

**Skagit County Planning Commission
Work Session: Shoreline Master Program Update
Work Session: Conservation & Development Incentives Program Update/TDR
June 2, 2015**

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

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

Public Remarks

Commenters: **Andrea Xaver
Carol Ehlers
Ed Stauffer
Ellen Bynum, Friends of Skagit County
Martha Bray, Skagit Land Trust**

Chair Josh Axthelm: Six o'clock p.m. Welcome to our Planning Commission meeting and we call this meeting to order. Are there any – do the Commissioners have any changes or comments on the agenda?

Keith Greenwood: Only one comment: It looks a little ambitious, but that'd be the only – I wasn't quite prepared. I mean I've had enough time – perhaps a week – to prepare for the TDR, but I wasn't expecting that – some of that – showing up. A little bit of a surprise to me.

Chair Axthelm: Are you still okay with the agenda as is? If we need to have more time to discuss we can.

Mr. Greenwood: Okay.

Chair Axthelm: Okay. So if you'll take a look at the agenda, the first item on the agenda the standard Public Remarks. And just a reminder that you have three minutes and it cannot be discussing something that we are talking about today. So please approach the microphone and state your name and where you live.

Andrea Xaver: My name is Andrea Xaver and I live beyond the south end of Big Lake, and I was wondering – first I have a question: Why can't the public discuss the TDR thing at this meeting?

Annie Lohman: I thought we could, because we're not hearing or deliberating.

Chair Axthelm: Okay, you're correct. Yes.

Ms. Xaver: Okay, because I –

Chair Axthelm: That was incorrectly stated then.

Ms. Xaver: Okay! I just had a concern about the TDR program in that a developer could purchase transfer of development rights from a farmer who has land adjacent to city limits, and then if you had a different makeup, say, of County Commissioners and persuaded them to expand the city limits into the area from which you already purchased those transfer of development rights, then he could sell them again and make a killing, so to speak, in regards to – because what he had purchased them for would be a lot less than what he could sell them for. And then the city limits would just be expanded and there would be no limit to it, and that's a big concern I have.

Another concern I have is here's a map that says "Active agriculture in the Ag-NRL zone," and there's two different colors. The lighter color is land use ag and the darker color says "Ag-NRL – no ag land use." Well, my property's at the south end of Big Lake where it's dark and it said there's no ag land use. I live there. I farm there. This map is inaccurate and I think people better be mindful of what they're putting out for the public to look at and make decisions upon. Thank you.

Chair Axthelm: Thank you. Any other comments from the public?

Carol Ehlers: Carol Ehlers, west Fidalgo Island. I have two comments. First, I have given you all the information to the Anacortes Waterfront Festival for next week. I think it's a superb example of the combination of public access to the shorelines and private use of that to develop the economy of a community and large numbers of individuals. It's the third waterfront thing they've had this month. Once this is finished they will be able to sell all kinds of cruises and tours and educational opportunities. There are dozens of things within Anacortes that this can lead you into, and that is what the combination of government and entrepreneurial thing is, as far as I'm concerned, should be.

A second subject isn't quite so cheerful. Robert asked me to talk about geohazards. I gave you this brochure some months ago – most of you – on geohazards. It comes out of the County Planning Department. "Geo" refers to earth; "hazard" refers to that which can destroy or kill either the environment or the economy or people or, usually, all three together, as it did at Oso. "Geo," in this sense – geohazards – is a legal term out of the Growth Management Act. It is a legal term out of the 2002 Natural Hazards Mitigation Act. It is not something that is your choice. It is not something optional. It is not something where you apply the word "should" – it is "shall." We should start with the geology part of it. I'm not going to use technical terms because I don't want to lose anyone in the audience and I find I do. When I talk about geostability and they think I'm talking about Syria, we're in real trouble. So we're not talking that. We're talking about Skagit County.

In geologic terms, geology studies the planet we're on: the earth, up through its crust. When the planet readjusts itself, we have earthquakes. The paper has said we've had 70 earthquakes since the 1st of January in this county and within five miles of it. Little earthquakes are not so much hazardous. It's when they become big and particularly when there is a building on top of the fault line, you know it will destruct. The county has not been willing to deal with this very well.

The second kind of geologic problem are volcanoes. Both Glacier and Baker have been known to explode and dump vast quantities of earth, trees, ice, water on the lower Skagit valley and the lower Samish valley. If you read the National Geographic, which is where I learned about most of this as a child, those floods of water and dirt can go up to 100 miles an hour. You have one of those coming out of Glacier Peak, you're down here in Mount Vernon rather quickly. And I don't see people paying attention to it but you should. It may be one in 200 years, but go read what happened at Mount St. Helen's in May.

Mr. Greenwood: Three minutes.

Ms. Ehlers: I'll get to the other kind of geohazards next time.

Mr. Greenwood: Thank you.

Chair Axthelm: Thank you.

Ed Stauffer: Good evening, Commissioners. I'm Ed Stauffer, a resident of unincorporated Skagit County in the foothills of the Chuckanut Mountains. I have Senior Planner Johnson to thank for catching an error in my testimony last week. Thank you, Kirk. I want to acknowledge the fact that Heather Ballash is not, as far as I know, associated in any *official* capacity with Forterra or Cascade Land Conservancy. Notwithstanding the error, for which I apologize to all of you and any confusion I may have caused, I don't want to miss the point that I was making when I committed the error. Ms. Ballash has had a very experienced, level, consistent and important role in both the Transfer of Development Rights program in the state of Washington and primarily in the interpretation and implementation of the Growth Management Act. I pointed out her extensive paper in 1999 on the Rural Element.

So as far as her affiliation now, I think that's still important for us to know because I think she's a primary source to answer questions of process and content of what we have developed so far. So I've brought along a couple things for you to look at. This is a cover page of a report that was written and edited by Ms. Ballash, "Regional Transfer of Development Rights in Puget Sound, a Regional Alliance of Puget Sound Counties, Cities, the Puget Sound Regional Council, Forterra, and Department of Commerce, represented by the Department of Commerce, the Puget Sound Regional Council, Forterra," and it's a report to the U.S. Environmental Protection Agency for the grants received from that agency in 2013. And if we go to the final page we'll see that here's Ms. Ballash, Senior Planner, Washington State Department of Commerce Growth Management Services, they're addressing her – her contact information. She authored this report. She administered the grant.

Then if you wish to have further information, you can go to the linked in site and Ms. Ballash has posted a resume of her accomplishments and activities and two pages of it are relevant to things that have happened here in Skagit County. In addition, thanks to our wonderful TV 21 crew, on June the 19th of 2012 Skagit County Planning Department held the first meeting of the Skagit County's – this iteration of the Citizens Advisory Committee. The full committee was not

present at that time, but on this you will see presentations from both Taylor Carroll, representing the consultant Forterra and Skagit County TDR program, several of the eventual members of the Rural Element subcommittee, and Ms. Ballash in a rare appearance since the early days when she worked for us.

Mr. Greenwood: Mr. Stauffer, that's three minutes, okay?

Mr. Stauffer: Okay.

Mr. Greenwood: Thank you.

Mr. Stauffer: The last thing I'll go to today then is I just wanted to remind you, because I know you have a heavy load to lift, maybe there's light at the end of the tunnel. As I'm reading from the resolution establishing the scope of Skagit County's 2016 Update: "Now therefore be it resolved by the Board of County Commissioners that:" Number "1. The Board finds that the Comprehensive Plan is generally working well as currently written and needs only minor changes, not a major overhaul, during the 2016 Update." Let's go home. Thank you.

Ellen Bynum: Good evening, Commissioners. Ellen Bynum, Friends of Skagit County. Friends has testified in the past concerning the appropriateness of using transfer of development rights in Rural Resource lands. We definitely have the position that it's something that should not be implemented in the Agricultural-NRL zone, principally because we have a purchase of development rights program that's very successful and it's ongoing, and we don't think that you should be jeopardizing that in any way. And we can talk further about that.

I have a pretty long presentation that I did as a result of an invitation to speak to the SPF board about our position on TDRs and I will send that to you on e-mail, but I wanted to give you a little bit of an outline on that.

The first thing to say is that the places that TDRs seems to have worked well are when they're either in urban growth areas or they're near to cities that are wanting to increase density or that are experiencing sprawl. We don't actually fit that criteria because, you know 40 years ago we did some planning and then when GMA happened we did a pretty good job of identifying our resource lands, and we also have been very diligent about putting our growth into our urban growth areas and into our cities. So the first thing I want you to know – and this is just sort of basic – that TDR programs depend upon markets and there's four independent economic factors that create value in markets: utility, scarcity, desire, and effective purchasing power. And the existence of all the basic factors will affect the market value. You have to have demand in order for the program to work, so what happens to the TDR program if there's no demand?

The County can attempt to create a market if there's no demand, and the best example of that is when the Maryland model gave additional development rights to property owners for additional development rights for 25 acres and then the owners were to sell those development rights back to the county. The county was then to take those development rights and put it into an area of more – a receiving area, per se. What's happened in Maryland is that they didn't – they don't have GMA and they don't have a similar kind of planning to what we have. So there are no receiving areas. The receiving areas weren't developed fast enough for the TDRs to actually create more density in those areas. What you have is now 25-acre lifestyle farms and they will be – you know, 25 acres is a pretty small farm. I think our average farm is 120 acres or something like that. It goes up to 500 acres. So it's a different kind of situation with the pressures of Washington, D.C. pushing on those counties. So I don't think the County wants to

give development rights to people in order to buy them back in order to use them. I think the – you know, I don't consider TDRs as market-based tools because the majority of the programs that are successful relied – required support directly or indirectly by the municipalities that were using them. And I don't think that the taxpayers are in a mood to be funding projects to subsidize developers. We like developers. We want them to work in the market.

So I just want to say that there's – you know, it's not an easy – it's not an easy program. It's not an easy program to implement even if you have the best market, and I don't think that Skagit has that market now. Whether you want to create a market or not, that's up to you guys. But I'll send you this with the references. Thank you very much.

Martha Bray: Good evening. I'm Martha Bray. I'm with Skagit Land Trust – the Conservation Director for Skagit Land Trust. Thank you for taking these long hours to consider these important matters. I'm talking also about the TDR program as well. I served on the advisory committee for the full two years. Land Trust has written a letter in support of implementing a combined TDR program and density credit program. We continue to support it. We don't think it's a panacea. You know, we agree that it's a challenging program to implement here but we believe it's a good tool to have in the toolbox and over time it'll become very useful. And I believe that the majority of the committee members supported the program being implemented. Yes, there was some disagreement on the committee, but I think also that the staff report represents that diversity of opinion very well. I think the staff did a really good job of explaining that. It's a tough program to get everybody on the same page about. It's a complicated program.

I reviewed the draft policies that have been prepared and I think they're consistent with the concepts that were discussed in the committee. I think they're clear and well-balanced and seem to provide the right level of direction for implementing a good program. And I think they also articulate some critical points that were important to all the committee members – that it's voluntary; no one's being coerced or pressured to participate in this program. It's ensuring coordination with the Farmland Legacy Program, and we personally don't believe that there's a conflict with a PDR and a TDR program within that district. But, that said, I personally think that you could take the Ag-NRL zone completely out of this program because I don't see a lot of participation by landowners within that zone because this TDR program is not going to compete well with the PDR program. So, you know, to me it's a tool for those other zones, those areas where there really aren't a lot of incentives for rural landowners who want to conserve their land. And the focus on working lands I think is appropriate. Large blocks of undeveloped land that are – where landowners really are looking to retain their economic uses of the lands – resource-based uses such forestry and ag in those secondary areas. So the focus on productive farm land outside of the Ag-NRL is really a good one. And we – the Land Trust really feels strongly about bringing some tools to conserving Secondary Forest lands as well. There really are no landowner incentives for that available to landowners at this time, so this is a really good start for that.

So, in general, I think these policies seem to reflect modest goals – not a vast conspiracy, not a panacea either. Just a good option to provide voluntary incentives for rural landowners in areas of the county where there aren't a lot of programs available. Thank you for your time.

Chair Axthelm: Do we have any other public comment today? Okay, seeing none we'll move on to the next item on the agenda: the Shoreline Master Program Update. Betsy, did you want to start out with anything?

Betsy Stevenson: Yeah, and I'm not going to say very much tonight, though. We brought you some sections. We said in the memo we might have some more ready but that was a little bit optimistic so your mailboxes weren't burning up with any new sections. So you got what we were able to accomplish. And I apologize that the definitions that we said were attached weren't attached so I gave you a copy of that as well, and we can send you an electronic version of that, too, so that you have it in your records so that you'll have it.

Also I'm having a little bit of trouble with my eyes. I've got a detached retina so I'm having to wear my glasses so I can't see as well in the in-between stuff so I'm going to let Ryan do most of the up-close work because I can't see very well. I'll be taking my glasses off and on and, anyway, so that's about all I was going to say. We tried to go back and look at your comments and incorporate them again into the sections that you have. Some of them we didn't really make any changes. We're following the format which hopefully you're starting to see the pattern where we start out with the Applicability section, when these things are allowed, the Application Requirements, and then whatever Development Standards there may be. Some of the definitions we were finding were only appropriate or only used in the section that we were talking about that use or shoreline modification type, so we actually are incorporating those in there as well. So just kind of a broad overview and then I'll let Ryan get into the details, if that's okay with you guys.

Ryan Walters: So to provide an overview of what you have in front of you, starting at the beginning, Agricultural Activities, I don't think we made any changes at all to that section from what you saw before. The next section, Breakwaters, we combined with Jetties and Groins. In looking at Breakwaters and in looking at Jetties and Groins, the standards were the same, the application requirements were the same, so there was really no reason to distinguish between those three types of structures. So we integrated them all into one section. All three definitions appear in the Applicability section, so instead of Applicability saying "This applies to breakwaters as defined" someplace else, it says "This applies to breakwaters and here's the definition of what a breakwater is. In the Definition section it says "Breakwater is defined in the section where the regulations are." So we think that makes the most sense for the Shoreline Plan – keep the definitions with the regulations and hopefully everybody's happy.

Also in the table that you don't have yet but is coming – the table of uses and environment designations and permit review – level of review – whether it's a conditional use – that master matrix. There will be a link directly to the section where you can get the definition and the standards, so it will hopefully be very easy to use and very user-friendly.

Also in Breakwaters, one of your comments from before was about the word "engineer" and making sure that "engineer" meant licensed engineer, and what we decided to do was to delete the terms "engineer" and "engineering geologist" and rely on the term "qualified professional." "Qualified professional" is defined for a variety of different subject matters and where it is defined it requires the license – licensed in the state of Washington. So instead of saying "engineer licensed in the state of Washington," it just says "qualified professional" and then the definition gives you all of that substance. And we will plan to go back through and make sure that we do that everywhere in the Plan so that we're very consistent and always use the term "qualified professional."

Ms. Lohman: But it may not be an engineer per se.

Mr. Walters: For some fields, it's not going to be an engineer.

Ms. Lohman: Okay, I just wanted to make sure.

Mr. Walters: For some fields, it might be a biologist but it says in the definitions – I think – yeah, you have qualified professional here. So a qualified professional for in-water structures must be a professional engineer licensed in the state. A qualified professional for wildlife habitats or wetlands must have a degree in biology, zoology, ecology, fisheries or related field and professional experience, so that one doesn't have to have any kind of engineering background. And then for geohazards, it has to be a professional engineer or a geologist licensed in the state of Washington. So under each subject matter under qualified professional you've got that. And that tracks also what's in the critical areas ordinance. In the critical areas ordinance it says – it uses the term "qualified professional" and then expands on that in the definition.

The other things that we modified here in this section, in 425, under Breakwaters, is you had expressed some concern about when the Administrative Official might require additional studies because there might be some situation where that might be necessary and because that is all another thing that kept coming up. What we did is just delete it out of this section and add it to the general application requirements in Part VII, and the text is in the memo there of what we added. So it already said that the Admin Official can require additional specific information and we added the words "or geotechnical, hydrological, or biological studies." So that is hopefully covered for all types of uses by adding it to the general application requirements.

In Commercial Development, there was a provision in Commercial Development that said that if you are demonstrating – if you have a need to demonstrate that it's a water-oriented use, which a lot of commercial developments on the shoreline are, that you had to demonstrate that as part of your application. We thought that that is another thing that is going to come up frequently. If you do have to show that you're a water-oriented use, then you need to demonstrate that as part of your application. So we also moved that into general application requirements. So we're not restating it in every section.

In 435, Dredging and Dredge Material Disposal, there was a concern about noting the exemptions for drainage infrastructure; however, we did not make the change in this section. So 435(2)(b) has a provision that says that dredging is allowed for the following activities. And because that section introduces a list of when dredging is allowed we didn't think it was an appropriate place to also put the exemption, because the exemption is from an exemption from the requirement to obtain a shoreline substantial development permit and the list of uses that are exempt from the requirement to obtain a shoreline substantial development permit are all contained in the Appendix for that list. So we didn't include that here.

Ms. Lohman: Mr. Chair? I would like to talk about that more when you get into that chapter further in the memo.

Mr. Walters: In this section or in the –

Ms. Lohman: Yes, in 14.26.435 when you get into the specific language.

Mr. Walters: Mm-hmm.

Ms. Lohman: So I'm going to talk about it more.

Mr. Walters: Come back to it?

Ms. Lohman: Yeah.

Mr. Walters: Okay. The Planning Commission also asked about expanding the acronyms MTCA and CERCLA that are included this section. Instead of doing that, we added the expansion of those acronyms in the acronym sheet that's at the beginning of the document. This is the only time that these terms are used, but we added those to the sheet instead of expanding them in the text. We also moved some of the paragraphs that were under Development Standards into the When Allowed section because they didn't seem to actually be development standards. They were more about when dredging is actually allowed.

And then the only other thing that you have is Fill, Excavation, and Grading, and I don't think we made any notable changes in that section beyond this application of this new structure – the Applicability, When Allowed, Application Requirements, and Development Standards.

The definitions you have in front of you on paper, those definitions are the only definitions that we feel really good about.

Ms. Lohman: No "should"?

Mr. Walters: What's that?

Ms. Lohman: You're not going to take their "should"?

Mr. Walters: No. We're trying hard to not do that. So we have a whole set of definitions that you've seen before but we – as we go through each one – vet each one, find that term everywhere in the document and make sure that it's defined the way it's used, we move them up into this section. So you'll get more and more definitions as we go along until we're done. But most of these definitions refer back to the defined term that you already had in Part IV, because we think that that is the appropriate place to put those just for readability. And some of the ones here – like the first couple are agricultural activities and agricultural equipment. We didn't put those into the Part IV section simply because they're very lengthy definitions and they are defined by statute, and we don't modify the statutory definition.

And the only other definitions that I think are already in this list are things like "associated wetlands and jurisdiction" – associated wetlands is part of the Jurisdiction section that you got last time – and "qualified professional."

So I think that completes the overview of what we did to the sections that you have in front of you.

Ms. Lohman: Just a clarification then. So the original definitions that were in the February 4th draft, you are replacing in its entirety with this?

Mr. Walters: No. What we're doing is we've taken those definitions and as – we have already gone through and identified some that aren't used anywhere in the document so they don't need definitions if the terms aren't used. Or they are really superfluous definitions, or they're not definitions that we think are good. So we know that we have problems with the definitions. We never have really in a really considered way gone through that whole section, so now what we are doing as we hit defined terms in the substantive part of the code, we are grabbing the definitions, moving them up, and giving them to you. So we have all those other definitions still but we haven't reviewed them. We have to review to make sure the term is used in the same

way as the definition thinks it's being used all throughout the document, and we need to make sure if the definition makes sense as well. So it's sort of a slow process. But what you have here are the ones we feel confident about.

Ms. Lohman: Okay, but you still have – how do we know which ones you're x-ing?

Mr. Walters: You won't know that till we're done.

Ms. Lohman: Okay. Because I know which ones I want to x! Okay.

Ms. Stevenson: Some of them actually are out of our existing Master Program too, and some of that language and terms we're not even using in this one, so we really do kind of need to go through. I think we've cut some of those out already and identified them but they may still be in the one that you have.

Ms. Lohman: Okay.

Ms. Stevenson: It's just going to take a while to go through it all.

Chair Axthelm: So most of this we've already gone through at one point, so we're just going to go back through it and just double-check it if there's any additional comments to go with it. But if we could just keep to the subject of the section that we're working on, I think it'll help us to move a little bit faster through it. So like if we're working with applicability that we just specifically talk about applicability. Okay.

So Agriculture – the first one on the agenda. _____. Okay, so 14.26.410. I think that's on page 6. Now this kind of jumps a little bit. Why does it – as far as starting out –

Mr. Walters: We didn't provide you with Aquaculture because we wanted to wait until the aquaculture subcommittee of the advisory committee could be here for that discussion. Is that what you were asking about?

Chair Axthelm: Okay. No, I think it's just Agricultural Activities comes after. Okay. It's all right. So let's just start out with the Applicability, run through that, and if anybody has any comments on it. Then we can start out with Tammy.

Tammy Candler: I don't think I have anything in this section.

Kathy Mitchell: I'm okay with it.

Mr. Greenwood: I don't know. I guess I'm still comparing what changes we actually made and I – the only changes I see are references to the code sections so I'm not seeing anything that stands out to me right now. So go ahead.

Chair Axthelm: Robert?

Robert Temples: I read it through pretty thoroughly. I mean, it's definitely a traditional flow chart and it appears to be an accurate description, from my point of view.

Chair Axthelm: And we're talking about the *whole* Applicability section, by the way, so all the way through (1). Okay, Kevin?

Kevin Meenaghan: Okay.

Ms. Lohman: I just wanted to point out that when you're talking about agriculture facility that it includes and is not limited to pumps, pipes, tapes, canals, ditches, and drains. So our drainage systems are integral to our agricultural facilities, so I just wanted to point that out and say it out loud.

Ms. Mitchell: Does that mean you want it in writing?

Ms. Lohman: I mean, it's in the chart because it's in Applicability under (a)(ii), "Maintaining, repairing, and replacing agricultural facilities." You look at the RCW 90.58.065 and it talks about what ag equipment and facilities are. I just wanted to make sure that you understand that it also included our drainage infrastructure.

Chair Axthelm: So those may or may not be onsite. They may or may not be on agricultural land. So if you have a drainage ditch that goes through different zoning, it would still be the agricultural ditch.

Ms. Lohman: Potentially, yes. Because and then it also goes into section (b) where you're talking about permit-exempt activities and the drainage ditches and the dikes and ditches are also listed. So I just want to make sure that everybody gets that – that the definition flows, because when we get to talking about dredging then that's why I want to make sure that you carry that thought. So that was all I saw in Applicability.

Mr. Greenwood: Do you anticipate that there might be a definition that might disregard that, since you don't have it in front of you – a definition?

Ms. Lohman: I *have* it in front of me.

Mr. Greenwood: I mean the definition. If there's an additional definition in the defined section – do you think there will be another definition of facilities?

Ms. Stevenson: No, it's _____ what she's talking about.

Mr. Greenwood: Okay.

Ms. Lohman: I want to make sure that when we acknowledge an exemption for somebody we don't take it away by calling it something else in a different section in the book.

Ms. Candler: You're talking about the difference between SMP-exempt versus permit-exempt – like that wording?

Ms. Lohman: Mm-hmm. Because it's a two-part test, so the drainage facilities fit both parts because it falls under a facility but it also falls under an activity.

Chair Axthelm: Betsy, any thoughts?

Ms. Stevenson: I'm not disagreeing. I think it reflects what you're saying.

Ms. Lohman: I just wanted to say it out loud.

Ms. Stevenson: Yeah. No, that's fine. Just so everybody understands.

Ms. Lohman: I wasn't challenging it!

Ms. Stevenson: No, no, no. I think we're together on that.

Ms. Lohman: Sometimes you have to say stuff out loud to make sure that when you get further in the book and you bring up the point that you see where it came from.

Chair Axthelm: Amy, anything yet?

Amy Hughes: No comment.

Chair Axthelm: Okay. ___ about the next item is the Development Standards. Amy, if you'd like to start there.

Ms. Hughes: No comment.

Ms. Lohman: I didn't have anything.

Mr. Meenaghan: Nothing.

Mr. Greenwood: No, I think you've incorporated the changes that we requested when I look back in my notes.

Ms. Mitchell: I'm okay with this. Robert had something, though.

Mr. Temples: Just one quick note: As far as I'm concerned, after what I read compared to what we first started with my hat's off to you guys because I think it's a massive improvement. And it may not be perfect but it's a hell of a jump. Thank you.

Ms. Stevenson: Thank you. We're starting to feel better about it too, I think.

Ms. Mitchell: No, I'm fine with this. Go ahead.

Ms. Candler: Betsy, under (1)(a), the parenthetical – for lack of a better word. I don't know what the square ones are called. Is that a – is that supposed to be there?

Dale Pernula: Back on Breakwaters.

Ms. Candler: “[new/current SMP]”

Mr. Walters: Are we now on Breakwaters?

Ms. Mitchell: We're on Development Standards.

Ms. Candler: Oh, I'm sorry. I'm sorry. I went ahead – I apologize.

Ms. Stevenson: No problem.

Chair Axthelm: So you're okay with (2)?

Ms. Candler: I'm okay with (2), yes.

Chair Axthelm: And the next one, and that is Breakwaters, Groins, and Jetties – Applicability. Tammy?

Ms. Candler: Just the same question. Is that – under (1)(a), is that – am I reading – is that –

Mr. Walters: What is the question? The bracketed section?

Ms. Candler: The bracketed section – is that staying?

Mr. Walters: The – no. Everything in brackets goes away. Brackets are notes to explain where the things come from. So that bracketed section there indicates that this is based on the current SMP, but that it is also in some way new. So I don't know what that means. The consultant put a lot of these bracketed sections in. But all the bracketed stuff goes away.

Chair Axthelm: They clarify that in the first of the memo. They said anything in the brackets.

Ms. Candler: Okay, I thought we were taking them out, but that's –

Mr. Walters: But not until the end.

Ms. Stevenson: So we'll make sure we get that one out of there.

Ms. Candler: Okay. I don't have anything else. Are we just doing 425?

Chair Axthelm: Just Applicability.

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

Chair Axthelm: 425(1)(a), (b) and (c). Kathy?

Ms. Mitchell: Nope, I'm good. Go ahead.

Mr. Greenwood: Is the title going to be "Breakwaters, Groins, and Jetties" or was it going to be just "Breakwaters" with groins and jetties incorporated into that? When I read the memo, I thought it said we were changing the name.

Ms. Stevenson: Well, we combined breakwaters, which was a separate section, with jetties and groins so now it's "Breakwaters, Jetties, and Groins."

Mr. Walters: And then we reordered that to be "Groins and Jetties" to be alphabetical.

Mr. Greenwood: Okay.

Mr. Walters: Even though everyone often says "Jetties and Groins."

Chair Axthelm: Well, and this is where we talked about those definitions being here and then there's a reference. So like when you're in the original document there's still a reference in the definitions that'll refer to that section.

Mr. Greenwood: Good. I think that's a good way to handle the definitions there too. So I'm okay with the Applicability in there.

Mr. Temples: I'm fine.

Chair Axthelm: Kevin? Annie?

Ms. Lohman: I didn't have any.

Chair Axthelm: Amy?

Ms. Hughes: No comment.

Chair Axthelm: I don't have any comments. So When Allowed. Kathy? Any changes there?

Ms. Mitchell: No.

Ms. Candler: Nothing.

Chair Axthelm: All right. So Application Requirements, number (3). Annie?

Ms. Lohman: No.

Chair Axthelm: Keith?

Mr. Greenwood: No, nothing there.

Mr. Temples: ____ to me.

Chair Axthelm: Okay. That was an easy section. Okay. And Development Standards. I probably should have just combined those two. So, Annie, anything in Development Standards?

Ms. Lohman: On Breakwaters?

Chair Axthelm: Yes, Breakwaters.

Ms. Lohman: No.

Mr. Greenwood: You know – I'm sorry. I apologize for this. On the Application Requirements, just one thought I had was as I was looking at the memo where we identified a change for "The Administrative Official may require additional specific information." Is that under Application or is there somewhere else where – is that request made?

Mr. Walters: So that goes in 14.26.710. Remember the Introduction to each of these Application Requirement sections is a reference to the general application requirements for all applications, and so we added it to those general application requirements.

Mr. Greenwood: Then I guess my question pertains to the application section in that: Are there bounds legally to the type of studies that can be requested by an Administrative Official? When you're asking for additional specific information, like a geotechnical, hydrological, or biological study, typically I think of those geotechnical reports or as reports rather than studies. Is there an end to what kind of studies could be requested? Because many times people have held things up by just requesting more studies. I know it happens in other fields, but I've seen it misused. And most of the limitations that I'm used to seeing deal with limited by readily available information that's currently available or reasonable as far as a request. Like a traffic study would be a reasonable request whereas, like, Tell me the effects on the climate change from your proposed project. I've seen those kind of things and those could be studies that can't really be answered. And I'm not anticipating that Dale would ask for that type of information, but are you aware of –

Mr. Walters: The next Planning Director.

Mr. Greenwood: Yes.

Mr. Walters: Who we're always worried about – yeah. So the text as proposed and actually as currently in that section says “if required by the nature of the proposal or the presence of sensitive ecological features to ensure compliance with other local requirements or the provisions of this SMP.” So there's – yeah, the Administrative Official should need to draw the connection between the request and the thing that is being proposed. Otherwise the applicant might want to appeal the requirement.

Mr. Greenwood: Are each one of those referring to studies or are they referring to reports, which would be a collection of existing information perhaps?

Mr. Walters: I don't think we would differentiate.

Mr. Greenwood: You know, without defining it, I'm thinking a study might be different than a report. When I have a geotechnical report developed, they collect the available information, historic and current aerial photography, LIDAR, that sort of thing to develop a report. But they don't send a submarine out there and do additional –

Mr. Walters: I sort of assume that we would be okay with report versus study.

Mr. Greenwood: Would you be okay with that change – report?

Ms. Stevenson: I'm not sure I would necessarily see a difference.

Mr. Greenwood: But I guess I do. So if it doesn't matter to you, I like a report better.

Ms. Mitchell: I'd like to pipe in on that. I'd like to concur. In past work history there has – maybe it's industry _____ definitions, but reports are final and studies tend to be ongoing.

Ms. Stevenson: That's a good way of putting it.

Mr. Greenwood: I'm glad you thought of that because I didn't.

Mr. Temples: My comment to that would be is in over 30 years of working commercial design in dealing with planning departments, anytime I had a request for additional information it was

directed in a formal letter with all the details of information that was being requested. Now you could take that –

Ms. Mitchell: As opposed to being open-ended, you mean?

Mr. Temples: Huh?

Ms. Mitchell: As opposed to being open-ended?

Mr. Temples: Oh, definitely. I mean, it's a document that you have to respond to. Now whether your client's attorney or anybody else wants to rebuttal some of the request, that's always something that can happen. But nine times out of ten that I've ever seen the requests are not something that they take lightly. If they really need serious information, no different than us here on this Commission, then they make a written request.

Mr. Greenwood: Okay, and I agree with you on that in that when it's initiated from the regulatory agency it usually has a little more bounds and restraint to it, but oftentimes I've seen it'll come from another interested party – maybe a stakeholder who doesn't really have a stake, and they make the request to the agency and then the agency makes the request to the proponent. And then the proponent has to address it or the agency has to address it, and if the agency can't do it then they ask the proponent. So that's where they tend to initiate from – the ones I've seen – and don't seem quite as reasonable.

Mr. Temples: I haven't seen that.

Ms. Mitchell: I was going to say and that's where I think – that's why I meant the thing about the different industries. The industry I came – when I was in the petroleum industry, it was one of those things where reports were very specific, like Robert is saying, and that's frequently was the case. We needed information. But you did have the other side where other folks could keep popping in something else and it'd be an endless request. And I think what Keith is asking for – correct me if I'm wrong – is that you're asking for clear language that allows something to be identified and defined and have an answer and stopped instead of perpetual. Is that correct?

Mr. Greenwood: Yes, that makes sense.

Ms. Mitchell: Okay. And I think that's the language that needs to be in there, too.

Ms. Lohman: So what is your proposed language?

Ms. Mitchell: To make sure that the language says that whatever the information requested is finite as opposed to ongoing. Do you understand what I'm saying?

Mr. Walters: Well, I think that that is sort of understood because you have an application. It can't be ongoing. You have to process the application.

Ms. Mitchell: You do but –

Mr. Walters: There are also state timelines for processing of applications.

Ms. Mitchell: Good. Well, it's one of those things where it's just – just wanted to make sure that the language is clear.

Mr. Greenwood: Well, I think if we put in “reports” I think that confines it enough to where I’m satisfied with it. There’s a lot of ways to stall things and there’s a lot of ways to perpetuate things. One would be, Well, you haven’t provided *enough* information; therefore, I’ll deny your proposal, so you withdraw it or give me the information. So there’s a lot of ways that it could be handled. And I think a report says, I’ll fill out the report and I’ll give you the information that’s available and if it’s still not adequate then you reject the proposal. And that’s reasonable.

Mr. Walters: And frequently you’re asking for information that does require someone to visit the site, investigate –

Mr. Greenwood: Right. Oh, yeah. Most definitely.

Mr. Walters: – especially in the critical areas realm, right? Like the processes –

Ms. Stevenson: Site assessments.

Mr. Walters: There’s a staff member who goes to the site, looks around, and then says, We need these reports.

Mr. Greenwood: Sure. Well, we’ve had – in my field, we’ve had qualified professionals that develop reports and those reports are not accepted because they’re not done properly. They didn’t provide adequate information.

Chair Axthelm: The County’s been pretty good about making sure that timelines are manageable, certain timelines when you have requirements and so basically it doesn’t extend that deadline out, you know, over a period of time. So when you request the information you request exactly what you need and if you turn that back in it should take care of the issue. In my experience, that’s the way it seemed to have happened.

Ms. Stevenson: That’s my intent.

Mr. Greenwood: Yeah, I thought it was. I think that’ll help.

Chair Axthelm: It’s limited already. Okay. Kathy, anything more?

Ms. Mitchell: No, I’ve got it. Thank you.

Chair Axthelm: We’re talking about Development Standards? Tammy?

Ms. Candler: On Development Standards? No.

Chair Axthelm: All right, so Commercial Development, Applicability.

Ms. Candler: I do have one thing there.

Chair Axthelm: Okay, go ahead.

Ms. Candler: So, Ryan, you mentioned in the previous Applicability section under 425, you switched Jetties and Groins for the interest of alphabetizing it.

Mr. Walters: Mm-hmm.

Ms. Candler: This one's not and I'm just pointing that out just for consistency, but I don't know how you want to do it. That's all I have.

Mr. Walters: EPFs are much less frequent so that's probably why they're at the bottom but they totally _____.

Ms. Candler: Exactly. I mean, it makes sense to have it this way so I don't know whether you want to put that above the consistency of having them alphabetized in each section.

Mr. Walters: Probably just alphabetized.

Ms. Candler: Okay. That's all I had in that particular part.

Ms. Mitchell: Nothing else.

Mr. Greenwood: I was just thinking we've completely redone this section so I don't see anything that stands out to me on the Applicability side. It seems pretty straightforward definitions. So I'm okay with that.

Mr. Temples: I didn't see anything that struck out to me.

Chair Axthelm: Kevin? Annie?

Ms. Lohman: No comment.

Chair Axthelm: Amy? No, I'm fine. Okay. Let's see – section (2), When Allowed. Amy, start it?

Ms. Hughes: No.

Chair Axthelm: Annie?

Ms. Lohman: I don't think so.

Chair Axthelm: Okay. Kevin?

Mr. Meenaghan: No.

Mr. Temples: Again I think it's been much better clarified than before.

Chair Axthelm: Okay. Keith?

Mr. Greenwood: No, I'm okay. I'm okay.

Chair Axthelm: Kathy?

Ms. Mitchell: I'm all right with it too.

Chair Axthelm: Tammy?

Ms. Candler: I'm good with it.

Chair Axthelm: All right, and in section (4), Development Standards. Tammy?

Ms. Candler: I don't have anything on that section. Pass.

Mr. Greenwood: No, I think we dealt with it in Public Access. Well, let me see – yeah, I think that was my question – about public access and we dealt with that separate. Thank you.

Chair Axthelm: Kevin?

Mr. Meenaghan: Nothing on that. I did have a question: Why is Application Requirements reserved? Did I miss that?

Mr. Walters: There are no special application requirements for this, but we didn't want to leave it out and then have to put it back in later and then change all the numbers.

Mr. Meenaghan: Okay, gotcha.

Chair Axthelm: Annie?

Ms. Lohman: I like that you cleaned up the public access section because before it was conflicting because you had "must provide" versus "must consider" in the original language, and it appears that this is a little more consistent with what discussed at our meeting prior and when I reviewed back. But I think that we're going to be working on the public access again when we get back and we can see all the pieces. Because we've had it teased apart quite a bit because public access has been in multiple chapters so we've talked about it in kind of snippets. And so I'm going to say that I'm going to be looking for it again when we get the final, cleaned up draft. Because I'll be honest with you: This is really hard to follow, especially when you flip back to the memo and you flip back to your notes and you flip back to the new memo. But it appears that we're on the right track.

Chair Axthelm: Amy? The only comment I have is (c) and (d). They seem to be a little bit conflicting, where the (c) requires the facility, like eating and drinking establishment, to have a view of the waterfront, yet when you have on (d) it requires the landscaping and screening. So that might be something to look into is when is it appropriate to allow something – a view of the waterfront versus providing landscape and a screen so you can't see anything. Because I've heard it before is that if the wildlife and on the river you don't want to see any of the natural buildings – or, sorry, any of the buildings – you want to see the nature or the trees or the landscaping. When is it appropriate to have something that goes up to a river, a stream, or a waterway? Or like in architecture, some architects put buildings up that are glass with mirrored windows and say it reflects the surroundings! So, you know, just a general question. I haven't got too deep into it but that was something that was a concern.

Ms. Lohman: I was thinking about a restaurant I was in fairly recently and the view was to the marina. There was no shoreline. It'd be while you're on the shoreline it was almost on top of a marina. So I – good catch. I didn't see that when I read it.

Chair Axthelm: And I'm more thinking, like, on a waterfront issue is that, you know, sometimes you take a waterfront and you put landscaping in front of it and natural trees. Well, why should I have to look towards the waterfront because there's nothing to see? So allowing some degree

of visibility or appropriate manmade structures. Okay. Just a general thought. I think that's – I don't have any answer for it. I just – a suggestion.

Ms. Mitchell: What if you added in some cases, for instance like the example that you said – a marina would be a feature of interest, so maybe waterfront and/or feature of interest or something of that language.

Mr. Walters: Marinas are on the water, though. What –

Ms. Mitchell: Yeah, but they're not always the view. Think about like up in Bellingham you might have a restaurant that's seating towards the marina per se where actually the better view is up – the islands and the water. But sometimes that feature of interest is the thing that's nifty in that area, or that's what they're able to do because of their location. I think what he's saying is just allowing for some flexibility where you don't say they *have* to be waterfront period, versus something that might be of interest. Maybe it's looking at – overlooking a walking park that's on that waterfront or, you know, in that area that's not necessarily waterfront. It may be dependent on the actual location and how it's oriented for what can be seen.

Chair Axthelm: And I was kind – the part of it that I was also referring to: allowing some waterfront view when the manmade structures allow it.

Mr. Walters: I think the landscaping and screening text there in (d) is not intended to prevent waterfront views.

Ms. Stevenson: Right.

Mr. Walters: I think the idea – one of the goals of the SMA is to use the waterfront for water-dependent or water-oriented things. So to not use the waterfront for things that don't need to be on the waterfront because of waterfront being a limited resource. And when you're on the waterfront you want to use it for the views or for the use of the water – you know, whatever else you're doing with the water. You don't want to take it up with a storage building that has no connection to the water, that isn't used for water-related storage or anything like that. So you would not want, for instance, a Safeway to be on the water because it can be anywhere. It doesn't need to be on the water. You would want – and I think of that because actually –

Chair Axthelm: What if the Safeway has a restaurant attached or inside of it?

Ms. Mitchell: Right, what if it's got the coffee shop?

Chair Axthelm: Yeah.

Mr. Walters: What's that?

Ms. Mitchell: What if it has the restaurant or coffee shop attached, like they frequently do?

Mr. Walters: Right. So the Safeway may have a – but that's a minor element of the 50,000-foot Safeway. So the Safeway, you're inside; you're not seeing views of the water; there's no reason to have the Safeway on the water. So Safeway would not be allowed on the waterfront because it has no real business being there. I mentioned that because in Port Townsend there is an old Safeway on the water and all the windows in this building face away from the water as well. It's

really expensive. And as you're coming up on the ferry you see this gigantic structure with no windows facing the water. It's a really weird thing.

Chair Axthelm: And we're not talking specifically Safeway. I mean, I worked for Albertson's –

Mr. Walters: No, because there's not going to be a Safeway or Albertson's – equal opportunity.

Chair Axthelm: Yeah, I worked for Albertson's and they – well, just an example, they had facilities that were like that but what they did is took their deli facilities and placed those close to the views. So they took advantage of it in that case but, you know, of course you have housing and stuff around, too, so it's a little different than the county. Okay. I'm sorry. I didn't want to sidetrack you.

Mr. Walters: So I think we recognize that a restaurant could very well be a water-oriented use because people like to look out at views. I mean, that's a recognized value under the Shoreline Act.

Mr. Temples: Well, I think my interpretation when I read it was thinking that landscaping can be more decorative than trying to visually obscure what's going on on the waterfront. A good example's La Conner. They put things in pots and that type of thing and that's landscaping, but, at the same token, it does not take away from the view. And, trust me: None of these establishments are going to build along the river or slough front or wherever it is. It's waterfront, it's expensive. They're going to make the best investment to get the best view. They're not stupid.

Chair Axthelm: And that's what I like. Before when we talked about the screening is that we didn't want to see the manmade structure from the lot side. It was a comment that was made at one point. And I don't recall exactly where it was but that was –

Mr. Walters: There was something like that in some other section – maybe in Vegetation Conservation.

Ms. Stevenson: I think this is giving us the flexibility, though, to consider the site and what you're doing and what's adjacent so that you can screen what you need to and leave the views open, so that we didn't set a specific landscape standard but that you can look at it on a case-by-case basis and figure out if there's adjacent properties that it's going to be somewhat incompatible with whatever your commercial development is. Maybe that's where your screening goes. But if you have some mixed use and you have seating outside or whatever, then you're going to want to be able to leave that open because a lot of landscaping codes say, Oh, such and such around the perimeter, and this here and not there. So I'm not sure that they really conflict in that sense, but it just gives us some flexibility – or that's the intent that I read.

Mr. Greenwood: I think the change in language from what it was previously in our working draft to what it is removed that reference to vegetation conservation standards of 14.26.340. So I think it gives you more flexibility and I think that was the design as you expressed, so I think it does give us the flexibility and I don't think it's necessarily designed for restaurants per se. It might be other types of commercial, right? So we were looking at an example that seemed to be in conflict, and if the Administrative Official can do it on a case-by-case basis he's not likely to promote a conflict.

Ms. Lohman: Mr. Chair? I have a question. Do we have to – why are you calling out those particular commercial businesses? Is that a requirement? Why do you need to? Because in the preceding language where you talked about applicability and everything, wouldn't that capture them anyway?

Ms. Stevenson: I'm not sure what you mean.

Mr. Meenaghan: Get rid of (4)(c), I think is what –

Ms. Lohman: I'm asking why do you need to call them out specifically anyway in (c)?

Mr. Walters: Call what out? Eating and drinking facilities?

Ms. Lohman: Eating and drinking and lodging. Why do you need to call them out when you said in Applicability who they are? And then you said when allowed.

Mr. Walters: Simply because they are a subset. It's just if you had some commercial facility other than those, you would not be required to provide user views to the waterfront.

Ms. Mitchell: Am I understanding, then, by citing this what you're saying is that this is a preferred thing for them to do? Is that correct?

Mr. Walters: (4)(c)? I think (4)(c) is just saying that this subset of Commercial Development must provide user views to the waterfront. There may be many other things that fall under Commercial Development, like a warehouse for –

Ms. Lohman: A cannery.

Mr. Walters: Right. Yeah. And we don't care about it providing – it is allowed to be on the waterfront because it must be on the waterfront in order to function. We don't care about it providing user views, whereas an eating and drinking facility and lodging facility does not need to be on the waterfront but if it is it needs to be making use of the waterfront.

Ms. Mitchell: Okay. I got it.

Mr. Walters: Which I think admittedly is sort of unlikely for an eating and drinking facility or a lodging facility to locate on the waterfront and *not* use it. But that's the reason it's there – just to ensure, I guess.

Chair Axthelm: Okay. So perhaps that might be – the way you put it was to make use – it's right here on (4)(c): "Eating and drinking facilities and lodging facilities must be oriented to provide" or make use of "user views to the waterfront." I'm nit-picking!

Mr. Walters: Provide user views or make use of?

Chair Axthelm: Mm-hmm.

Mr. Walters: I think that accomplishes the goal.

Chair Axthelm: That's right. So next one, unless anybody else has any other questions on that.

Ms. Lohman: Can you repeat that, please?

Chair Axthelm: To add “must be oriented to provide or make use of.”

Mr. Walters: “Provide user views or make use of the waterfront.”

Chair Axthelm: Yes. Okay. So Dredging and Dredge Material Disposal – Applicability. So, Tammy, would you start that?

Mr. Walters: I wanted to remind the Commissioners that dredging is distinct from fill and so some of the language that we have in here tries to draw that distinction – distinct from the things that are in Fill, Excavation and Grading. This is all waterward of the OHWM.

Ms. Candler: So my comment, I think, is actually about the definitions. The Definitions section refers people to the general title, but I think it would be more clear if it said (1)(a) on the definition. That’s all I have.

Chair Axthelm: (1)(a) in the definition?

Ms. Candler: Just so it directs the user of the Definitions section exactly to where the definition is, as opposed to the whole section. It’s a minor point, but it makes the Definitions a little bit more user-friendly.

Chair Axthelm: I think they’re going to have those highlighted.

Ms. Stevenson: Yeah, there’d be a link right there.

Ms. Candler: But if someone – well, okay.

Mr. Walters: Yes, there will be a link.

Ms. Candler: I just think it would be easier for the user if it has the subsection on the section.

Ms. Stevenson: Okay.

Ms. Mitchell: That’s a good point.

Ms. Candler: That’s all I have.

Chair Axthelm: Kathy?

Ms. Mitchell: Nothing to add. Go ahead.

Chair Axthelm: Keith?

Mr. Greenwood: I guess I don’t see as clear of a connection between your original Applicability description and the current one, but what was the reason for making that breakdown of dredging and dredge material disposal in Applicability? It looks like you’ve broken it down into three subsections versus one long paragraph. Was there a reason for that change that you remember?

Mr. Walters: You mean (a), (b), and (c)?

Mr. Greenwood: Yeah, (a), (b), and (c) versus (1).

Mr. Walters: Well, simply because (a) is actually the definition and (b) is more explanatory text, as well as (c).

Mr. Greenwood: So it's not any more restrictive. It's just more clear, as you see it?

Mr. Walters: Hopefully.

Ms. Stevenson: That's what we're trying for. You tell us!

Mr. Greenwood: It's simpler. It's simpler.

Ms. Lohman: Didn't they just basically put it in two sections?

Mr. Greenwood: Well, three but, yeah.

Ms. Lohman: Well, yeah. Okay.

Mr. Greenwood: The conditions for allowing it are going to be challenging for whoever proposes it anyway, but I think I can live with the description that you've given, which is one sentence versus four. Okay. All right.

Mr. Temples: Well, I actually read through this section and the section on Fill, Excavation, and Grading, and the fact that they're, as you say, clearly separated I found a big improvement – not that I don't know the difference, but it's just nice to see it clearly outlined as separate items and, I thought, pretty well defined. I thought it was pretty good.

Chair Axthelm: Annie?

Ms. Lohman: Okay, this goes back to – I can't hardly talk about the Applicability without reaching in to the When Allowed, because (c) refers you back to the Ag chapter but yet you call out in number (2) two specific ag activities. And so I'm questioning why you're doing that unless you want to star them and say, Now remember these are allowed under the Ag chapter. But you didn't do that.

Mr. Walters: And you're referring to (2)(b)(iii)?

Ms. Lohman (iii) and (iv).

Ms. Candler: But it actually helps to clarify that that *is* allowed.

Ms. Lohman: But it's an exemption.

Mr. Walters: Well, if it's a qualifying exemption under 410 then it will be wholly exempt from the SMP and won't require you to go any further.

Ms. Lohman: Because when you look at – there again, the devil is in the details and –

Mr. Walters: But you could have one of these activities that is not normal or necessary, in which case you might need a substantial development permit.

Ms. Lohman: But “maintaining, repairing, replacing agriculture facilities,” then you jump down to the definition of “facilities not limited to pumps, pipes, tapes, canals, ditches, and drains.” It’s on your page 1 even where you – I mean, I located it. I think you’ve already dealt with irrigation, drainage, canals, ditches and being able – you’ve already dealt with it in the Ag chapter. It’s already dealt with in the Definitions. To me it confuses the issue because now it sounds like, Whoa, wait a minute. Now we’re going to require a permit when we don’t need one.

Mr. Pernula: It’s allowed but exempt.

Ms. Stevenson: It just says it’s allowed. It doesn’t say that you need a permit.

Ms. Lohman: But it suggests that.

Mr. Walters: Well, if it’s not wholly exempt from the SMP then, yes, it might require some permit. The definition of “agricultural activities,” per the statute, includes “maintaining, repairing, and replacing agricultural equipment,” and then “maintaining, repairing, and replacing agricultural facilities provided that the replacement facility is no closer to the shoreline than the original facility.” So that is slightly more constrained.

Ms. Lohman: For example, an existing pump house: You know, they only last so long or you need to put in a bigger pump. You’re not going to – you might increase the footprint but you’re not going to put it – you can only put it where it is. You can’t really change its location. To me it’s included in that maintaining, repairing, and replacing.

Ms. Stevenson: Putting in a pump wouldn’t necessarily be dredging though, right?

Ms. Lohman: True. Okay, that was a poor example because I got further afield. But I’m just questioning why you need to put us there. Why can’t you put us there in Applicability – put it back into the Applicability or reference back to the Ag section that we’re allowed to do these maintenance activities?

Mr. Greenwood: Can you just qualify it by saying “when not exempted”? Would that help? Because it sounds like there’s cases where you may not be exempt at doing these activities, but I can’t think of too many where you couldn’t because –

Ms. Lohman: They’re using the word “maintenance.”

Mr. Greenwood: – if it’s ongoing – I know, but so if it’s ongoing agricultural maintenance of, that’s what kicks you into the exempt category, right?

Ms. Lohman: Both of them are talking about maintenance.

Mr. Walters: So I think that’s what you had suggested before and we didn’t think that made sense, because if you say when not exempted then the conclusion is it’s not allowed, but it is allowed. So maybe we could come up with something else.

Ms. Lohman: Because you guys aren’t going to be here forever or you get somebody else at the counter.

Mr. Walters: I mean, maybe it could say in a parenthetical “although this may be exempt” or –

Mr. Greenwood: That helps, to me.

Mr. Walters: Or FYI, this may be exempt.

Mr. Greenwood: Right. I was trying to think of how to do that without making a cartoon.

Mr. Walters: But, hey, this may be exempt per 410.

Mr. Greenwood: Because I’m kind of dealing with something similar on the forest transportation side where there are maintenance activities related to activities in the shoreline that qualify and then they would deal with the fill and armoring or protecting of existing structures. So I know I’m going to run into the same thing we deal with forestry and ____, which are somewhat disjointed because they’re not in the same section.

Chair Axthelm: Okay, so Applicability.

Mr. Walters: So it could simply say “may also be exempt per 410 activities.” Well, it definitely is in (c) of number (1).

Ms. Candler: Are you wanting it stricken? Or are you wanting it modified? Are you –

Chair Axthelm: Annie?

Ms. Lohman: My fear is leaving it there the way it is, it suggests that it’s removed from the Ag chapter and dumped here.

Ms. Stevenson: I thought I remembered you asking to have something in here too. So maybe I’m wrong.

Ms. Lohman: You did it in Applicability.

Ms. Stevenson: Right.

Ms. Lohman: But you didn’t capture this one, because I went back to my original notes.

Chair Axthelm: Annie, which line item are you referring to?

Ms. Lohman: Applicability (c). There it *did* reference going back to the Ag chapter.

Chair Axthelm: Mm-hmm. So it doesn’t necessarily define anything for ag. It just says hold it back over here.

Ms. Lohman: But then it’s confusing because when you drop down to the next section all of a sudden you’re calling out two very specific items.

Ms. Candler: Now she’s referring to (2)(b)_____.

Chair Axthelm: I see what you’re saying. Okay. Yeah.

Ms. Candler: What do you think of the proposed language which may already be exempt under 14.26.410 as a parenthetical?

Chair Axthelm: But these aren't specific for ag – oh, it's okay.

Ms. Lohman: It says agriculture. The other one, you could argue it could expand to other activity – I mean, other drainage.

Ms. Candler: I think the addition of the language allows the person who's at the counter on the consumer side to say that it's exempt.

Chair Axthelm: I can understand if it prohibited it, but it seems like it's not prohibiting it.

Ms. Stevenson: Right.

Chair Axthelm: It's allowing it. It's just clarifying it.

Ms. Stevenson: I think if, in fact, there was something that wasn't exempt under the Applicability, we wanted to make sure it was still allowed, because if it's not on the list then it's not going to be allowed. Just a different perspective on that.

Mr. Greenwood: At all, unless it's exempt.

Ms. Stevenson: Right.

Mr. Greenwood: So the only one that would be permitted is exempted.

Ms. Stevenson: Because these are the only things – these are the only types of dredging that are allowed, if it's for these purposes. So if you take it out – if, in fact, there is something that doesn't fit under the agricultural activity exemption then they're not going to be able to do it, I guess. So that's another way of looking at that.

Ms. Lohman: What if you just repeat yourself and put the reference to 14.26.410 in those two? Because then if it *is* an agriculture-related ditch it would direct whoever back to that chapter. If it's not an ag ditch, then it would direct the person to whatever.

Chair Axthelm: Striking the (iii)?

Mr. Walters: No. Adding a reference to 410 for both (iii) and (iv) – something like “may also be exempt per 410.”

Ms. Stevenson: “If not exempt under 410”?

Mr. Walters: No, not “if not” because if you said “if not” then it wouldn't be allowed, or something. Just “but see 410,” or some reference to 410 for the exemption.

Ms. Stevenson: I mean, I kind of figure if you get to (1)(c) and you fit under that, you just don't read any further. If you don't fit under that, then you go down to the next section and you say, Oh, okay, I can still do it because it's still an allowable activity – in case there is something, and I'm not sure there is. That's a pretty widespread definition.

Chair Axthelm: Are we good with that, Annie?

Ms. Lohman: Huh?

Chair Axthelm: Are you good with that then?

Ms. Lohman: Yes. I think.

Chair Axthelm: Amy?

Ms. Hughes: No comment.

Chair Axthelm: Tammy? That first comment you made about the Applicability _____ doesn't apply to, does that read good for everybody? Because it seems to me that on the other sections we have the definitions where it has the definition up front, and it seems like dredging kind of gets lost in here because it's not – on the other sections you have Applicability and right beside Applicability it says "This section applies to..." And then it specific says the definition of "dredging."

Mr. Walters: I think we're just going to have to live with that tiny inconsistency.

Chair Axthelm: Or capitalize it or something. It'll probably be highlighted anyway.

Mr. Walters: It will.

Mr. Pernula: It'll still have the hover area.

Chair Axthelm: Okay.

Mr. Walters: Yeah. Also that feature was recently improved on the website so now it works in 14.16.

Chair Axthelm: Okay. So now When Allowed, section (2). Amy?

Ms. Hughes: (unintelligible)

Chair Axthelm: Annie, anything more?

Ms. Lohman: No!

Chair Axthelm: No, it makes sense. Sometimes you've got to adjust a little bit. Robert?

Mr. Temples: Nothing from me.

Mr. Greenwood: I'm good with it.

Ms. Mitchell: I'm okay.

Chair Axthelm: Tammy? And then, let's see – so the next one (is) Application Requirements. So, Tammy?

Ms. Candler: I don't have anything.

Chair Axthelm: Kathy?

Ms. Mitchell: I don't have anything. Go ahead.

Mr. Greenwood: No. No, I don't see any change.

Mr. Temples: Very concise ___.

Mr. Meenaghan: Good ___.

Chair Axthelm: Okay. Annie? Amy? All right, and Development Standards, number (4). Start with you, Amy. Annie?

Ms. Lohman: No.

Chair Axthelm: Kevin?

Mr. Meenaghan: No.

Chair Axthelm: Robert?

Mr. Temples: Nope.

Chair Axthelm: Anybody have any ___? Okay. And then now 14.26.440, Fill, Excavation, and Grading. Applicability.

Ms. Candler: I have the same alphabetical consistency comment that I had on the other section between "Fill" and "Excavation." That's it.

Chair Axthelm: Kathy?

Ms. Mitchell: Nope, I don't.

Chair Axthelm: Keith?

Mr. Greenwood: No, I'm good with that.

Chair Axthelm: Kevin? Annie? Amy? Here on this section you did it the opposite way for the Applicability. It says "This section applies to" and then down below it says "does not apply to." That seems to read quite well because the definition stands out. Because of moving the definition to here it just seems like –

Ms. Lohman: Oh, you mean the titling. There you go.

Chair Axthelm: Yep. Because this one has "This section applies to," and then has the "Fill" and "Excavation," and then on (c) and (d) it says "This section does not apply to." So it's not a definition but it's down at one of the lower items. So I think the previous section that we worked on, if it was like this it would be better.

Ms. Candler: I see your point.

Chair Axthelm: It just seems – the definition standing out – yeah, it's –

Ms. Stevenson: Okay.

Ms. Lohman: So move the words. If you just move the words this section applies to up to the line, then everything else can stay.

Chair Axthelm: Everything else if fine, yeah. But it puts that emphasis on the definition, which is the first word in. So the next one – here's a short one: When Allowed. When Allowed and Application Requirements – go ahead and do both of those, Tammy.

Ms. Candler: Well, if you're going to change the alphabetical on the Applicability, you'll have to change the order, I guess, on that as well.

Chair Axthelm: Oh, I wasn't saying alphabetical. I was more _____. That was you, Kathy. Thank you.

Ms. Candler: That's it. No, I don't have anything – I was talking about (2)(a) Fill versus excavation ____ so that they'll match up above. That's all I have on that one and the next one, if you want to do two.

Chair Axthelm: Yep. Okay. Yeah, let's just do the two sections. They're so small.

Ms. Candler: Yeah.

Chair Axthelm: Kathy?

Ms. Mitchell: I'm fine with it. Go ahead.

Chair Axthelm: Okay, but (2) and (3) both.

Ms. Mitchell: Both, yeah.

Chair Axthelm: Keith?

Mr. Greenwood: I think that this section added in this version When Allowed for "Fill, excavation, and grading...allowed only when consistent with...Chapter 14.34 Flood Damage Prevention" so long as under Flood Damage Prevention we stick strictly to that definition. Don't change that because in my applications it would be protection of the infrastructure of a bridge or a crossing, if you will, and a lot of that work gets done in and over and through water and in that ordinary high water mark location. And I think that the Flood Damage Prevention as described in our existing code does allow for protection of an investment or infrastructure, if you will. So I like it. Long-winded way to say let's let it ride.

Mr. Temples: I have no comments.

Chair Axthelm: Kevin? Annie?

Ms. Lohman: No.

Chair Axthelm: Okay. So then last section, Development Standards.

Ms. Hughes: Nothing.

Chair Axthelm: Annie? Kevin?

Mr. Temples: Seemed fine to me.

Chair Axthelm: Okay. Keith?

Mr. Greenwood: It's much improved over previous, in my mind.

Ms. Mitchell: I'm fine with this, too.

Ms. Candler: Just for consistency, (4)(a) "excavation" before "fill." Other than that, I – well, I think, other than that, I'm fine.

Chair Axthelm: All right, so that concludes that portion. Any other comments?

Ms. Mitchell: Yes.

Chair Axthelm: Kathy?

Ms. Mitchell: I do. Betsy, I thought you did a really good job with working this stuff out. Having watched some of this stuff from a couple of years ago and the process that you guys went through, thank you very much for the hard work that you guys collectively and managed to – the best way I can think of it at this point is – make a mangy dog smell better! This is much better than it was. Thank you. Good job.

Ms. Stevenson: I guess we're supposed to say thank you!

Chair Axthelm: Yeah, it reads much better. Thank you very much. Okay, so the next item on the agenda – or any other comments?

Ms. Lohman: Can we paginate? Can we put page numbers on stuff that's more than two pages?

Mr. Walters: Yes. There are page numbers; they just get lopped off when exported to the memo so we have to remember to add the numbers back on.

Ms. Candler: I have one more comment. I mentioned the definition, specifically the (1)(a) as to the Dredging, but it actually applies to the Breakwater and probably all these other sections as well – to put the subsections in the definition.

Mr. Walters: Oh, uh-huh. Yeah.

Ms. Candler: That's it.

Chair Axthelm: Anything else?

(silence)

Chair Axthelm: Seeing none, we'll move on to the next section, Conservation and Development Incentives Program Update – TDR.

(break)

Chair Axthelm: All right, we're back on. So, Kirk, you've got the microphone.

Kirk Johnson: Okay. Good to see you all. So I'm here to talk about what we are as a working title calling the Conservation and Development Incentives Program. This is kind of an evolution of the TDR project that the County began back in 2011. And I just wanted to go over a little bit of the process, hitting the highlights of the process elements that were discovered – covered in the staff report. I've been misspeaking all day long today so if I continue to do so I apologize.

So there's big a longstanding interest in transfer of development rights in Skagit County. It's – the Growth Management Act encourages counties to consider innovative planning and zoning techniques, including transfer of development rights and density credits and other sorts of techniques like that. It's also – that same reference is included in the Countywide Planning Policies that were adopted in the 1990s by the County and the Cities. In 2005 when we were working with the Comprehensive Plan Update Advisory Committee one of the recommendations that they made was to implement more incentive-based tools to help to conserve natural resource lands in the county. And that statement, that recommendation is in the Comprehensive Plan. I don't have the exact page reference. I think I do here in the report. So it looks like it's page 1-13, so chapter 1, page 13. That was something that was a recommendation from that group in 2005. Ryan remembers when he started with the County in 2007 Commissioner Dahlstedt was saying what he continues to say, which is that we shouldn't, on the one hand, be purchasing development rights from Agriculture-Natural Resource Lands with public dollars and then turn around and be granting upzones of rural properties – granting additional development rights – without some kind of contribution as the value of the property increases, retaining some of that value for the purchase of development rights and the conservation of ag and forest lands. So he's been steady on that issue for a long time.

The County in its 2008 Bayview Ridge Subarea Plan had a provision calling for the sale of density credits to go from four units per acre in the Bayview Ridge Residential zone to up to six units per acre, and density credits would be purchased and the revenues from those credits would go to the Farmland Legacy Program for the conservation of Agriculture-Natural Resource Lands. So that's really the same mechanism that the City of Burlington has in place currently through its Agricultural Heritage Density Credit Program. Of course, Commissioners' priorities changed on Bayview Ridge and so that wasn't implemented, but that was in the 2008 Subarea Plan.

And then in I think it was 2011, the Envision Skagit Citizen Committee also recommended implementation of a TDR program. It's been simmering for a long time and this is the most thorough look that we've taken at the subject.

The Board appointed a TDR Advisory Committee in 2012 to provide input to the Department and consultants and the Board and the Planning Commission on the issue. The committee met twelve times between 2012 and 2014, and you heard from two of the committee members here tonight in the initial comments – Ed Stauffer and also Martha Bray. The project – there was work

going on outside of the advisory committee which we brought to the advisory committee for discussion, but – for instance, we did a market analysis, looking at how TDR might work in Skagit County, and as part of that we held three focus group meetings, one with development interests; one with foresters and forest landowners; and one with farmers and agricultural conservation advocates; and Commissioners Mahaffie and Greenwood and Lohman each participated in one of those – in the development meeting and the agriculture meeting and the forestry meeting. So in July of 2014, the Department issued a report, Skagit County Transfer of Development Rights Project Findings and Recommendations. It was 120 pages long. Some might say it was exhaustive. Some might say it was *exhausting* to try to read through. But, anyway, it tried to cover the issues in a lot of detail and provide kind of the different arguments and concerns or support that were represented from members of the advisory committee.

So the report also included two sets of recommendations. One was from eight members of the committee, which simply for explanatory terms I called the majority recommendation, which was that the County should move forward with a program that had both a TDR component and a density credit component. And we can talk about what those both mean in a minute. And it included a minority recommendation, which was supported by three members, saying that the County shouldn't move forward with TDR. I think two of the members felt at this time; one of the members might have felt that at any time it's not needed. But anyway, don't move forward. And there was a 12th member who felt the County should move forward but he wasn't in complete agreement with the other eight. He's a forestry representative and he felt that the conservation easements used through the program should be term-limited, maybe 40 years in length, and he also felt that Rural Resource lands should be one of the rural receiving areas. And the rest of the committee – I mean, since the goal is to protect the County's natural resource lands, I think the rest of the committee felt that Rural Resource wasn't really an appropriate receiving area.

So several committee members and I – they were all invited – but made a presentation to the County Commissioners in August of 2014. I think there were six members of the committee who were there, and I think it was a pretty good cross-representation of the views from strongly supportive to strongly opposed to moving forward. And the Commissioners heard from all of us and then other members of the public spoke to them. So based on those presentations and other work that was done under the project – like I said, the firm that conducted the market analysis did a presentation to the Board. The Department met with the Board on September 16th to consider two options. One was to terminate the project at that time and one was to move forward with drafting of policies and code.

There was some concern – the project has been supported with two grants, or a grant and a grant extension, from the Department of Commerce, which is federal money that's come to the state – and one of the concerns that some people expressed was, We don't want the County to be obligated to implement a program if it accepts the grant money. So we always made it clear and as a part of the contract that there would be this pause where the Commissioners would, you know, listen to what had been discussed and developed so far and they would say move forward or don't move forward. So the Board decided to move forward with the drafting of policies and code largely consistent with the recommendations of the committee majority, and that was in that resolution R20140298, which you were provided a link to.

Kathy Mitchell was asking about some of the Board's thinking beyond what was included in the resolution, and we happen to have a transcript of that meeting. It's not always that we do, but if you're interested you can read through. It's about six pages and it goes through my presentation, the Commissioners' comments, and that can help to put in context their resolution saying to the Department to move forward with the drafting of policies and code. And then there

was another public comment in terms of establishing the docket for the 2014 Comprehensive Plan Amendments, and kind of as a formality the Department asked the Board: Do you want us to move forward with TDR? Then there was a public comment process and the Board said, Yes, we do. So basically this proposal is coming to you – it's not a formal proposal yet – but as part of the 2014 docket of Comprehensive Plan Amendments. And the only other amendment on the docket is the one for Birdsvew Brewery to – they're looking to obtain a commercial designation for their property.

So that brings us to the present and I thought after we talked about the proposal itself we could talk about what the next steps are. But first I wanted to see if anyone had any questions about the process to date.

Ms. Lohman: I have a question.

Chair Axthelm: Annie.

Ms. Lohman: It got added to the what docket?

Mr. Johnson: It's the 2014 docket of Comprehensive Plan Amendments. Currently the docket is named by the year in which amendments are proposed, so like the Birdsvew Brewery proposal was submitted in 2014 and you'll be considering it this year.

Ms. Lohman: Okay.

Mr. Johnson: So no comments on the process so far?

(silence)

Mr. Johnson: Nope? Okay. Let's see, TV control room – yeah, thank you.

Chair Axthelm: I guess I do have one comment/question. You were talking about concerns about people – that if we accept the program – with accepting it, or accepting the grants, were there any other programs that you're obligated to do at that same time with that? So not just saying, Okay, we're going to do TDR but is there something else we have to do along with that?

Mr. Johnson: No other programs we need to adopt. We were – I guess a condition of the grant was to look at something called the Department of Ecology's Watershed Characterization Framework – or Model to try to help in determining what would be appropriate sending areas, conservation areas for a TDR program.

Chair Axthelm: So to look at it but it wasn't regulating that we *had* to incorporate that in?

Mr. Johnson: No, and we looked at it and some jurisdictions are – I think some very, very sophisticated jurisdictions that have a lot of staff – are using that for that purpose or other purposes. We've looked at it, and I worked pretty closely with Josh Greenberg from GIS, and there are probably some ways in which it is useful but for a countywide program looking at conservation areas it was really hard to glean a lot of value out of it. So we looked at it. It was interesting, but it in the end didn't prove useful. I think the only other stipulation was that the grant funds will only pay for consideration of *cities* as receiving areas. So basically the state legislation on TDR, which authorized the four central Puget Sound counties to move forward with programs, says – I think it says that they can have rural receiving areas but they can't use

state funds to, you know, to do that analysis. And also we can't use state funds to do the analysis of rural receiving areas. I think the Department of Commerce feels that that's not really consistent with the Growth Management Act with the goal of encouraging development in the urban areas and not the rural areas. So where we did, say, economic analysis under the market analysis of the rural receiving areas, that was with County funds. So it doesn't say you can't look at that; it just says you can't use the state funds on that.

Mr. Temples: Mr. Chair?

Chair Axthelm: Yeah.

Mr. Temples: MY question just kind of follows the course of what you were just discussing. When I went through the transcripts and everything from the Board of Commissioners' comments, it seemed like there were concerns – for no better description – for the financial obligation of the County to a program like this, and not only that, but the expenditure of staff time, money, et cetera, over a long period of time to the County. And now I'm hearing that this program, should it be accepted, is only going to address rural elements – I mean, excuse me, urban elements versus rural. It kind of puts our county, I think, in a little bit of a quandary. Am I wrong? I mean, I'm just trying to figure how are we justifying all of this?

Mr. Johnson: What I'm saying is that we could only spend grant funds – we could spend grant funds looking at TDR as a whole and the conservation of natural resource lands in the rural portions of the county, and we could use County funds to look at rural receiving areas, and then again the state grant funds to look at urban receiving areas. So I guess I'm not fully following the question. I mean, the County has an interest in the conservation of its natural resource lands. If you read through the Comprehensive Plan, it's very clearly documented there. And the Commissioners have felt that either through the TDR mechanism or the density credit mechanism that's a way to build on the good work that we've done through the Comprehensive Plan, and going beyond a regulatory approach but going to more of an incentive approach where landowners who want to conserve their lands that there's a way to help them do that.

Mr. Temples: No, I think you've helped to clarify a lot of it for me. I appreciate that. Thank you.

Mr. Johnson: Okay, so I was going to talk about the proposal, which I'll call a policy framework at this point, rather than actual policies. I was reading through the report and reading through the majority recommendation, I think yesterday, and realizing how closely it really does reflect recommendations of the committee. But basically – let's see. Let me get oriented here. So I wanted to start out with the program title, which relates to Goal 1. As I said, the working title is Conservation and Development Incentives Program. I thought a lot about, well, you know, it's not just TDR and it's not just density credit. What does the program do? Well, as proposed Goal 1 says, it would "Implement a program that provides an economic incentive to guide development to areas best suited for additional growth while engaging the private market to support the voluntary and permanent conservation of farm, forest and open space lands." So it's basically a conservation and development incentives program.

It has within it two transaction mechanisms. So if you look at the diagram directly under the title, it says Transaction Mechanisms or Options. So one of those is transfer of development rights and one of those is the sale of density credits and the purchase of development rights. So transfer of development rights is a private market transaction between a willing buyer and a willing seller. They negotiate a price and they agree to make a sale, and the TDR program basically facilitates the retirement of the development right through a conservation easement on

the sending property – the property to be conserved – and the transfer of that development right to the receiving area, whether that's, say, a Rural Village or a city. So it's – you know, once you kind of set up the parameters of the program and the policies, it's very market-oriented.

Density credits, like Burlington has in place: Buyers and sellers both work directly with the County or with a City that's offering the program. So basically the County would say, This is the cost of a density credit for – let's say in Rural Village you want to take advantage of an infill opportunity that's provided by the program – and I'm just going to pull numbers out of thin air. The cost of a density credit to do that is \$10,000. And that would be based on it being a percentage of the, let's say, free and clear value to the developer or the landowner who wants to do that. The cost is \$10,000. You can kind of do your economic calculations to determine if that works for you financially if you're a developer – whether it pencils or not. And if it does, you, in applying for that and then receiving your approval, you buy the density credit. You're able to go forward and do that, doing more development than would be allowed through the baseline zoning. And those funds then are used to purchase development rights from the designated sending areas or conservation areas. So in that sense, once the funds are obtained and the purchase is done it's handled very much like the Farmland Legacy Program. So it's the sale of density credits and then the purchase of development rights with the revenues from the sale.

Ms. Lohman: They're not simultaneous, right?

Mr. Johnson: No. No, they're not.

Ms. Lohman: Okay.

Mr. Johnson: So basically you might have several transactions that would need to occur before you generated sufficient money to purchase a development right or to put out a call for interested parties who are interested in selling development rights. And we can go into kind of the pros and cons or arguments for and against those maybe once we move through the overall plan. Kevin, you look like you're pondering something.

Mr. Meenaghan: This is helpful and I think really helps clarify the sending and receiving, from the last time we talked about this. The question – and I think I asked last time – Does there seem to be a market for both the senders and the receivers? And I think you indicated that yes, there was. There were people out there that were interested in this. If I were a sender, why would I want to do this? If I – is it because I want to preserve some land? Is it because I want to feel good about myself and the legacy that I leave? Or is it because I have some money to be made? What's the incentive behind the sender? Or is it both?

Mr. Johnson: Either of those could be incentives. I mean, we can look to the Farmland Legacy Program or we can look to the Skagit Land Trust for examples of people who become aware that there's an opportunity. Say they're an Ag-NRL owner for Farmland Legacy. They would like to continue farming their land. They would like to see – the farmers in the county have a very strong conservation ethic – they would like to see the land farmed in perpetuity. I think, you know, they might have a general sense that the more residences that there are in the farm land the harder it is for farmers –

Mr. Meenaghan: – to farm.

Mr. Johnson: Okay. So I'm just saying, you know, What would be the incentive for an Ag-NRLer to go to the Farmland Legacy Program and consider selling it development rights? They may

not have – they may have children who already live somewhere and so they're not, you know, they're not looking for a place, or their children aren't looking for a place to live on the land. And they may have need for income. They may need to expand a barn or buy a tractor or put money away for their retirement or have money to send a kid to college. And I think – you know, somebody going to the Skagit Land Trust – as I understand it, the Land Trust will purchase property outright from some owners, but it will also purchase easements from some owners. I have talked to a guy who lives in the mid-Skagit region, I think around Hamilton, and I believe he and his brother own together 160 acres of I think it's Rural Reserve land. They own it in a trust. He wants to see that 160 acres kept in the family and farmed – or forested in perpetuity. The brother's ready to head off to Phoenix or whatever. I don't know where. But he wants to sell out. So one of their options is that they can – I mean, if it's consistent with the trust – they can divide. You know, one brother gets 80 and the other brother gets 80. The one who wants to sell, sells. And so then each of those – that land can be developed at one unit per ten acres, or two per ten with a CaRD. Or if that brother could sell the development rights and were interested in doing that, he could – you know, that could happen through this program and he could get paid for the development rights. So he could be happy, he could go move to Phoenix. His brother could – basically would buy his half of the property from him and could continue to manage it for forestry in perpetuity.

Mr. Meenaghan: Okay.

Mr. Johnson: So, those are – I mean –

Ms. Candler: I have a question.

Mr. Johnson: Yeah?

Ms. Candler: On your chart, you have two participating Cities listed. Do you have any information about where Mount Vernon and Sedro-Woolley and other Cities are with this? You know, I was reading somewhere one of the things that is pretty important for one of these programs to be successful is the participation of the Cities where the most density is. Do you have any information about that?

Mr. Johnson: Yeah. I just – I want to go back to – Kevin, you asked about, Is there a market on the receiving side? That's where the story is a little more tenuous or mixed at this point. So, basically, Heartland, when it did the market analysis, said – well, of course it was doing it toward the tail end of the recession and not much development was happening here – and they also said, You already – your Cities have a lot of existing capacity that's already been granted through policies and zoning decisions that were made twenty years ago. And so there's not as much demand – people aren't going to buy development rights when there's plenty of alternatives that are freely available – basically. So we might have to work through some of that existing supply. But then Burlington, for instance, they weren't seeing much action through their program and in the last couple of months they've approved a – I believe an apartment project, not on the controversial east side of the city but more centrally located, that's purchased 20 density credits, and doing that helped to make the project pencil. So Margaret Fleek is happy about that and thinks that there's more potential for that kind of thing to happen. But it might take a while for the market to catch up with existing development capacity and the like.

So Mount Vernon has a TDR program. It was active – I think it was put in place in 1999 and it was active through – particularly in the middle part of the 2000s when the economy was really going gangbusters. I think one developer – I'm not going to have all my numbers right –

purchased maybe 60 development rights, and the sending area in Mount Vernon is an area of agricultural land that's actually within the city limits. It's some property currently or formerly owned by the Alf Christianson Seed Company. And so he purchased let's say 60 development rights and he's, I think, used 40 of them on development projects within the city – done his planned unit developments. The City decided partway through the decade that it wasn't that happy with how some of those planned unit developments were turning out on the ground, and so they said – they significantly changed the PUD ordinance and they said transfer of development rights can't be used in those anymore. So they're able to be used more on a situation-by-situation, project-by-project basis but not on the larger development projects.

And then I think Sedro-Woolley is – I think Sedro-Woolley is pretty well overwhelmed with its just kind of basic planning responsibilities and I think this is – would maybe be more than they would have an interest or an ability to take on at this point.

Ms. Candler: So is the reason that Mount Vernon is not listed as a participating City is because their own TDR program is closed to the city limits and they're not interested in County exchanges, or they're kind of down on their whole program because a couple things didn't work out? I didn't understand.

Mr. Johnson: Maybe the bigger picture is that they've traditionally been the City that said, Oh, more population growth? We'll take it. So they've got, I think 40% of the county population and they've got 40% of the county's growth allocation moving forward, and I know that they've decided that they have something of an imbalance between their commercial and their residential lands, and so they're not interested in taking more residential until they can beef up their commercial land base. So I think they're just – they're not in a situation where they want to see development rights or they want to encourage development rights transferred from the County to the City. Other Cities – like Burlington – they're not direct transfers, but they're trying to encourage more residential development around their downtown and so they see their density credits as an incentive that they can provide to developers, and Mount Vernon at this point doesn't want to provide that incentive.

Chair Axthelm: I know you guys have questions. I just want to make sure that you can get through your presentation.

Mr. Johnson: Okay. Maybe I can try to go more quickly and cover the whole thing and then we can –

Chair Axthelm: Yeah, and then afterwards we can ask all the questions we want that way. Is that okay with the Commission?

(several sounds of assent from the Commissioners)

Chair Axthelm: Okay. That way you can get through.

Mr. Johnson: Thank you. So two mechanisms proposed: transfer of development rights; density credits and purchase of development rights. I'm going to jump out of the order of the goals and go to the sending areas. So those are the areas that would be eligible for conservation through the program. It would be voluntary participation, just like Farmland Legacy. A landowner who wanted to participate could come and look into selling their development rights. And the primary focus would be on the designated natural resource lands, which include Secondary Forest, Rural Resource, Industrial Forest, and Agricultural-Natural Resource Land – Ag-NRL. There's

some disagreement in the ag community about whether Ag-NRL should be included or not, and so I think we'll just put that out there as an option for further comment and consideration. You probably saw the letter from Skagitonians that Allen Rozema asked me to forward to you. You know, I think it would be good to hear from that organization as well as others that are concerned about TDR as to why that is. But that would be one option that you would certainly have – could wrestle with as this proposal comes to you.

Industrial Forest would be only the Industrial Forest lands within a fire district because those are the only Industrial Forest lands that have a development right that they can actually exercise.

And then the other category would be Rural Reserve lands with active agricultural or forest uses. Also the policies or the policy framework says “or significant open space value.” So we saw the map that was done by satellite data looking at land cover. I can look into the comment or the question that Ms. Xaver raised about why her property doesn't show as agriculture. But that's an example of – for the ag lands, some of the lands in red that are outside of the Ag-NRL zone but that are in some sort of active agricultural use – I've got that somewhere. There are also lands in Rural Reserve – and, interestingly, I've talked to maybe three forest landowners who have said, Yeah, I might be really interested in this program, and I think all three of them are in Rural Reserve rather than in Secondary Forest or Rural Resource. So, again, it would be at the initiative of the landowner, who could come to the County and say, I might want to sell my development right, just like they could go to the Skagit Land Trust right now and say, I might want to conserve my land and work with you. You know, Can you help me?

Ms. Lohman: I have a question. Are they all conditioned then on them being tied to an NRL, even if they're Rural Reserve? Is that what you're saying?

Mr. Johnson: Tied to an NRL?

Ms. Lohman: Well, you talked about active ag or forestry – it has to have that NRL-type activity?

Mr. Johnson: That's the thinking, yeah.

Ms. Lohman: It can't just be a – like an idle piece of ground?

Mr. Johnson: Well, the way the policy reads – and we're kind of jumping –

Chair Axthelm: Kirk, I –

Ms. Lohman: Well, I know, but he said it several times.

Chair Axthelm: I understand, but in order for him to get through his presentation –

Ms. Lohman: Okay. Right.

Chair Axthelm: Let's let him get through his presentation and then we can hold those questions till the last.

Mr. Johnson: Okay.

Chair Axthelm: They're important and I have some I want to ask too. I just – I think it's important for you to get through it.

Mr. Johnson: Okay. So then I want to – so we've touched on the sending areas. The land would be permanently conserved through a conservation easement. Basically we would use the Farmland Legacy easement as the basis for this easement. The Farmland Legacy easement has some conditions that are very specific to farm land, to Ag-NRL lands. Typically TDR programs retire the residential development right but they may not have the same requirements for limitations on impervious surface or other things. But the easements would be permanent, as they are with the Farmland Legacy Program. I did note in here somewhere that the Forest Advisory Board has said, Well, we'd like to see a 40-year easement. That's probably just not viable under the Growth Management Act. Another county looked at that and the Hearings Board said, No, you can't do that. And the Commissioners, frankly, have kind of smiled when they've heard that. But the foresters are saying, Well, what if 20, 40 years down the road something has changed so significantly that we can't continue to practice forestry on this land? And I have said we would look at what other jurisdictions do in that type of situation. But Ryan points out that there is a mechanism in the Farmland Legacy easement. Do you want to explain what that is – going to a court?

Mr. Walters: Yeah, there are a couple of provisions in our Farmland Legacy Program easement, the easement that we use for all our Farmland Legacy Program conservation easements. If the land upon which you have a conservation easement is condemned – which that could totally happen. WSDOT could come through and condemn your land and put a highway through it – then there's really no point in having this conservation easement on that property anymore. You could have a change in the river's direction. You could have sea level rise. You could have any number of other things like that that could render farming impossible on the land underneath the easement. But maybe you could then do river dredging or something like that – something else. In those situations, the easement provides that you can go to a court and get a judge to determine that the purpose of the easement is no longer possible and in that case the easement could be lifted. In several of our easements – not in every example, but more recently we have started adding a provision that says that if that does happen then there needs to be reimbursement to the buyer of the easement. And the reason we added that in is because USDA, one of our funding partners, has required us to add that in because they recognize that this is a possibility in some situations and they want a cut of the reimbursement if that happens. So those are things that we try to think about in drafting the easement. Easements are supposed to be forever, which means that you need to try to anticipate possibilities like that.

Mr. Johnson: But the intent and – I mean, the program would not create a situation where, as Ms. Xaver said, somebody purchased development rights from ag land and then got a City to expand the UGA boundary into that ag land and suddenly their development rights sprung up again. So it would have an easement on it that would, I presume –

Mr. Walters: Oh, yeah. That's interesting. If the city's boundary expanded and gobbled up that parcel, it would be under another jurisdiction, right? It would be under the City's jurisdiction instead of unincorporated Skagit County's – the County's jurisdiction. But that wouldn't matter if there's a conservation easement on it because the conservation easement is an interest in land held by someone – in this case, probably Skagit County. So you wouldn't be able to develop it regardless of whether or not it got put into the City of Burlington, for example. If there weren't a conservation easement then that would be different, but all of these programs operate with conservation easements. Does that make sense?

Mr. Johnson: Okay, I'll take it up a little. So Goal 3: Encourage partnerships between the County and the cities and towns to conserve lands of mutual interest, while directing growth to urban areas best suited for additional development. So the example there: The partnership that currently exists with Burlington is helping to conserve land that's of interest to the City – the agricultural land immediately surrounding the city – and that's also of importance to the County. So there's a partnership there that's serving both jurisdictions and their residents.

Goal 4: Establish a limited number of rural receiving areas where additional residential development that is consistent with the Comprehensive Plan's and the Growth Management Act's requirements to protect rural character can help to conserve surrounding farm, forest and open space lands.

So as, you know, as we heard in the discussion of affordable housing, the County, through the Growth Management Act, has a lot of limitations on what it can – the development it can allow in the rural area. And as I feel I heard from the Rural Element workshop, most people like it that way to the extent that they like having rural Skagit County be rural (and) not look like Kent or Issaquah. But there are some – again, kind of going to the situation that Commissioner Dahlstedt has talked about. The rural upzones that may be – like a couple years ago we had a property that went from Rural Reserve to Rural Intermediate, so it went from 1 unit per 10 acres to 4 units per 10-acre. So under this program, nobody would force them to ask for that Comprehensive Plan amendment, but if they were then to go build the additional four units that was allowed by the higher zoning, they would need to buy density credits or purchase development rights to enable them to do that.

Another thing that we're looking at is infill within Rural Villages and Rural Intermediate. So basically right now for Rural Intermediate the zoning is 2½ acres, and that's true for most of the Rural Villages. We have a limitation under the lot certification ordinance for lots in those – buildable lots – in those areas of 1 acre, and we're saying in certain instances there may be the possibility to build on a second lot, like if somebody has 4½ acres. So they don't have 5 acres they can't divide that into two 2½-acre parcels, but they would have a 2½-acre parcel and a 1½-acre parcel. Through the purchase of a development right they could build on that. I would say one of the Commissioners – Commissioner Dahlstedt – is very interested in seeing that kind of opportunity created, and the other Commissioners are maybe less – you know, they're interested, but maybe less enthusiastic about it. And I'll try to mention what I think are some differences among the Commissioners as we go through the rest of the program.

And then CaRD density bonuses: One suggestion that Matt Mahaffie had with CaRDs was he said, Boy, when the economy was booming, you know, I was working on a CaRD and we had 19.5 acres and with another .5 acres we could have put another lot in there. And what if that had been transferred from Industrial Forestland or Secondary Forestland and you have the infrastructure into your CaRD project already and you only needed that extra half-acre to get another development right? Wouldn't that make sense to transfer the development right off the Industrial or Secondary Forestland and put it in the Rural Reserve, you know, already clustered with the other lots? So we're looking at the ability to do that with the purchase of a density credit or a TDR.

And then urban growth area expansions: So this whole thing is premised on an increase in property value when the development potential is increased. So if you think about land in Rural Reserve just outside of an urban growth boundary, 1 unit per 10 – 1 development right per 10 acres – it gets put within the urban growth boundary and is zoned for urban residential. That's

suddenly 4 units per acre. So I think that's a 40-fold increase in development potential, and there's a sizable increase in the value of the property along with that. What this would say is when both the City and the County were supportive and have an interlocal agreement that they would find a formula for requiring the purchase of development rights or density credits for a situation where property is added to an urban growth boundary and it has that great, vast increase in residential development potential.

Let's see, I'm going to try to power through here. Goal 5: Complement existing Skagit County conservation programs by generating private market support for land conservation and focusing conservation efforts on lands and resources not protected by existing programs such as Farmland Legacy.

So we have the Farmland Legacy purchase of development rights program. It uses public funds, either locally generated conservation futures tax dollars or state and federal grant funds to purchase development rights solely from Agricultural-Natural Resource Lands. The focus of this program would be, or could be – could extend the conservation reach of a program that the County is supporting to, as I said, agricultural lands that are on Rural Reserve or Rural Resource-Natural Resource Land. They're currently not eligible to apply to Farmland Legacy, and I believe I've heard from the Coordinator that they do periodically get inquiries from people in both those zoning designations saying, Why can't I sell my development rights to Farmland Legacy? Oh, it's not within the mission. Also there's not a forestland legacy program in the county, so this would help provide a conservation mechanism for private forestland that would stay in private ownership. As Martha Bray said, they work quite a bit with rural landowners. There are very few funds available for conserving forestlands.

The thing about transfer of development rights or density credit is it's generating private support for conservation. So through a TDR transaction, a developer or a receiving area landowner is buying the development right. Through a density credit program, they're buying density credits. Those funds are then used to purchase development rights. So it's another distinction with Farmland Legacy, which is public funds, tax-supported. This is engaging the private development market in conservation. So it's adding another source of funding and support for conservation in the county in addition to Farmland Legacy and, again, one option or one way to – if people are concerned about this program negatively affecting Farmland Legacy, you could just basically say Ag-NRL isn't an eligible sending area and if the County's raising revenues through density credit sales, Ag-NRL isn't a potential recipient. You know, an Ag-NRL landowner couldn't go to the program to sell their development rights to it because they've already got the Farmland Legacy Program that's devoted to Ag-NRL. And then quite a few other people again, like Skagitonians, just does not feel that there would be a conflict. They feel it would create another opportunity for ag landowners who are interested in selling their development rights.

Let's see. I think I've just got one more here. So Goal 6: Maintain private ownership of land while ensuring permanent conservation. So the land would be protected through a permanent conservation easement in the same manner as is done through Farmland Legacy. It would enable voluntary conservation of land that remains in private ownership. So the landowner's retiring the development right but continues to have the other rights associated with the land: to continue farming it or conducting forestry. The easement would not require public access and wouldn't have other stipulations on resource management practices beyond what's in County code. And the easement would be monitored annually by the County.

So that's what I wanted to cover. And I'm sorry if I talked too long at the beginning.

Chair Axthelm: Nope, you're fine. So let's go ahead and start with some questions. I think all of us have some questions. I would suggest that we maybe have one question apiece and keep going around. I know that breaks things up a little bit but that way it's not concentrated on one person. How does the Commission feel on that?

(unintelligible comments from the Commissioners)

Chair Axthelm: Some of us have more questions than others.

Ms. Mitchell: I was going to say, Are we coming around four times, though?

Chair Axthelm: Let's go ahead and start with Tammy.

Ms. Candler: I don't know if this is a question or not but, you know, we talked a little bit about what Ms. Xaver's concerns were. I think what I'm reading indicates not so much that – so you have some conservation area on the edge of a city, and then beyond that the person on the other side didn't sell theirs. There could be development – conserved land between two developments. The City then wouldn't have much choice but to annex around it and then you have, like, urban sprawl – I think is the issue that I saw coming up. Is that a concern that you have, or how would you address that, I guess?

Mr. Johnson: I'm not following. Did you?

Mr. Walters: Interestingly, I would say that that scenario where you have land directly outside of a city being conserved through conservation easement is happening right now at the request of Burlington. Because Burlington's ag credit program sends the Farmland Legacy Program money to buy land in a circle outside of the city limits because that's what they want.

Ms. Candler: That's what –

Mr. Walters: – Burlington wants.

Ms. Candler: – Burlington wants. And so is Burlington then going to annex around it? Is Burlington going to go up? I mean, what are they going to do?

Mr. Walters: I think Burlington's idea is that they will go up and that they will not expand further. Both Burlington and Mount Vernon are constrained by state laws prohibiting expansion of their UGA into the floodplain, so they, I think, recognize that constraint – or at least Burlington does and wants protection of the land around it so that the land around it is not sprawl, not unincorporated Skagit County sprawl, but actually farmland that maybe is aesthetically appealing. Do you have any additional insight on that?

Mr. Johnson: I think that's the case. I think the Planning Director would say that the residents of Burlington love the agricultural land, want to see agricultural land around the city permanently. And the City, for floodplain reasons – and probably primarily for that doesn't have plans to expand. They don't see that as a viable alternative. Maybe has some concerns about what the County might do with the agricultural land if it's not put in permanent conservation status.

Ms. Candler: Okay, that's my question.

Ms. Mitchell: From the little reading that I can gather is – what I'm going to ask might be a rookie question, but I really do want to know the answer. So if there are enough people that feel that the Ag-NRL or the ag should just be removed from it – if that preface is true. Second of all, if the Farmland Legacy Program has been so successful – which it sounds like it has and there's lots of fans of that and there's a good track record of it. Part three is Skagit County is – I've forgotten the percentages, but largely forest versus ag. Is that right? Something like 80/20 or something along those lines? So if we're really forest-based and people are pretty concerned about conserving the forestlands and the Farmland Legacy Program has been so successful, why are we looking at doing this instead of just going for a forestry legacy program instead?

Mr. Johnson: Well, I know that Ellen Bynum has made that case to the Commissioners before on behalf of Friends of Skagit County: Let's create a forest legacy program. I know that Commissioner Dahlstedt has responded, I don't hear a lot of Skagit County residents saying raise my taxes. And also the state and federal funds that the County is receiving for – that it's using for Farmland Legacy Program are both declining and becoming more competitive. So a purchase of development rights program with public dollars is probably simpler to implement, although there are a lot of jurisdictions around the country that have purchase of development rights programs, including Whatcom County, who say, Our program doesn't work very well. So even though it sounds simple in concept, it's not necessarily simple to implement. But I think the two major reasons are: Is there an appetite to raise taxes to generate the funds to purchase the development rights? And, if we're going to create one and not have a local tax component, I don't think the feeling is that there really are state or federal dollars that are out there to conserve forestland.

Ms. Mitchell: Okay, and this is part two of a rookie question on that then: Okay, that's the case –

Mr. Greenwood: Part four, Kathy.

Ms. Mitchell: Shoot, but it's a train of thought – if you guys'll forgive me! To me the train of thought is so – it sticks together. So thank you for bearing with. So if that's an issue with that, then if this program goes forward what I don't understand – maybe I haven't seen – is how it would be funded. Wouldn't the County then necessarily be a middle man? Or where does the money come from? Wouldn't the County essentially be subsidizing, which would be tax money anyway?

Mr. Johnson: Well, probably the approach that would have the least administrative involvement would be the TDR approach, because basically you would say, Here are the sending areas. Here are the receiving areas. Here are the exchange rates. You know – buyers and sellers, find each other. Sell development rights and we'll work with you on a conservation easement and we'll track where the development right goes to, and we're done. So it doesn't have much of a staffing component or requirement. So where does the money come from? It's coming from a developer in the receiving area that can, you know, do 10 residential units on his land without TDR and can do 20 with it, or 15 or whatever. And so there's a value to him of doing that, and as long as the cost of buying the development rights is less than the free and clear value to him he might say, Yeah, I'm going to do that. So the revenue is coming from the private developer, private development market. It's based on the increase in the value of the land that's granted. You know, zoning allows the 10 units per acre or the 10 units for the property. With TDR you can get to 15. Maybe that's worth \$100,000. Maybe it's worth \$200,000 to the developer. Heartland is saying set the density credit fee at 50% of that, and that's the increase in land

value after – I'm getting into stuff that I'm not that comfortable with – but standard rate of return after it – standard profit rate and expenses. So, you know, a lot of money free and clear. Half of that, it goes to the purchase of and transfer of the development rights, and half of it goes to the landowner who got the increase in value that's granted through purchasing the development rights.

So I don't know if that was clear, but it's –

Ms. Mitchell: It'll take a while, but I appreciate your shot at it.

Mr. Walters: The other thing about the Farmland Legacy Program – because I'm the attorney for that program – is that the dollars that have funded that program have, I think, largely *not* been local dollars. They've been federal dollars through USDA. They've also been state dollars through the Recreation and Conservation Office. And to maybe simplify a little bit, three years ago we had maybe ten properties that USDA funded. We bought those. That was great. We did a half-match. Two years ago we had, I think, ten properties or so that USDA funded but they wanted us to do buffers on those properties and none of the landowners wanted to do buffers. So we turned those down. We turned those dollars down to USDA. And then this past year we were awarded one property, and we may or may not, I think, do that one because of the constraints of USDA money and just the general pain that it is to deal with USDA. So we're still looking, obviously, for funding partners for Farmland Legacy, especially RCO, which is much better to deal with. But a *major* source of funding has maybe completely dried up. So that may be a significant constraint on Farmland Legacy's ability to do these easements in the future.

Ms. Mitchell: Okay. Thank you.

Mr. Johnson: I just – I wanted to follow up on the density credit approach. So there, basically, you have a fee schedule and so, you know, the cost of an additional unit of development in a particular zone is this, and the developer pays that fee because they perceive – not they perceive. They would pay that fee if that (would) return more money to them than if they did the development without the increase in potential. So that goes to the County, then the County needs a mechanism to select what landowner it's going to work with to purchase the development right and place a conservation easement on the property. So there would probably be more overhead and more administrative involvement in that aspect of the program if it were doing density credit sales, generating revenue, and then doing a purchase of development rights process. Like we have a part-time staff person who manages Farmland Legacy and that person has an assistant, and they meet monthly with the Conservation Futures Advisory Committee and it, you know, takes time and effort to prepare for those meetings.

Some people see TDR as best because you set up the program and then it's just buyers finding sellers and negotiating deals, and then the County just basically tracks it. Some people don't like – Commissioner Wesen has said – has expressed real reservations about TDR because he has – the one thing he said is he fears it could lead to speculation. Somebody buys a development right now, holds on to it, ten years from now they sell it for twice as much. In the meantime, as long as the seller has sold for a value that they thought was fair, they're made whole. The land is conserved. I mean, speculation happens in real estate markets. It happens in stock markets. It's kind of a basic element of the good old American capitalistic way. So what can also happen to the developer who buys that development right and is going to sit on it for ten years is let's say the City changes the rules of the game and they can't use it.

So I'm not saying one or the other. I'm saying Commissioner Wesen has expressed some concerns about TDR. I think one of the other Commissioners really likes the market nature of it and the fact that it's kind of hands-off to the County. I think the other two Commissioners have said, We want to see what kind of comment comes in on both approaches and we'll make a decision from there.

Ms. Mitchell: Thank you. Thanks, gang.

Mr. Greenwood: I've got a few things but I'll try to make one point at a time.

Mr. Walters: Maybe a four-part question.

Mr. Greenwood: No, I'll try to make it one.

Ms. Mitchell: It was a one-question!

Mr. Greenwood: One would be that a concern has risen before about having a market before we have a program, and I think we've talked about that enough to where the Commissioners – the County Commissioners – felt that it would be beneficial to have a program in place, so getting the bugs worked out, if you will, and the framework for a program. And so by developing a program perhaps before the marketplace, and be able to take advantage of the market when it does change – so to be ready for it. What would be the – and I think you kind of answered a little bit in your last statement – what would be the anticipated cost of having a program that kind of sets on ice, if you will? We develop it and then we administer it. Because I can kind of see the importance of having good administration of that; otherwise, it just becomes those who – you know, I'm picturing the place where people have development rights but they have no interest in exercising them and maybe the City has no interest in acquiring those development rights because it's not going to be developed anyway, but I've got them so I'm going to sell them to somebody and I might as well sell them to the County and then they can stick them in the bank. Okay, so you want to be able to define the sending and the receiving areas so that you can get what you want done or what the population wants done. So what do you think the cost would be to having a program in place and we know what the development costs because most of it's already been done and now the rest of it's being done by, you know, in-house staff. So to have it on ice for a period of time, what do you think?

Mr. Johnson: So the report, there's a – on page 89 it talks about estimated staffing requirements, and basically, based on information from Heather Ballash, staffing levels for city and county programs in Washington range from being very limited in many cases to two or more full-time employees for the very active King County program. So then I talked to Mount Vernon and Burlington and basically they've said once they put their program in place and that there's work – I mean, we're spending time now. If the Commissioners were to approve an ordinance, we'd need to have forms and processes and the like. They said once they put their programs in place it's really been a part of the development review process when a developer comes in and says, I want to density credits to do this project. It's kind of – you know, it might take a little more time to do but it's not a huge commitment of time. Again, if – it really depends on some of the decisions that are made – if the Commissioners said, Let's go with a density credit program and they said, And let's have an appointed advisory committee on that like we do with Conservation Futures, and let's have them start meeting monthly even though we don't have any revenues, you know, to develop criteria. Then you've got a staff person that's serving the committee that meets monthly and it takes time. So it really – I mean, you could put a program in place. It would take some time to get the forms and the processes and then you could just sort of forget about it

and it probably wouldn't get used. So I think we said in here – I said 5 to 10% of a person's time may be – you know, depending on how actively you're trying to market it – market the program. If you're going out to Kiwanis Clubs and Rotary and economic development associations and saying, Hey, we've got this program. You might get more use but you're putting more time in up front. It seems like a – and then I'll shut up – having a website that is very user-friendly and, you know, here's the program. And if you start receiving inquiries from people that are interested in selling and people interested in buying...King County has kind of a matchmaker thing on its website, so, you know, maybe there're some things you can do that way.

Mr. Greenwood: I don't want to see that particular website!

Mr. Johnson: Well, not matchmaker but just interested sellers, interested buyers.

Mr. Greenwood: No, I know what you're saying. Right.

Mr. Pernula: Keith, I think your question was also about having a program that might be on ice for a while, and I think that might have to do with markets which we don't have a lot of control over. So I would imagine that as the market gets hot, it'll be active and as it's cold it'll –

Mr. Greenwood: But then it pays for itself then, right? But it doesn't pay for itself and it's just a cost if there's no activity. It doesn't have to be a lot of cost. I mean, you could manage that cost. I mean, that's your job.

Mr. Temples: I received a lot of information on this element for quite a while now, and to be very honest I'm still trying to study it and assimilate it. And I understand the process you're talking about. I, like Keith, have concerns about market generation and everything else. I really don't have any questions at this time because I don't feel like I've studied this to the point where I'm really comfortable with it yet, to be honest.

Chair Axthelm: Kevin?

Mr. Meenaghan: What is to stop – if this program was put into place, what's to stop it from being changed in the future and/or, I guess I would say, revoking land that's put in conservation or preservation? So if we put land – and I'll liken it to the Farmland Legacy – once the farmland goes into legacy, does it ever have the opportunity to change, to come out? What stops that from happening? You know, if we change Commissioners, if we – you know, things change, so what's to stop land from coming out of that preservation?

Mr. Walters: The conservation easements under the Farmland Legacy Program are held by the County. The County purchases them and they own the conservation easement. The easements themselves declare that they are permanent but the landowner and the County can agree to modify them and, in fact, we do occasionally because there are various circumstances that require modification. In other states, there are conservation easement enabling statutes that require the consent of the state Attorney General or somebody like that to approve modifications or to remove conservation easements. Here we do not really have the conservation easement enabling statute. There's a model statute for use by states that we don't have in the state of Washington, so there're only a couple of lines in state law that enable conservation easements here at all. So, in fact, theoretically I think you could remove a conservation easement from a piece of property if both the landowner and the easement holder agreed.

Mr. Meenaghan: It seems to me that if a landowner sold, the new landowner says, Well, I could care less about conservation. I want to build. I want to sell – you know, all that kind of thing. He or she would be coming to change. What stops that from happening?

Mr. Walters: Right. So I think what in reality stops that from happening is because there's a special assessment on your tax bill for the Farmland Legacy Program, and if we buy development rights and then give them back to people that will quickly become a very unpopular thing to do politically.

Mr. Meenaghan: Okay.

Mr. Walters: There could maybe be taxpayer standing to sue to prevent that kind of thing from happening. But I tend to think not. I think that this is not really a problem, but theoretically it could become one.

Mr. Johnson: Yeah, I think Ryan's talking hypotheticals. I mean, the County's already committed to the Farmland Legacy Program. The farm community is very committed and, you know, if there were a similar program that was privately funded I think there would be the same level of awareness and concern that the easements are permanent. But I do want to – I mean, I've kind of said to Paul Kriegel, a member of the FAB, and it seems to be an issue for the foresters and maybe not so much for the farmers – you know, the permanency. What happens if things change dramatically? And so I have said, you know, so that you know I'm listening I will do some research to see how other jurisdictions have dealt with that.

Mr. Meenaghan: I just – you know, I think when – backing up to the SMP when we start talking about volcanoes and earthquakes, things change and I go, okay, then what's going to change? So, anyway – yeah. Thanks.

Ms. Lohman: I notice that it's ten of nine and I have multiple questions. But I have a lot of questions that revolve around administration, but I'm going to ask about what constitutes an eligible piece of property. Because just because you have a piece of Rural Reserve land and it meets the size criteria doesn't automatically mean presto facto you've got a certified lot or you've got a lot, because that's true in the ag zone. If you have 40 acres, it doesn't mean that you get to build. Same in the forestry. So I want to know – I don't want people thinking, Okay, I've got 80 acres of Secondary Forestland so I automatically have a development right or I might potentially have this CaRD cluster arrangement, and then they go in and they find out, Oh, wait a minute. You really don't. You don't have water or you're too far away from the fire district or all these other things. So how do you sort that out, and how many actual eligible buildable lots are there that we have to go to such extreme measures?

Mr. Johnson: Such extreme measures to what?

Ms. Lohman: You're asking people to give up a potential property right for forever and I see cities developing and I do not look at Burlington expanding and infilling and raising their dikes as a good thing for me. I don't see that as a positive so I'm asking, Okay, we – on the rural side – we give up our development rights and we encourage it all to happen in the cities. Where's the protection when I need to raise my house that it's higher than the last known flood in '50-something? And when you increase the density and the vulnerability of a city on a floodplain and they feel more inclined to want to protect their forces, it puts a lot of pressure on us rural people. So that was probably a five- or six-part question. Sorry.

Mr. Johnson: Well, let me start with what qualifies. So that was a big topic of discussion with the committee, and I think even the report talks about the Boon Rule. So Charlie Boon, who's a realtor, was one of the members and he said – and he was one of the members who said, This doesn't work for me – but he said, I don't think anybody should be able to sell a development right that they can't actually build on their land. So basically the first level of review that would happen – just, as I understand it, happens with the Farmland Legacy Program – is the Department would conduct a lot certification process and determine how many development rights – what's the term, Ryan? – certified for building there are on the land. So it would go through that review. We also said – and I think this is a level that goes above and beyond what Farmland Legacy does. The committee recommendation, or the majority, was tht if you're Industrial Forest land and you're outside of a fire district you can't build on that land so you don't have a development right to sell. Or if you're land that's entirely within a floodway, you can't build in the floodway and so you don't have a development right to sell. So basically what qualifies – you'd go through the lot certification process, then if that were carried through through code. If Industrial Forestland is outside of a fire district it wouldn't have a salable development right, and if the property's entirely located within the floodway it wouldn't have a salable development right.

We also talked about, Oh, you don't have access to water. So there's another level of review, then, that you get into where the fees start to add up where you could spend five, ten – I mean, I haven't developed a lot in rural Skagit County but, you know, septic, water, all sorts – critical areas.

Mr. Walters: But those are optional provisions.

Mr. Johnson: Yeah, and typically what I hear from our people who do development review is they don't stop development. They tend to determine – they might determine where it happens on the property. So we would not – and just like with Farmland Legacy, I don't think you have to go through those other very expensive steps of the development review process to get your – to be able to sell your development right to Farmland Legacy as if you were actually going to develop it. Because you might have a landowner who's, you know – and I don't know the numbers – spending 10 or 15 thousand dollars to demonstrate that they could actually build and they might be paid 20 or 25 thousand dollars for their development right, and at that point it's just – why would you do that?

I guess the other thing I would say: You would say you're asking us to give up our property rights. Nobody is asking anyone to give up their property rights. The program would create the opportunity, if a landowner wanted to sell their development right, to either apply to the County to the purchase of development right program and then, you know, if they were selected there would be an appraisal and an offer would be made, or to negotiate with a potential buyer and if the money that that buyer was offering met what they felt their development right was worth then they could choose to do that. But nobody's forcing anyone to sell their development right.

And, you know, going back to Envision Skagit and to the TDR committee, I mean that's been a big discussion about Burlington. There was one person on the Envision Skagit committee that just thought Burlington should roll up and go away. You know – Yeah, we made a big mistake 125 years ago and it shouldn't be there. I think it's pretty good that Burlington has said, We're not going to expand into the floodplain. But Margaret Fleek has said, and there's a footnote in the report, very vociferously, We're not a preexisting, nonconforming use that's just going to shrivel and dies. So whether there is density credit and TDR or not, I think Burlington wants to be a viable city going forward. You know, that's a bigger conversation. Anacortes is another city

looking at this and they're out of the floodplain, they're out of the agricultural lands, they have water.

Chair Axthelm: Amy?

Ms. Hughes: My concern is with Goal 4, Establish a limited number of rural receiving areas. And how would that work? Because there's kind of a ripple flow that happens with all decisions? And what I'm thinking about specifically is residential growth has needs. And you just mentioned Sedro-Woolley's having to back off a little bit of their residential because they need the commercial. Well, you have a rural area that doesn't have the commercial or the business, so you have residential, you have forestry, and you have ag lands. So then you put more growth into that area, you're going to have to pay for that growth through the surrounding properties. Did my point make – did you understand my point on that one or do I need to back that one up?

Mr. Johnson: No, I think –

Ms. Hughes: How it affects the rural tax base in a community. We don't just have County taxes. We have a lot of rural tax bases that are all independent. And so you put a residential growth in there that needs those facilities, your taxes are going to go up, which means that if you don't have the business sector to take care of that it goes into the ag ground, the forest ground to take care of that residential. So I can see where this could work as far as the rural cells to the urban area if they're to be a receiver, but for the rural area to be a receiver I think we need an economic analysis of what that does to a community when they have to pay for that residential growth.

Mr. Walters: You're talking, like, capital facilities like fire services and that kind of thing?

Ms. Hughes: Mm-hmm. If you look at Conway – but I think that eastern Skagit County might have a lot of places like Conway – we're restricted because of planning for any industrial commercial growth, which means that we're responsible for that tax base. Well, in a healthy community the tax base has a lot of different factors into it and so when you decide that the Conway Ridge would be a great receiving area, well, who's going to pay for that residential growth since residents don't necessarily pay for 100% of their growth?

Mr. Johnson: So I would say a few things about that. I mean, really the initial rural receiving area that we've always been looking at is the rural upzones – the Comprehensive Plan Amendments that add residential development potential to a property. So those go on now and they will likely continue to go on whether there's a contribution to land conservation that's required in order to access – I have a bad habit of covering my mouth – in order to access that additional development. So I think that's kind of a base line situation that will – so the Comprehensive Plan Amendment would need to be reviewed and approved on its own merits. It would need to be consistent with the designation criteria. No one's proposing that there be modified designation criteria if somebody uses a TDR. But that's happening already and so that's kind of Commissioner Dahlstedt's statement: Why are we using public funds to purchase development rights on ag land and then turning around and granting upzones that are granting more development rights and there's no requirement or mechanism in there so that the recipient of that upzone contributes to further conservation?

Looking at the other two possibilities, the rural infill and the CaRD situation: It's a good question. I've had people tell me and, like the state says, you know, You can't use state funds to look at rural to rural transfers because we don't think that's consistent with the Growth Management

Act. You could have a requirement that if you're creating an entirely new rural development option within, like, a Rural Village, but it has to be a one-to-one transfer of a development right from a resource land. So in order to put an additional lot in a Rural Village in that infill situation I talked about, you need to purchase a development right from Secondary Forestland entirely or you need to purchase a density credit that has the same value as an average development right from a Secondary Forestland. So then it becomes a mechanism to move a development right from a resource land where the landowner is interested in conserving the land into an area – an existing cluster of development where some people think, you know, the Rural Villages are where we want that vitality and infill development makes sense. It's where the infrastructure is.

So I guess that's a partial response to that. I guess a third one would be some jurisdictions are applying TDR to commercial development and, in fact, the market analysis looked at that for Burlington as an option that they can consider. That's not a part of this proposal so, you know, it's not – so there are opportunities for additional commercial uses to locate in the rural area, particularly in Rural Villages or Rural Centers. I don't know if that's much of a response.

Ms. Hughes: It's a complicated issue.

Mr. Johnson: Yeah. Yeah, I –

Ms. Hughes: So we can't just throw an arrow down and not think of all these other things because it affects a community. I think one of the reasons for the young people I know that Sedro-Woolley is so attractive to go to to live in is they can afford to live there. And now we have too much growth and not enough supporting mechanisms. So I would like to see economic analysis done on our decisions sometimes and how it affects communities.

Chair Axthelm: I do have a question but before we get to that I'd like – it is five after nine. I know a lot of us have a lot of questions. I do have a suggestion. I'd like to see this come back.

Ms. Candler: Yes.

Ms. Lohman: Yes.

Chair Axthelm: But I would suggest that everybody take and write all their questions down and e-mail them to the County so the County can answer those.

Ms. Lohman: But can they –

Chair Axthelm: If it isn't answered, then we still have more chance to –

Mr. Pernula: It could come directly to me or to Kirk and we can answer them.

Chair Axthelm: So just basically then they can take all those questions and mull over them together and answer them.

Mr. Greenwood: Or at least be prepared in a forum setting to respond to those? Because some of my questions are being answered by somebody else's question. So it's helping to boil down some of mine, and maybe you could boil them down ahead of time because five people ask the same question.

Chair Axthelm: So I think if everybody – what's a good deadline for turning the questions in?

Mr. Temples: Well, when's our next meeting?

Chair Axthelm: The next meeting's the –

Mr. Pernula: Well, the next meeting's in two weeks but it's going to be a workshop on our Comprehensive Plan Update.

Chair Axthelm: Which won't work.

Mr. Pernula: It won't work because it's pretty much tied up. We've got 27 code amendments that are going to be looked at briefly and another 7 that are statutory code amendments that we need to make and considered at a regular workshop.

Ms. Mitchell: Also to factor in is June 16th the Commissioners are hearing the next marijuana thing.

Mr. Pernula: That's correct.

Ms. Mitchell: And they asked for us to have input on that, too, so we have that.

Mr. Pernula: I was going to give something out in just a minute.

Ms. Mitchell: Okay, great. We have that on our plates to do – to prepare questions.

Ms. Lohman: What's the drop-dead date on the TDR thing? Is there – do you have a deadline?

Mr. Johnson: No, there's not an imposed deadline. I mean, the policies are a part of the 2014 docket and so I think – I mean, we're required to complete the docket by the end of the year or roll things over. But I think the Commissioners like to see work items completed in the year that they're being considered. So if you work back from that, we don't want you to be at the point of a gun. You know, we don't want the proposal coming to you on November 15th, so I had been thinking a good goal would be to release it by the end of July and have a good long comment period and have a hearing in late September or October. So I expect, schedule willing, that I would be back sometime in July with policies like these that are actually in policy form and then a draft code for further discussion.

Mr. Temples: Mr. Chair?

Chair Axthelm: Yeah?

Mr. Temples: I'm just proposing that maybe in the interim that you and the staff get together and decide when you want to schedule when you come back and do this, and maybe part of another meeting. But let's do it then. You guys can work it out.

Mr. Greenwood: We could have our questions in by the end of the month perhaps.

Ms. Hughes: While we think about this, why don't we let Josh do his?

Chair Axthelm: No, I'll have chances. I just want to make sure that we have that. I'd rather – if we have another time, then I'll keep it simple.

Ms. Lohman: I think we definitely need more time because we've all asked one question.

Mr. Temples: I didn't.

Chair Axthelm: I've got six or more.

Mr. Greenwood: I can ask one for you.

Chair Axthelm: But some of our questions are going to repeat. It's just if we can all those questions in to them, then the next regular meeting –

Ms. Lohman: And I agree with that idea, but I think we should have another workshop scenario, not a hearing.

Chair Axthelm: Yeah. But if we come with those questions already asked, we already might have those answered and be able to discuss that a little bit but have those answered.

Ms. Candler: So we just need to pick a deadline.

Chair Axthelm: Yeah.

Ms. Candler: End of the month?

Ms. Mitchell: End of the month.

Chair Axthelm: Let's say the end of the month and have it ready for the next meeting.

Mr. Pernula: Well, I think maybe I'd better talk to you because we've got a pretty full schedule of meetings and hearings coming up over the next few months. But a few of the items are slipping a little bit so there may be openings here and there that we can put this on future agendas. But we'll have to take a close look at it and see what questions we get, when we're able to prepare answers to those questions, and when we would be able to schedule the meeting.

Chair Axthelm: My intention is if we can get these in to you we may not have to discuss that here. They'll be public. They could be in a letter form so the public has them but we wouldn't necessarily have to discuss it all over the mic.

Mr. Meenaghan: A little bit like we did with 502.

Mr. Walters: Right. If you have questions now, you can send them now and then Kirk can be working on them. If you then come up with additional questions over the next two, three, four weeks, then you can send those later, but otherwise he's just doing nothing over there – just waiting.

Ms. Lohman: But the potential is there is a possibility that we hold this over and say we cannot get it done this year.

Mr. Walters: There is a possibility that *you* say that.

Ms. Lohman: Yeah.

Mr. Greenwood: I might say it too.

Chair Axthelm: To get our word in.

Mr. Walters: I'm saying – anytime there's a possibility that the Planning Commission says that, there's a possibility that the Board says, We're going to do it anyway. So you should keep that in mind.

Mr. Meenaghan: That's their choice.

Chair Axthelm: So we get our word in, let's put like a week before the next meeting turn in everything? Two weeks? Just turn in questions. It's not going to come up at the next meeting. It'll be the meeting after that. So that gives them at least two weeks.

Ms. Mitchell: It could be a question train, too. We keep sending as we think of them.

Mr. Walters: Yes.

Ms. Mitchell: You accept them.

Ms. Lohman: What is the calendar date? June what?

Mr. Pernula: June 2 today, so a week from today would be the 9th.

Chair Axthelm: But even if it makes it in before our next regular meeting, because we won't be discussing it the next meeting for sure.

Mr. Johnson: Yeah, I think 16th. I mean, you can send them in sooner, but let's say by the 16th.

Chair Axthelm: And then that'll give them two weeks to answer the questions.

Ms. Lohman: Okay, by June 16th.

Mr. Greenwood: We were just talking about the number of other items that we want to try and address between now and – well, prep for the next meeting coming up, which is in two weeks, and preparing some comments for the upcoming hearing on marijuana. That's why we were saying that in the next two weeks is not going to be a good deadline for us to get in our questions to him unless you've got them in your hand right now.

Chair Axthelm: Oh, I see what you're saying.

Mr. Greenwood: That's why I'm thinking the end of the month would be an appropriate deadline.

Chair Axthelm: Okay. Are we good with that? Okay, so we'll get you some by the end of the month.

Mr. Johnson: Okay. If anyone has questions that they want to submit earlier that would – I would start with that.

Chair Axthelm: All right. I'll pick one of my questions anyway. Is no net loss of farmland – it's no net lost farmland, not no net loss of Ag-NRL, right? Or does it specifically state Ag-NRL?

Mr. Johnson: So what –

Chair Axthelm: What I'm getting at is it – are there lands that are farmland that are not zoned Ag?

Mr. Johnson: Yeah, so I think the no net loss of farmland, I think, is something, as I understand it, is something that Friends of Skagit County is urging the County to adopt or has had discussions with the County Commissioners about. The Envision Skagit Citizen Committee also thought that there should be a no net loss of farmland policy, and it saw that protecting these other ag lands that are outside of Ag-NRL was a way to help accomplish that. I think I concluded in the memo Kim Mower, who's a dairy farmer from Hamilton, felt very strongly that even though they're not our Ag-NRL lands they're still damn good farmlands and we need to find a way to help landowners who want to conserve them. But there's no statement as part of this proposal of no net loss of farmland that I'm aware of.

Chair Axthelm: What you had was you were talking about taking the Ag-NRL out of the TDR. But are the other lands protected already, too, is what I was asking. It does indirectly apply to the TDR because if those lands are protected it's no net loss of farmland, then why do we have the TDR program – or why are we asking for a TDR program to protect farmland because it's already protected?

Mr. Johnson: Yeah, so we have this whole system of protection, which is a very strong system of protection. We have 40-acre zoning for agricultural land and 20-acre for Secondary Forest and 80-acre for Industrial Forest, and then we have – you know, in agricultural land you need to show three years' farm income in order to build a residence because it has to be accessory to a farm use. Nonetheless – and I'll use the example of Farmland Legacy – I think the ag community as a whole feels that even those very strict protections don't achieve the optimal level or the desired level of protection of the resource land, because even at one – there's something like 6 or 700 development rights still out there in the ag land, and if there were 6 or 700 more residences in the ag land I think, number 1, it would look differently, and, number 2 – Annie could speak to this better than – I mean Commissioner Lohman – better than I – or Hughes – it would probably function differently as ag land than it does currently. So this is a non-regulatory, whether it's Farmland Legacy or TDR/density credit – it's a non-regulatory mechanism to try to provide additional protection. And because the easements are permanent, it's protection even if you have a different set of County Commissioners that comes in and decides to turn the entire county into, you know, five-acre zoning or something like that. So I guess it's the same argument as why there is Farmland Legacy – because we have damn good zoning, we're GMA-compliant, but there's still more that can be done of a voluntary nature.

Chair Axthelm: Okay. All right, thank you. So with that, we all have more questions so we want to delay this to a future date.

(sounds of assent from several Commissioners)

Chair Axthelm: Okay.

Mr. Temples: Do you need a motion?

Ms. Lohman: And I need to say something. When I was speaking with Commissioner Wesen he told me that we can spend as much time as we need to, especially on things that don't have a hard date.

Ms. Mitchell: He told me the same thing.

Ms. Lohman: So I just want to say that out loud.

Chair Axthelm: So it appears to be unanimous that everybody wants to postpone it to a future date. Okay. _____ necessary. Fast track!

Mr. Johnson: I'd like to say one thing. Mr. Stauffer talked about a correction to a comment he made I think two weeks ago. I'd like to apologize for the tone of my comment about his comment two weeks ago. That wasn't appropriate and I just wanted to say that in front of him and you.

Chair Axthelm: Thank you. Okay, so, Dale?

Mr. Pernula: Okay, I've already gone over what's going to happen at the meeting in two weeks. That's the workshop on the code amendments. We're issuing a new staff report on the final land use regulations for marijuana facilities, and I'm having those passed out right now. And as well, I'm passing out the regulations that will be going out with the staff report. As you may recall, you held a public hearing on an ordinance. That ordinance went to the Board with your recommendations, and we had some somewhat differing recommendations but a lot of those are the same as what you had. And what I wanted to point out is that we're backing off a part of that because we really didn't differ with you on one of those recommendations, and that's on the special use permit for retail sale of marijuana. The reason why we recommended not having that is because there weren't any development standards that were associated with those special use permits.

So if you look on page 6, it says Retail Facilities. And if you look at Rural Center and Rural Village Commercial zone optionally, and it shows you have the options of the original ordinance, your recommendations or the staff's recommendations. At the very bottom of that long paragraph it says "The Department has drafted and included new language for special use permits for retail facilities to require appropriate conditions to avoid customer use of marijuana onsite or adjacent areas (security cameras, fences, or site design)." And originally we just couldn't think of any additional standards that we could have under the code but we came up with a few that we're suggesting in the ordinance. If you look on the ordinance on page 4 it says "A special use permit for a marijuana retail facility must (a) be conditioned on holding a current license from the State Liquor and Cannabis Board; (b) include appropriate conditions to avoid customer use of marijuana onsite or in adjacent areas (e.g., security cameras, fences, or site design); and (c) mitigate other impacts."

And the reason why we had a difficult time initially to come up with some standards was that we do special use permits for lots of retail facilities and they're pretty much the same kinds of conditions that we always have. But then I talked to Annie and Annie pointed out that this is one of the concerns that she's heard about – I think it was from Amy – that this may be one of the concerns that people would have. So we fashioned a proposed condition and had some other conditions that we're including in here. So that's one thing that we're going to be consistent – *more* consistent with you on our recommendation. I just wanted to let you know.

Ms. Mitchell: Thank you.

Chair Axthelm: Anything else?

Mr. Pernula: Do you need to have anything?

Mr. Walters: No.

Mr. Pernula: That's it.

Chair Axthelm: That's it? Okay. Do you have any announcements or discussion from the Planning Commissioners? Do we have a motion?

Ms. Lohman: Motion to adjourn.

Mr. Temples: Second.

Chair Axthelm: Okay, a motion and second. All those in favor?

All Commissioners: Aye.

Chair Axthelm: The (gavel) meeting is adjourned.