ms. Lohman: So do you want to restate your motion and vote?

Chair Axthelm: So to recommend to prohibit cooperatives in Skagit County.

Mr. Walters: Okay, so I would recommend that we leave these other statements that separate out the – that treat them all and define them separately, and then add one saying that you prohibit the cooperatives. So I would replace this.

Ms. Candler: Wouldn't we want to recommend, number one, that they be prohibited, and, if not, then – well, I guess the changes are happening regardless.

Ms. Mitchell: There'll be a second hearing regardless, won't there?

Mr. Walters: Well, there will not necessarily be another public hearing but there will be another opportunity for public comment. Okay, so then leave the statements differentiating between those various uses but then add a statement prohibiting medical marijuana cooperatives in all zones, deleting the prior drafted statement that would have allowed them.

Chair Axthelm: Is there any way I can get across my thought of that as a business?

Mr. Walters: Well, I don't think that's really relevant. If you prohibit, it doesn't matter.

Chair Axthelm: No, I know. I just want the Commissioners to understand.

Mr. Walters: You could include that as a Finding. That would be the appropriate place to –

Ms. Mitchell: I suggest – let's put that in the Finding then.

Mr. Walters: So "Medical marijuana cooperatives are likely to have significant impacts similar to businesses." Does that capture it?

Chair Axthelm: Yes. That's correct. Businesses with up to four people involved, three of which wouldn't even necessarily be living at that facility. And 60 plants – potential of. Yeah.

Ms. Lohman: So, Josh, then we wouldn't have to go into the odor abatement and all of that if you prohibit it, right?

Mr. Greenwood: There's no odor if you don't do it.

Ms. Mitchell: Well, the thing is – the clarifying question that comes up to mind that it goes – falls in on this – what he's asking is the cooperatives not be allowed. That would not be to say that

an individual in their own home with a medical license wouldn't be able to grow their own for the 15 plants. They would. So there is a possibility that –

Mr. Walters: And that's why we continue to leave those statements that broke out the conditions.

Ms. Mitchell: Right. So all the other language is necessary. I just want to make sure we're on the same page, so that's why all that's necessary.

Mr. Walters: And the last statement here – this one, I think, is still necessary: "Add a paragraph prohibiting the storage or growing of plants if any portion of such activity can be readily seen or readily smelled." You still need to have that prohibition because otherwise it's only in the state statute.

Ms. Mitchell: Right.

Chair Axthelm: I don't want to – to go back up to my statement, I want to make sure that everybody's okay with that before it gets added. I made the statement but I want to go through the proper process.

Ms. Lohman: Like voting?

(laughter)

Chair Axthelm: I kind of threw that in there! Where was my statement?

Mr. Walters: The one about businesses?

Chair Axthelm: Okay, so, yeah – you got the first one. That was good – prohibit medical marijuana in all zones. So, all there. Okay, now you've moved on. So "Medical marijuana cooperatives with up to four people and 60 plants are likely to have significant impacts similar to businesses." So all those in favor of that statement?

All Commissioners: Aye.

Chair Axthelm: Opposed, say "no."

(silence)

Chair Axthelm: Ayes have it so we'll add that one. And then the other one.  
\_\_\_\_\_.

Mr. Walters: So right here. That's the added part.

Chair Axthelm: Right – to add "Prohibit medical marijuana cooperatives in all zones." All those in favor of that statement –

Mr. Pernula: Could I argue against that a second?

Chair Axthelm: Okay. Sure.

Mr. Pernula: If you're allowing recreational marijuana in a number of zones, which are going to have probably a higher impact than these facilities would, why wouldn't you allow it in some of the other zones where it is permitted?

Ms. Mitchell: Because \_\_\_\_.

Chair Axthelm: Yeah, okay.

Ms. Mitchell: This isn't going to be regulated.

Chair Axthelm: I think that came across because for \_\_\_\_ it has to be in a residence.

Mr. Pernula: Sure.

Mr. Walters: So there might not be almost any left that it would work. Ag-NRL – but in Ag-NRL, well, you can't have a residence –

Ms. Lohman: Yeah, but it's zones that we don't allow it on the commercial side that you allow it \_\_\_\_\_.

Chair Axthelm: But in the commercial zone, if there's a residence there you could have it there. So in the Bayview Ridge Light Industrial you could do a cooperative.

Mr. Walters: But you can't really have a house in Light Industrial except for that one that is preexisting, so I don't think it's worth creating a special exception for that one. But Ag-NRL is a large zone with a lot of houses so you'd –

Chair Axthelm: If the state allowed it in the other zones I would think that would be appropriate but they don't. So that's where I was getting at. I see your point, though.

Ms. Mitchell: She's got a clarifying point that might help that.

Chair Axthelm: Okay.

Ms. Candler: Well, we took off the first part of the sentence – “Add a paragraph to that section allowing the medical growing of marijuana at home.”

Ms. Mitchell: It's the cooperatives that you're objecting to, not the single person.

Chair Axthelm: Correct.

Ms. Lohman: I think we struck too much.

Ms. Mitchell: Right. So we struck too much out of that first sentence. See, if we leave that first part in then we're okay, correct? Because that allows that individual that has that medical okay or prescription to do that on their own –

Chair Axthelm: I think I see what Dale's saying, though, is because you have the growing facilities otherwise, and then prohibiting the cooperatives –

Mr. Greenwood: But they've got way more requirements.

Ms. Mitchell: Yeah, they're going to be restricted and regulated where the cooperatives will not.

Mr. Greenwood: It's a lot different.

Ms. Mitchell: At this point.

Chair Axthelm: I like that statement.

Mr. Greenwood: By regulating commercial and then we allow cooperatives to have a looser, you're encouraging cooperatives.

Mr. Walters: But cooperatives in many ways do not have a looser structure because they're not allowed to sell –

Mr. Greenwood: Right, but then you'd have the washing machine processing system that you described.

Ms. Mitchell: The devil's advocate argument on that would be – if you were asking the why – was the – we just went through that there was no way to check up on the medical cooperatives and that was part of the problem because that –

Mr. Walters: There are inspections under the statute for the cooperatives. We will not be doing inspections. The Liquor Control Board will do inspections at reasonable times.

Mr. Greenwood: I'd like to call for the question.

Chair Axthelm: Okay. Call the question. So the – yep?

Ms. Lohman: Do you allow using hazardous chemicals for the processing if it's one guy in their house?

Mr. Walters: No.

Ms. Lohman: So you struck that language also.

Mr. Walters: Yes, but the statute prohibits that as well.

Chair Axthelm: Oh, I see. Yeah. So what you're saying is it should be – it should still say "prohibiting any hazardous chemicals." There you go.

Mr. Walters: But if you want – so we could keep that and say – wait. Let's put that back, too.

Ms. Mitchell: That's better.

Chair Axthelm: Went back to what it was almost. So call the question?

Ms. Candler: Did we not prohibit the hazardous processing there altogether? I thought we did.

Ms. Lohman: All but in Heavy Industrial.

Ms. Candler: Oh, that's right.

Chair Axthelm: Okay, so call the question for – on changing 9 as stated onscreen. Do I have to restate it? Do I have to say it out loud?

Ms. Lohman: I have a question before you vote. Okay, you have two family members. Is that a cooperative? They live in the same house – maybe a husband and wife. Is that a cooperative or is that one person?

Chair Axthelm: One person is limited to 15 plants.

Ms. Lohman: So a husband and wife – do they get 30 plants?

Mr. Pernula: I think that's covered.

Chair Axthelm: It's still limited to 15 plants. It's covered in the regulations.

Ms. Lohman: But would that be 30 plants?

Chair Axthelm: No, 15.

Ms. Candler: What if they each have a medical condition?

Chair Axthelm: No. It's stated in the –

Mr. Walters: I don't think you can go over 15 unless you have a cooperative.

Ms. Lohman: Okay, that's what my question was.

Mr. Walters: There is a section in the statute that addresses that and also addresses multi-unit residential structures. I don't remember exactly how but –

Chair Axthelm: Multi-unit, unless it's registered as a cooperative, can only go up to the four for 15. If it's unregistered it's 15. If it's more then it can go up to four people. And then the people have to wait – was it 60 days? – before they can leave the cooperative. They say, I'm done. I don't want to do it anymore, they have to wait 60 days before they can leave and go to a different cooperative.

Mr. Walters: Well, I think they can leave. They just can't have another one for 60 days.

Chair Axthelm: Okay. So we have a lot more to cover, don't we?

Ms. Mitchell: We're almost there.

Mr. Walters: No. No. No, I think I could hit "print."

Chair Axthelm: \_\_\_\_\_ vote on it. So all those in favor of changing statement 9 as shown, say "aye."

All Commissioners: Aye.



Chair Axthelm: All those opposed, say “no.”

(silence)

Chair Axthelm: The ayes have it. Is that okay or do I need to restate it?

Mr. Walters: No. Yeah, yeah. That’s why we have it on the screen.

Chair Axthelm: So it is getting late. Thank you, Keith. Keith has some Findings of Fact he’d like to –

Mr. Greenwood: I just wanted to include some additional Findings of Fact that come from the interim ordinance O20150001 and it’s just (h) through (l) and it supports some of our decisions, I think – supporting discussions that were already proposed and adopted in the previous resolution or ordinance. So I think they deal with just stating a fact – the transparent structures \_\_\_\_\_.

Ms. Lohman: What’s the ordinance number?

Mr. Greenwood: O20150001, I think, unless I got that wrong.

Mr. Walters: It’s the first ordinance of 2015.

Mr. Greenwood: Yeah. I think it’s the last one we just – the one that –

Ms. Hughes: The current one.

Mr. Greenwood: Yeah, I think that is the current one.

Ms. Lohman: The March 3<sup>rd</sup> one?

Mr. Walters: Yes.

Mr. Greenwood: Is it? Okay. So (h) through (l). It talks about transparent structures having more of a significant impact. It talks about marijuana growing produces significant odors, and the processing. It talks about production and processing facilities are incompatible with the rural landscape and rural residential communities. It addresses that marijuana processing involving hazardous chemicals produces a potential explosion hazard, even when conducted in a closed-loop system. So we prohibited that. Marijuana production should not be allowed on Guemes Island due to their aquifer issue. So it’s just supporting of the positions that are in the draft.

Ms. Mitchell: That’s good.

Chair Axthelm: All of those sound good to me, too.

Ms. Lohman: \_\_\_\_\_ plagiarize there.

Mr. Greenwood: Oh, I plagiarized. I cut and pasted. It’s not even a –

Ms. Mitchell: Thank you, Ryan, for the language

Chair Axthelm: Tammy, does it sound good to you? Kathy, sound good to you?

Ms. Mitchell: It sounds great to me.

Chair Axthelm: Sounds good to me. Keith? And Annie – sound good? It stands.

Mr. Greenwood: We made it!

Ms. Candler: I think the only one thing left that we have to vote on is whether or not we all accept all of this language.

Mr. Walters: Yes.

Ms. Candler: All of those – the changing of the cooperative, the definitions – that kind of thing.

Ms. Lohman: The recommendations section?

Ms. Candler: Yeah, the very – last week's page 12; this week's page \_\_\_.

Chair Axthelm: When we had the Finding of Facts – yeah.

(unintelligible comments from Commissioners)

Chair Axthelm: Do you have the ability to e-mail this as-is?

Mr. Walters: Hmm?

Chair Axthelm: Do you have the ability to e-mail that as it is right now?

Mr. Walters: No. Well, at this moment?

Chair Axthelm: Yeah, from here.

Mr. Walters: Not really. Well –

Chair Axthelm: But you can't print it either, right?

Mr. Walters: No.

Ms. Lohman: Keith? For example, on the old Findings we struck number 9, right?

Mr. Greenwood: What is number 9? I don't recall.

Ms. Lohman: It was about investors in marijuana facilities.

Mr. Greenwood: Yes, yes. Correct, correct. We did strike that.

Ms. Lohman: I just wanted to make sure that what I was looking at was right.

Mr. Greenwood: And we changed 5, right? Property rights should be respected, or something of that effect – the cameras.

Ms. Lohman: Yeah. Neighboring properties should not be observed by such cameras. But that would still apply even if it's on their own volition they put up a camera, right? Is that what you're thinking now?

Chair Axthelm: No, not necessarily.

Mr. Walters: Well, it doesn't apply at all because it's not a requirement. It's just your explanation of your action, so it provides your motivation, your reasons for action. It's the requirements in the next section that would apply to constrained land uses.

Ms. Lohman: But if we excluded the structure that would require the camera –

Mr. Walters: Then people could still have cameras because anyone can put up a camera.

Ms. Lohman: Okay, okay.

Mr. Walters: But if you get a special use permit and you get a condition that says, Thou shalt not have cameras or Thou shalt point them in some way then that would be binding.

Chair Axthelm: They can't point them at your property. Well, we're wanting them not to point them at neighboring properties.

Mr. Walters: Right.

Chair Axthelm: I mean, if you're pointing it to the right-of-way, I can understand that – or the parking lot.

Mr. Greenwood: Any other changes that people see we missed?

Ms. Lohman: Were you going to renumber those, too?

Mr. Walters: Well, I'll type them. Right now they're just screen-shotted.

Ms. Lohman: Okay.

Mr. Greenwood: Do we need to make a motion on the entire package?

Chair Axthelm: Is that something you have to type right now or just make a motion on the entire package?

Mr. Walters: No, you should just make a motion now. I'll have to accept all the changes, type those up, make sure they're numbered right, print them.

Chair Axthelm: Okay. Do we have a motion?

Mr. Greenwood: I'll make the motion that we approve the Findings of Fact and Recommendations, including the table for development regulations as they pertain to marijuana facilities as we've discussed and finalized tonight.

Ms. Candler: Second.

Ms. Mitchell: Does that cover everything, Ryan?

Chair Axthelm: So we have a motion and a second to approve it as onscreen. All those in favor, say "aye."

All Commissioners: Aye.

Chair Axthelm: All those opposed, say "no."

(silence)

Chair Axthelm: \_\_\_\_\_. That concludes that portion of it, correct? Department Update.

Mr. Walters: Before you start with that, I want to know when we do this again six or seven times this year do you want to be down here or do you want to be up here where you can see the screens better?

Ms. Lohman: Down here. We can see each other down here.

Chair Axthelm: Down here. There's a little more room. It's been working fine.

Ms. Candler: I abstain.

Mr. Greenwood: Discussion?

Ms. Hughes: Every other time.

Chair Axthelm: Is there any discussion on that? Did anybody want to have – is everybody okay with being down here, or up there?

Ms. Mitchell: I like both for different reasons. Sometimes it's nice having computer access where we can see it. Sometimes it's hard to see the screen even \_\_\_\_\_. Half and half maybe.

Mr. Greenwood: Well, we'll think about it next time.

Ms. Lohman: Yeah.

Ms. Candler: I'm moving that we get closer to adjourning. It's really late.

Mr. Pernula: Okay, this is kind of important because we've got two Comprehensive Plan public workshops that have been scheduled and we really can't delay much on the Comprehensive Plan Update because we've got a deadline of June 30<sup>th</sup> of next year. We've got the Shoreline Master Program that keeps getting squeezed out. We've got at least probably two meetings where we've got to discuss those issues plus hold a public hearing, which we're hoping to hold in July, the end of July. We have Comprehensive Plan Amendments for the 2014 docket, stormwater regulations, Capital Facilities Plan Update, and some other work program items that I think we're not even going to be able to get to anyway because we've taken a lot of time on marijuana.

We need to schedule at least one special meeting, maybe two special meetings to deal with Shorelines. Our next regular meeting, May 19<sup>th</sup>, is a scheduled public workshop on Rural Character. June 2<sup>nd</sup> we were going to have Stormwater. Did that ever get released or is it going to get released? So June 2<sup>nd</sup> is going to be a Shoreline Master Program date and if we're going to hold a hearing on the Shorelines July 21<sup>st</sup> we're going to have to have another Shoreline meeting between now and June 2<sup>nd</sup>. We might be able to have it on June 9<sup>th</sup>. So I would suggest you schedule a third meeting either in May or June – May 12 or June 9.

Chair Axthelm: What do you have on May 19<sup>th</sup>?

Mr. Pernula: May 19<sup>th</sup> is one of those Comprehensive Plan workshops on Rural Character, and that's pretty much set.

Mr. Walters: And with respect to Shoreline, we have a memo out to you that we prepared for this meeting. I guess we can always use more time preparing the next memo but then once that memo is done that's pretty much everything for review. We'll then need time to integrate any comments that you have, and then the plan was to have a release date for public comment one month, a public hearing, and then one month after the public hearing before the written comment period closes. So keep that in mind.

Mr. Pernula: So June 9 – do you think that's still enough time to do the public hearing on July 21?

Mr. Walters: If there are not major changes and not a lot of cleanup.

Mr. Pernula: Okay. So anyway –

Chair Axthelm: If we can get everything into June 2<sup>nd</sup>, because you have the Shoreline on June 2<sup>nd</sup>. What you're saying is if we can't get to everything it'd have to be June 9<sup>th</sup>.

Mr. Pernula: Or May 12<sup>th</sup>, a week from tonight.

Ms. Candler: I'm fine with any meetings we have to have.

Mr. Greenwood: Here's a thought – just potential – would be if we had – we already have in our hand what is like a half or a portion of a meeting, we could have a short meeting on the 12<sup>th</sup> and just cover what we've been given already and then keep on schedule.

Ms. Lohman: The Shoreline?

Mr. Greenwood: Yeah, the Shoreline. Just don't add anything else to the agenda and don't add anything to the Shoreline, and that would get us back on schedule. And have a shorter meeting with less discussion, perhaps?

Mr. Pernula: A short meeting on May 12<sup>th</sup> – SMP.

Mr. Walters: My phone battery died a little while ago so I don't know what my calendar looks like for that date.

Chair Axthelm: Are you okay with meeting on May 12<sup>th</sup>?

Ms. Mitchell: I am, yeah.

Mr. Pernula: Okay, we'll schedule a meeting a week from tonight on Shoreline and then June 2<sup>nd</sup> will hopefully be the last Shoreline workshop.

Ms. Lohman: And the 9<sup>th</sup> is just a placeholder then?

Mr. Pernula: Still a placeholder, but hopefully we can get through on June 2<sup>nd</sup> and we won't have to worry about it.

That's all I have but there's lots of stuff coming up this summer and fall.

Ms. Lohman: You mentioned the Stormwater. When did you think that was going to fit in here?

Mr. Pernula: Well, I actually thought that we were going to be able to hold the Stormwater hearing – what was the date on that – June 2<sup>nd</sup>, but that's not going to happen.

Chair Axthelm: Okay, so that frees us up a little bit, right?

Mr. Pernula: We would have to release it by May 7<sup>th</sup>, which is in two days, and it's not ready, apparently, to be released.

Chair Axthelm: Okay.

Mr. Pernula: So we don't have a scheduled date yet for Stormwater. Okay, next week.

Ms. Mitchell: All right. Thank you.

Chair Axthelm: All right, so any Planning Commissioner comments? Announcements? Seeing none, do we have a motion to adjourn?

Mr. Greenwood: I'll make that motion.

Ms. Candler: I second it.

Chair Axthelm: Motion, second. The Planning Commission meeting is adjourned (gavel).