Skagit County Planning Commission
Work Session: 2016 Comprehensive Plan Update – Code Amendments
June 16, 2015

Commissioners:	**Josh Axthelm, Chair** **Keith Greenwood, Vice Chair** **Tammy Candler** **Kathy Mitchell** **Robert Temples** **Annie Lohman** **Kevin Meenaghan** **Amy Hughes** **Matt Mahaffie (absent)**
Staff:	**Dale Pernula, Planning Director** **Gary Christensen, Planning Manager** **Ryan Walters, Civil Deputy Prosecuting Attorney** **Brandon Black, Senior Planner**
Public Remarks Commenters:	**Ellen Bynum, Friends of Skagit County** **Bill Knutzen** **Ed Stauffer** **Carol Ehlers**
Code Amendment Public Commenters:	**Ellen Bynum, Friends of Skagit County** **Carol Ehlers** **Bill Knutzen** **Ed Stauffer**

Chair Josh Axthelm: (gavel) I'd like to welcome you to tonight's Planning Commission meeting. It is Tuesday, June the 16th at 6 p.m. and I call this meeting to order. Are there any changes or comments from the Commission regarding the agenda?

Keith Greenwood: Just, as you noted, public comments should be included after the Call to Order, right?

Chair Axthelm: Actually we had talked about it with Dale. Because this is a special meeting we just decided to go through the agenda so we can get as quickly as we can to it – unless you guys want to go ahead and have public comment.

Mr. Greenwood: I think while people are here, if they'd like to use their three minutes each, I think that'd be appropriate.

Tammy Candler: I concur, too.

Mr. Greenwood: What do you think?

Chair Axthelm: The reason is that later on they'll have the opportunity to comment on what's on the agenda.

Mr. Greenwood: Right. But this might be off-topic comments.

Chair Axthelm: Okay. I suppose three minutes isn't a big deal anyway. Okay. So we'll add back into the agenda the Public Comment. Is that the Commission's will?

(several sounds of assent from the Commissioners)

Chair Axthelm: And just a reminder we have the three minutes. So you can go ahead.

Ellen Bynum: Good afternoon, Commissioners. Ellen Bynum, Friends of Skagit County, 110 North First, Mount Vernon. I wanted to talk a little bit about what you're going to do in your work session, and I might talk more later. But one of the things I wanted to reference is the process that you originally used to develop the Comprehensive Plan and the Countywide Planning Policies and the codes. First we developed the Countywide Planning Policies from a series of meetings that were done with citizens and then we wrote the Comprehensive Plan and then later from that we wrote the code. So it's very hard for me to think about starting with the code and going backwards. So I was incredibly frustrated with this list – with this laundry list – so I had to call Dale and ask him, you know, How did you get the list? And the list is obviously an accumulation of other things that didn't get taken care of in past years and during updates and some other legal changes that are happening. So I wanted to say that to me because the original order was the policies then the plan and then the code, it seems to me that if you're talking about changing codes you ought to have some reference back to those policies and the plan pieces/elements that would be affected. So I was just going to request that you think about that in terms of staff time and what it would take to do that. I couldn't make an informed decision about some of these because I didn't have that other information. And I was not really interested in – you know, it took me four or five hours to go back and just read the RCW references and, you know, I know a lot of people don't want to put that time in, so it would be helpful to have that other information.

So the other thing is is that it seemed to me that this was a, you know, sort of like a spaghetti list. It had everything in the sink in it, you know? It was like you have things that you have to do and you just stuck them all in one document. It'd be helpful, I think, for the Commissioners and for the public to understand that some of these – and you did divide out the legally required ones; I understand that – but some of these are pretty much just change of terminology, change of clarification. Those are fine and I think any one of you could make an informed decision about it. The ones where I have some problems with saying that they're housekeeping is when the change that's being suggested would alter a process that the public uses to have input and/or it might affect the way the County complies with GMA. We don't have any information about that so I'm presuming that staff are going to at some point provide that kind of linkage and that information.

I guess the other thing is is I don't think we have on the docket to review the Countywide Planning Policies. But just as you're going to hopefully give us a workshop on how to do Comprehensive Plan Amendments, perhaps we want to do a public discussion about Planning Policies and how they fit into this process at some point. I mean, I haven't read them in a while

but when people come to me and ask me about them I know where to go to look them up, but I also don't know if we need to do any modification on that. And we decided not to review those. So that was sort of my process suggestions for the moment and I might have other things to say later. Thanks.

Mr. Greenwood: Thanks.

Chair Axthelm: Thank you.

Bill Knutzen: I'm Bill Knutzen, 11790 Avon-Allen Road, Burlington, Washington. And my purpose of being here tonight is to – as many of you may know – is to set the stage for perhaps getting our property back in the urban growth area, which was moved outside the urban growth area last fall. Skagit County has an opportunity during this update of the County Comprehensive Plan to correct an action that took place last fall. I speak of the downsizing of the Bayview Ridge urban growth area from a residential population forecast of 5600 population to 72. The Planning Commission got it right by approving the planned industrial development modifications but rejecting the reduction of Bayview Ridge UGA residential component. Unfortunately, the County Commissioners overruled the Planning Commission and destroyed 15-plus years of work and I don't know how many million dollars of taxpayers' funds, for which there will probably be no chance to recover.

We now know that the reason for the shift in population allocation was partially due to the Northern State Hospital property and a Janicki proposal which was announced earlier this year. This is a project we all need to support and probably will be a huge step forward for Sedro-Woolley and Skagit County, but we can have both this project and still maintain the former Bayview Ridge urban growth area boundaries.

The Bouslog property has represented the largest acreage in the Bayview Ridge urban growth area other than the airport since the beginning of the plan. Nearly all of the Bouslog property was converted from residential to industrial zoning in December of 2014. As a result, the population figure of 5600 was drastically reduced. Presently the existing population of Bayview Ridge urban growth area is approximately 1883 people. Adding 72 people to that figure is a population of 1955 people in 2036. The enclosed Skagit County 2036 Population and Employment Allocations dated July 2014 shows a population growth of the Bayview Ridge urban growth area during the 2015-2036 period as.2%, while the employment growth in that area is 11.2%. Where will the workforce live? The 60 acres of property zoned Bayview Ridge urban growth area residential in 2014 and taken out of the urban growth area in December of 2014 would represent a population increase of less than 400 persons during the next 20 years. This would make a total population of the Bayview Ridge urban growth area of 2355 people, less than half of the 5600 projected during the original plan.

The Bayview Ridge area will be the drawing force for attracting new industrial expansion for Skagit County for some time to come. The airport, the rail, and all the infrastructure is in place now. The only thing missing is a place for the labor force to live.

I urge the County to restore the original residential boundaries of the Bayview Ridge urban growth area to include the 60-acre Knutzen property. The infrastructure is all in place and we would like to complete the project soon.

Now I have an additional letter from our attorney that I was going to add as an attachment and give to you. Would you like me to go through that now or would you rather just read it later?

Chair Axthelm: Do you want to take a minute and listen to it?

Kathy Mitchell: Why not?

Robert Temples: Well, it's exceeded the three minutes.

Mr. Knutzen: It's a short –

Mr. Greenwood: Three minutes, I think – it's up to you. I think we could take it in writing.

Chair Axthelm: We'll take it in writing.

Mr. Knutzen: Okay. Thank you.

Annie Lohman: Can we have both of them in writing?

Chair Axthelm: Hmm?

Ms. Lohman: Could we have both in writing?

Chair Axthelm: Do you have both in writing?

Mr. Temples: Well, he'll give it to Dale and Dale will copy it for us.

Ms. Mitchell: Dale, will we be able to get both in writing?

Mr. Knutzen: Pardon me?

Ms. Mitchell: Will we be able to get everything that you said – both those things – in writing?

Mr. Knutzen: Yes.

Chair Axthelm: Thank you. Okay.

Ed Stauffer: Good evening, Commissioners. Ed Stauffer, unincorporated rural Skagit County near Alger in the Chuckanut foothills. It's beautiful there right now. Birds are singing. We've got that extra two hours of twilight being in the lee side of the mountain – my gosh. But I'm here instead and I bet you wonder why. It's because I care so deeply about who you are and what you do and who you represent. On that line, I want you to think about something. How many of you have the ability to vote for a mayor? How many of you have a city council that represents you? What do I have? You. You need to perform that function for me, as an unincorporated resident. These days and ages the rural population of the United States is a minority. It's up to you that we're not discriminated against by policies that are accepted by government. That's why when you read the Planning Enabling Act you need to read those words not that it is your job to help the Planning Department as the third leg of our three-legged Planning Department and effort. Your job is to make sure that our Planning Department hired staff carries out the wishes that you're advising under your appointment our elected officials, our Board of County Commissioners, to implement. We make the decision of what we want to do.

So tonight you're getting a shopping list of items to consider. If you're in the same position as I am, I try to be conversant with the issues. I got a final copy of what's being proposed last Thursday or Wednesday. I know there were 6 that are claimed to have been required. I know there's a bunch of other things that were way too complex for me to get on top of before tonight's meeting. I'm terribly concerned about what's being done with monkeying around with vested rights.

I'm going to ask each of you, (a), if you cannot consider an issue with its relevance and importance to the rural residents of unincorporated Skagit County, you should ask that item to be taken off of your agenda as inappropriate, number 1.

Number 2, I would always ask the question: Whose idea was this? I think if you do that with each item you're going to be asked to consider tonight you might find three that originated from a mind in Skagit County. Then you stop and think, Who am I representing? And don't be hesitant to ask for a complete job of preparation for your deliberation on behalf of your hired staff. Thank you.

Carol Ehlers: Carol Ehlers, west Fidalgo Island. Do we have another opportunity to speak tonight on specific topics, or is this my only chance?

Chair Axthelm: No.

Ms. Ehlers: It says in the agenda – it says in what was published that staff will talk to you for an hour-and-a-half and then there was an opportunity for the public each to speak a whole 3 minutes, and then you're going to discuss – you certainly aren't going to discuss much from our 3-minute input, but there are things for you to discuss. Do I have another chance or is this it?

Chair Axthelm: You have another chance.

Ms. Ehlers: Thank you. A question of County policies: You'll find them in the Comprehensive Plan in each chapter. They're called CPPs, County Planning Policies. The ones that are in the Comp Plan have all been approved through the process, but there is a set of planning policies that were developed by that secret committee that the planners of the Cities and the County have that meets in secret apparently under the – some kind of umbrella of SCOG, and their date isn't noticed so the public can't take part. It is, in other words, completely un-transparent. And they developed a set of policies, which is fine, but there was never a hearing on them. Now the date that it occurred on Gary will perhaps remember. It was during the Hamilton planning process. And those policies *were* published, but the Cities do not believe that those of us in the county have the right to a hearing on those countywide policies. There was a fight over this regularly throughout the '90s and the County didn't pay any attention to us. So those policies, which are not in the Comprehensive Plan so you don't need to be confused; the ones that were in the Comp Plan went through the Planning Commission. The ones that are out there lurking didn't go through the Planning Commission so they didn't follow the legal process required by Growth Management. I think that's important. And what distresses me is that as I go through process after process and meeting after meeting I don't see anybody talking about the County Planning Policies. But that's the basis for which supposedly you started with the law and then you had the policies. The first set was developed in one of the best processes this County ever had. A full year of vision, 1800 people took place. Some of them worked on their – what they wanted for months. Guemes is not the only one. And those were turned in and those are available. I have a set. Then we spent a full year – Gary was in charge again – in which the Planning Commission was joined by the planner for the City of La Conner, the planner for

Burlington and Sedro-Woolley. Nancy Noe was brilliant. She was half-time in both and again and again she found the proper word to say what we wanted and what the planners wanted so that it was legal and appropriate. I compared every single County planning policy to the 1800 comments that we had. Now that is a real process. It hasn't been done that way since. It was much better here than most of the rest of the state of Washington, and I'm very proud and pleased to have been part of it. I want you to have the same pleasure and privilege about the County planning policies and then the code, because all it takes is a nuance to twist the code and make it what is supposed to be and turn it into something that's risky. I'll bring that up later. Thank you.

Chair Axthelm: Thank you. Are there any other public comments? Seeing none, we'll move on to the next item on the agenda, the 2016 Update Code Amendments Work Session.

Dale Pernula: I'll start it off. As you've seen from the staff report, there are about 6 statutory changes that are necessitating some changes to our codes, and there are 27 others that have been docketed as well as part of the Comprehensive Plan Update, and perhaps some additional ones that could be added on. Many of these are fairly small. There are several that could have some potentially large impacts.

Anyway, they come from a variety of sources. A lot of them have to do with simply implementing our current code and running into discrepancies and that kind of thing, and we'll go over each of those and what we're trying to correct. And so what we'll begin with is what's shown in here as S-1, and I believe Gary's going to talk about that one.

Gary Christensen: Good evening. Good to see many of you again. Regarding this first one, which is identified as S-1 – which infers that this is a state-required code amendment proposal – which deals with, as the title suggests, transfer of jurisdiction over conversion of related forest practices from the Department of Natural Resource, commonly referred to as DNR, to County, pursuant to an RCW statute. And before I just summarize what the intention is, I wanted to set the stage and provide you with a very brief background which may help you understand kind of the time and process involved with this.

So back in 1974 the Forest Practice Act was adopted by the legislature and it primarily dealt with the management of timber, harvests, and lands. And it was a few years later then in 1997 through the Department of Natural Resources' kind of lobbying effort and through legislative interests, it was proposed and adopted by the legislature that Class IV General Forest Practice permits would be transferred to local governments – Counties, Cities and Towns – when a certain threshold level was established or met. And that was principally populations of local governments – those jurisdictions – and how many Forest Practice permits they were dealing with on an annual basis. And then ten years later the Growth Management Act was amended to really recognize and concur with the amendments of the Forest Practice Act in 1997.

So you had two state statutes, both the Forest Practice Act and the Growth Management Act, both of which now were referencing that under certain circumstances certain types of timber harvests would be required to transfer to local governments if certain specifications and standards were met. And then more recently in 2011 the statute was changed – the Forest Practice Act statute was changed to remove language that referred to 1960 platting, which meant that any lots that were platted after 1960 – any subdivisions – would no longer be referenced as such in the Forest Practice Act, and therefore requiring that those lands by that very nature would be deemed lands that had been converted.

So that's a little bit of kind of the statutory background of how we got to where we're at. Now, more specifically, this proposal deals with forest-managed lands that are likely to be converted. Now this is initiated by a timberland owner or a forester, where their intention is to not manage these lands any longer for long-term commercial timber management. And in those cases, which is at the landowner's discretion, when in fact those lands are within a UGA, or even outside of a UGA when indicated as being converted, then in our specific case, because we are meeting those threshold levels, those authorities for reviewing those types of timber harvests will be/shall be transferred to Skagit County. You might ask, Well, what are other jurisdictions doing? Have they complied with this? I can share with you that our neighbors to the south, both King County and Snohomish, have assumed that authority. So they are indeed reviewing those lands that are likely to be converted under their regulatory scheme. And Whatcom has not yet addressed it but is in the same position as we are with a requirement to make sure that all statutory changes that have been made since our last Update are going to be addressed as part of this current Update.

So what does it mean? Really not very much. In fact, much of the review that's occurring today even under DNR's authority at the local level will be very similar to that which would occur if we assume that lead agency status. Why would we want to be doing that? Because it makes sense. These are lands that are no longer going to be managed as timberlands. They're going to be converted to some non-resource use. Likely it means that there will be some residential building activity or some commercial development, and we may have indeed ingress and egress issues – so, How are you going to be accessing the site? – drainage issues, as well as critical areas. So this is something that we're required to do, given that we meet the minimum standards, and we're not the first to do so.

That's a summary of this particular proposed code amendment.

Ms. Lohman: What's the minimum standard?

Mr. Christensen: It's a certain population, so jurisdictions have to meet a minimum threshold – x-number of people living within their jurisdiction – and you have to process on an annual basis x-number of forest practice permits. And they differ for each locality, meaning more populous counties or more rural counties have different standards, as well as cities and towns.

Ryan Walters: So the next one is S-2, and I see my name next to this one. Betsy, I think, would ordinarily be addressing this but she's out of the office and is not able to be here tonight. GMA requires us to review our critical areas ordinance – make sure that it's continuing to use best available science and update it if necessary. One thing that we do know that we will have to change in our critical areas ordinance is we will need to update the wetlands rating system. There is a seawater intrusion policy adopted by resolution in the county right now and the Health Department is planning to add that to the Health Code. There may need to be some changes to our critical areas ordinance to correspond with that seawater intrusion policy in Title 12. So that could be a change.

One thing that we do know won't be changing is the Ag-Critical Areas Ordinance. We're prohibited from changing that while we're enrolled in the Voluntary Stewardship Program, unless provided by the VSP work plan. So we won't be changing that. The complication here is that we are incorporating by reference our CAO into our SMP – our Shoreline Master Plan – and we don't want to have conflicting versions. So we don't know exactly when the SMP will be adopted, if ever, so we're going to try to harmonize the dates so that we get the CAO adopted before the final adoption of the SMP so that they remain the same.

S-3: We're required to allow battery charging stations and other "electric vehicle infrastructure" throughout the county. One of the other items in the list is C-16. We identified in our existing code that we call fueling stations by a variety of different terms so C-16 and S-3 here are related. What we plan to do is just call fueling stations and charging stations by one term – harmonize it that way. Have one use listed in all the zones where that's appropriate. So that is a relatively simple amendment, but it is something we're required to do.

The next one is Brandon, according to my list.

Brandon Black: I didn't know if you were going to do that one as well. The next one deals with preliminary and final subdivision approvals. RCW 58.17.140 sets forth time limits for preliminary and final subdivisions. Our code currently states under 14.18.100(6)(b) preliminary subdivisions are good for 36 or 60 months, so short plats are good for three years; long plats are good for five years. The legislature has, with the recession, come through and indicated that they can be good for – long plats can be good for seven years. And so knowing that there's some influx there, what we would like to do is make the code read that preliminary long subdivision approval shall be valid for the time period set forth within the RCWs, which, again, is 58.17.140.

Mr. Walters: S-5 would have us adjust the time limits for impact fees. Oh, and I forgot that I'm supposed to be scrolling along on the screen here as we go. I'll pick that back up. So S-5 would adjust the time limits for impact fees. Impact fees need to be expended within ten years. It used to be seven years. Our code read seven years. It now reads ten years because we fixed that when we adopted out Capital Facilities Plan Update just a month or so ago. This was an outstanding item when the Board of County Commissioners adopted this list of docketed code amendments, but now it's taken care of so you won't hear about that one again. But it will remain on the list so the numbers don't change.

Mr. Greenwood: Can I ask a quick question on that?

Mr. Walters: Yeah.

Mr. Greenwood: Just I looked for that code section and I couldn't find it. It didn't pull up. Is that a new code section we're planning to add?

Mr. Walters: 14.30.080?

Mr. Greenwood: Yeah.

Mr. Walters: That should be an existing code section. Either the number is wrong or – well, we did delete one. We deleted the school district impact fees section. I don't know if that was 080 offhand.

Mr. Greenwood: Okay. Anyway, we could – I might look for that.

Mr. Walters: S-6 also you're very familiar with: Update the Shoreline Master Program. It's on the list because it is a state-required thing that we need to do as part of our Comprehensive Plan Update. If that's not done at the time we update the Comprehensive Plan we will not have really fulfilled all the requirements. It'll be very interesting to see where we are with the Shoreline Plan when we get done with the Comp Plan. At this point I anticipate we'll finish the Comp Plan first.

Ms. Lohman: Mr. Chair?

Chair Axthelm: Yes?

Ms. Lohman: Isn't that partially out of our control?

Mr. Walters: It's partially out of our control but we are also very late with it.

Mr. Christensen: Keith, I just did check online and under chapter 14.30 there is a subsection 80 and 90.

Mr. Greenwood: Okay.

Mr. Christensen: So you'll find it there online.

Mr. Greenwood: Oh, perhaps I was thinking it was all one section. Maybe I put 80 point 090. Maybe that's where it came up.

Mr. Christensen: Yeah, go to chapter 14.30 and then it would be subsection 80 and 90.

Mr. Greenwood: Okay. Because I got a reference to 14.18.100(6)(b) and (c) from previous staff notes relating to the same adjustment of time limits.

Mr. Christensen: Yeah, it's under the chapter "Public facility impact fees."

Mr. Greenwood: Okay.

Mr. Walters: So that concludes the list of state mandated code updates. The remaining code updates are County-initiated code changes. GMA requires us to identify deficiencies in the code during project review. Project review is intended not to be a time for changing code or plans but it is to be an opportunity for people to identify problems, inconsistencies, deficiencies with the code or with the plan, and so staff have identified these things – (in) some cases over several years – as things that need to be fixed.

C-1 is related to vesting of applications and it is actually a growth out of some recent case law. Currently under Skagit County Code almost all applications vest and this becomes problematic if the Board desires to change the law. For instance, most recently marijuana. You might want to address marijuana in a different way than the code currently does, but applications that have already vested you can't touch. Until recently we believed that that was the state law, that vesting applied to almost every application or a lot of different applications. But this recent case – 2014 out of the Court of Appeals, and it won't go any farther because the Supreme Court declined to review it – makes it clear that vesting is not a common law doctrine anymore. It is only statutory and the statute sets out only a couple of different ways permit applications vest. So the Department proposes to change our code to match that. You can see the proposed code amendment there right below it. I'll scroll down here on the screen. 14.02.050 provides for vesting of applications in our current code, and the proposal would change basically all development permits to building permits and land divisions. So if you apply for a land division, you apply for a building permit, you vest to the code as it is today. For other types of applications, you would not vest. It provides more flexibility for the County in determining that an application has come in that is well beyond what it was expected. It would cause impacts that

are unexpected or undesirable. It provides an avenue for the Board to be able to deal with that. Without making this change, we can proceed. There's no particular problem with leaving it alone. But it does constrain the County and the Board of County Commissioners if we want to address some application that is unexpected.

Mr. Christensen: Okay, C-2 and C-3 are very similar in nature and I'm going to kind of address them both together as one. Both of these sections of code refer to a 7-year state-mandated GMA update and that is referring to the statute. Back a couple of years ago when we had the recession, the legislature recognized the financial hardships on local governments and provided some extensions to those GMA update requirements, so those 7 years in essence, I think, became 10 years. And given the nature of the current state of affairs, we believe it's better to just not refer to a period of time, whether it be 7 years or 10 years, but, rather, whenever state statute would be requiring Skagit County and the Cities and Towns within to do an update. So we just – this is really no substantive change. We're only wanting to do it so that we're consistent with state law and so that we aren't coming back before you and changing it to another period of time.

I also want to refer to under C-2 the last sentence which indicates that we will also be adding some language authorizing submittal of proposed amendments to Skagit County Code Title 14. We are going to have a new form for proposed code amendments. Yes, Ellen, we heard you, we listened to you, and we agree. So we will be providing a new form so that code amendments can be proposed by the general public for review by the County and docketing, and, if docketed, then there would be a legislative review and adoption process similar to that which already exists.

C-4: This is addressing – yes? Okay, C-4. This is addressing those types of amendments that are either policy, non-site-specific map amendments, or proposed code amendments. So these kind of amendments are legislative actions. These are actions that would come before you. You would hold public hearings, should they be docketed by the Board of County Commissioners, and you would make a recommendation to the Board. The Board would then take final action. These policy amendments would be policies that you would find in the Comprehensive Plan or in a subarea. Non-specific map amendments would be not necessarily landowner-derived or –proposed, so it wouldn't be just a single person or maybe a person and a neighbor or two. These would typically be kind of larger areas like an island or a geographical area like a watershed, or perhaps a Rural Village or a community plan. So if that would be the nature of the non-site-specific map amendment, there would be no fees associated with that. Proposals could come forward as part of a docketing process. The Board of County Commissioners would hold a hearing on any of these – either a policy amendment, non-specific map amendment, or code amendments – and decide which ones to go forward on.

C-5: This would be to remove a requirement that development projects must be commenced within two years of redesignation or rezone or the commercial/industrial designation would be removed. So back when this particular code was adopted, the thought was that we wanted to make sure that commercial or industrial development was based on a plan, that it wasn't being speculative, that it wasn't on a whim, that it wasn't just something that somebody thought they *might* want to do. And over the years we've seen really very little or few, if any at all, of these types of redesignations. And we believe that it's not sensitive to economic downturns that might occur, and it really is a very rigorous process to go through with regard to a map amendment to change a property from its current designation to a commercial or industrial. And that in itself is probably requiring that a proposal be with merit and earnest and the applicant is serious about

moving forward with some kind of development plan. So just the very nature of itself kind of removes that degree of speculation that at one time we were concerned about.

Under C-6, submittal requirements for rezones within UGAs, we wanted to clarify in the code that it would not be necessary for a development proposal to be submitted with a request to rezone property within a UGA for commercial/industrial use. We believe that it's more important to look at the land itself and the adjacent uses and to work closely and collaborate with our Cities and Towns, because these are areas that may ultimately be annexed. And so it's not so much what might happen on that property but, rather, Is that the kind of use that we should see within that UGA within the immediate area? So the code requirement that a detailed development proposal, much like the previous code amendment that I discussed, doesn't seem to have the merit today that we once thought it did, so we're proposing to remove that requirement from code.

Mr. Walters: So C-7 applies to Secondary Forest and Industrial Forest. There are two different uses listed that talk about water diversion structures. The second one is watershed management. No one knows what watershed management means and it's not defined, so we propose to simply delete that. We don't think that this would have a substantive effect because the water diversion structures and impoundments are already covered on a different line item within the zone, and hydroelectric generation facilities, which is on the line that we would delete, would be permitted under minor or major utility development, which is another use allowed, or if it's a large enough hydroelectric generation facility, by state or federal law.

Mr. Black: C-8 is an oversight, housekeeping item from previous code amendments where we had gone in and removed "tasting rooms" as a specific use in several zones. And we did not get the Alger Rural Village Commercial permitted use removed – or didn't get it removed from that zoning section. We feel that it's already a permitted use under small retail and service businesses as well as in some zones as agricultural accessory uses. So tasting rooms are only listed currently in Alger Rural Village Commercial and we'd like to remove that to be consistent with the rest of the code.

Mr. Christensen: C-9: This deals with CaRDs, or Conservation and Reserve Developments, so this is in essence a clustering land division option. These are voluntary in nature. This proposed code amendment deals with this general concept: that you should not be transferring high density development rights to lower density land use designations. So for example, we wouldn't want to see development rights on a Rural Reserve or a non-resource land transferred to a natural resource land – agriculture, of course, where you shouldn't be taking rural development rights and putting them on farmland, or timber. Another example would be taking in a rural area Rural Intermediate, where you have one house per two-and-a-half acres as a development right, and transferring those to a Rural Reserve where it's one house per ten. So in essence it's almost a rezone without going through a Comp Plan Amendment to a rezone by transferring development rights via a CaRD on adjacent properties from a lower density to a higher – or, I'm sorry – from a higher density to a lower density. Or the other example would be taking development rights in a Rural Village, like at Big Lake or Edison or Conway or Marblemount and transferring those onto an adjacent Rural Village land. So taking the development rights out of an area where we're trying to promote and encourage more development and moving that outward. So that's what we're trying to do and that's the intent under this particular code amendment.

Mr. Walters: The next one, C-10, has to do with unclassified uses. This section of code has given us no end of trouble recently, most recently with respect to solid waste handling facilities.

The section is titled Unclassified uses, but the section is really not about unclassified uses. It's about essential public facilities. Essential public facilities are facilities that are usually regional in nature and pretty much always difficult to site. They're not always regional in nature but frequently. GMA requires us to have a process for siting essential public facilities, the reason being because they are essential and they serve the public. We have never gone through this process to site an essential public facility, although recently there was a proposal for at Northern State a – it was not a secure community transition facility. It was maybe more of a group home. But we believed it was an essential public facility and there was quite a bit of dispute between us and the applicant about which interpretation should govern. Ultimately I believe the Hearing Examiner decided that it was not a group home, that it was an essential public facility, and the project was not pursued; however, there have been other instances where we have run into trouble with this section. The section is just bad, so it needs to be rewritten. What we proposed to do here is, first of all, retitle it to "Essential Public Facilities," because that's what it's about. Second, do away with the talk of unclassified uses in this section. Unclassified uses are typically uses that are not listed as uses in the code, but we have another section of code that addresses those and that is 14.16.020(3), which provides that the Planning Director can decide whether a use fits into this use or another use; look at the list of uses and see if a proposed use is similar enough to the ones listed to consider it one of those.

So this section would become entirely about essential public facilities. Now we have recently gone through a process with the County jail – the new County jail – that Gary can talk about because Gary worked on that. And that process was the City of Mount Vernon's process and it went quite smoothly. I mean, there was discussion, there were choices – two alternative sites: one got picked; one didn't. The point is, there was no confusion about what the process should have been and it was easy to follow. Now currently under the code an unclassified use – aka an essential public facility – goes through the same process for a Comp Plan Amendment. We think that is problematic because if an essential public facility were to actually be proposed here – it could happen – that would probably be a high profile, high dollar-value facility with a lot of money, time, resources at stake. That, in my view, needs to go through the Hearing Examiner. The Hearing Examiner needs to prepare the Findings of Fact and the Conclusions of Law, which is the Hearing Examiner's general responsibility in other matters. It would be very similar to a special use permit but with a whole bunch of additional criteria and process associated with it. And that's what Mount Vernon does and that's what, I would say, most other jurisdictions do with respect to essential public facilities. What we don't want is to have some process issue occur with the processing of an essential public facility and end up in court with liability because things went awry. So that's what's proposed there. And I think Gary wants to talk a little more about that.

Mr. Christensen: Let me – that's a good synopsis – let me just add a bit to it. Essential public facilities are what we refer to as EPFs. You might say, Well, what are these things? And as the staff report alludes to, these are typically facilities which are very difficult to locate. They're controversial. They're usually regional-type facilities. Under the statute they are defined as airports; state education facilities and state or regional transportation facilities; regional transit authority facilities; local correctional facilities or jails; solid waste handling facilities; inpatient facilities, including substance abuse, mental health facilities, group homes, secure community transition facilities. So as you can imagine, these can be uses and facilities that are very controversial in *any* community or *any* neighborhood.

I can speak a bit about this because I was involved in the only EPF, or essential public facility, that's been reviewed and approved in Skagit County. And when I say "Skagit County" it happened in the city of Mount Vernon. It was the Skagit County correctional facility, or the jail.

And it was a very good process and it's a process that – Mount Vernon's EPF process, I can say, was very well done. One of the things that the public was very pleased with was the process itself. It happened over not just months but years. There was a very extensive site analysis. There was over a dozen different sites that were considered, both in the county – in unincorporated Skagit County – as well as in Mount Vernon. It came down to two sites, as Ryan indicated, and, as you know, one's been located in south Mount Vernon and we are now going through kind of the permitting and construction process. So the City Council – Mount Vernon City Council – has approved it. And one of the things that we heard about the process was that it was well done. It was very well understood what was required. There was an environmental impact statement done. There was numerous opportunities for public review and comment. Public hearings before the Hearing Examiner – well, first before the City Council on doing a comp plan amendment and a rezone, so there was a policy decision upfront. And then there was a project review, the EPF process, conducted by the Mount Vernon Hearing Examiner. So one of the things that I liked about the process – and we will be looking to Mount Vernon as a similar process here for Skagit County – is that it is time-tested and proven. So we know it works and it worked well, and so it's something that we're not out to reinvent any new wheels but rather utilize and work with what works best. And so that's a process that has served us all well, both the community at-large, Mount Vernon, and the County. So we'll be looking at some of their code requirements, in particular the review criteria that went into that process, and likely be proposing similar code amendments to our code as well.

Mr. Walters: And in that section of code right now there is a list of which zones which types of facilities are permitted in, and we're not proposing to change which zones which types of facilities are permitted in, although the list of facilities is not quite right so we need to make sure that all the EPFs in state law are listed in our code. Some of them we may treat just as – not as EPFs – for instance, group homes; maybe those don't need to be treated as an essential public facility. They can just be uses that are listed. We have, to under state law, provide for the siting of them. We don't have to do it under a special process. So there might be a couple like that. As we get further into it, some things like that might shake out, but basically we're trying to retain the existing list of which zones which uses go in but reform the process.

The next one, C-11, has to do with personal wireless services facilities, also known as cell towers. Cell towers and siting and permitting is governed almost entirely by federal law. We have the ability to impose some restrictions on it but we cannot be in conflict with federal law. And actually Jill has identified a couple of problems with our existing code, based on some recent applications, that we need to revise lest some wayward planner tried to impose some condition that is inconsistent with federal law and get us all into trouble. You may recall that the City of Anacortes turned down an application for a T-Mobile tower several years ago. They got appealed all the way to the Ninth Circuit Court of Appeals where they had their butts handed to them. And we can't have that here because it's expensive to go to the Ninth Circuit Court of Appeals, so we're just going to make some changes that are, I think, minor but essential to be consistent with what the federal definitions are in this area.

C-12 is about our Natural Resource Land disclosure mailing. We have a section of code that requires the County to mail a disclosure statement every three years to all landowners whose parcels lie within 500 feet of an area designated as a Natural Resource Land. The County has apparently only once actually mailed that statement, although we are required to do it by our own code every three years. There are 12,000 parcels that should receive such a statement, so we would have to mail a postcard at least every three years, and the Department is proposing to simply delete that requirement.

The next one, C-13, the same section of code: Currently when you sell a piece of property in Skagit County that is within – I think it's one mile in this section of a Natural Resource-zoned property, the seller is required to record a statement with the County Auditor indicating that the property is adjacent to Natural Resource Land. I think it was last year that the Department tried to get this requirement to actually happen. They created a form, notified all the title companies, told them about it, added a thing to the property search on iMap on the County's website that had in red "NRL disclosure required for sale." It did not work out. According to the Auditor's office, only Chicago Title is recording the required disclosure and they're not recording the correct version of the required disclosure. So in one alternative the Department might propose to simply delete the requirement. We don't really have a mechanism to enforce it so one option is simply to delete it. An alternative is to propose that the buyer sign the statement, which would make it more effective if anyone actually did it, because the buyer currently is not required to sign it, may not see it, may not see it in the stack of paperwork about this high that you get when you go to buy a piece of property. So that might make it more effective if anyone does it, but we're still left with the problem that the title companies don't understand the requirement or don't care about the requirement because it's difficult to actually enforce it.

C-14: There is currently in code a notification requirement for development activities on or adjacent to designated Natural Resource Lands. And, actually, I think Brandon knows the most about this one, but…is this the one that you know about?

Mr. Black: Not really.

Mr. Walters: No. Okay, so this is something else.

Mr. Christensen: I think what we're trying to do here is make sure that the requirement isn't overly onerous and that we want to simply be following state law. By requiring that it be filed with the County Auditor, it can be time-consuming and onerous and we think that we can accomplish this and be consistent with state statute by just having that condition assigned to the permit.

Mr. Walters: Yes, I am reminded now what this one's about. The Planning Department has recently been strongly encouraged by the Board of County Commissioners to speed up permit processing times, and one of the things that the Building Division has identified as an obstacle to fast permit processing is the need to record title notices. The recording of title notices by itself is not that slow of a process. You take them down to the Auditor's office, they record it for you, hand it back to you. However, the need to get the applicant to come in – the property owner – in person to sign and get the title notice notarized is the point of failure that really slows the process down. So the Department has been looking for ways to eliminate title notice requirements where they may not serve a purpose or are not very effective. This may be one of them, especially because the state law does not actually require the title notice. It just requires that you note this provision *on the permit*, which may in fact be more effective anyway. Also the fact that you record a title notice over and over and over again on the same piece of property doesn't really do anyone any good. It leads to title pollution.

Mr. Christensen: C-15: This is a relatively simple change because what we want to allow in the Rural Resource-Natural Resource Land is that which we are allowing in the Industrial Forest and the Secondary Forest with regard to mineral resource extraction. So we just want to be consistent with our natural resource lands regarding this type of natural land resource management activity, and so we're just proposing that we simply add this as a type of activity that can be reviewed and approved in the Rural Resource-NRL-designated areas.

Mr. Walters: C-16 is the one we talked about before, the one thats consistency with the state requirement to allow electric vehicle charging stations. It would simply harmonize those different uses that are listed in our current code – gas and fueling stations, gasoline service stations, gas stations, vehicle fueling. Those would all become probably "vehicle fueling and charging stations," and then we'd add a definition for that that would include battery swap-out stations – the other things that are required by the statute.

Mr. Black: C-17: What we'd like to do is move temporary events as a use from administrative special use permits to permitted uses in the Urban Reserve Commercial and the AVR-related zones – the Aviation Related zones. They would be more appropriate as a permitted use in commercial zones. The definition of "temporary events" is not listed here but it's any cultural, social, or musical event that's held either indoors or outdoors, and if you need to get a special use permit for that there is a limit on so many per year. What we realized was that with the new Heritage Flight Museum up at the Port within the Aviation Related zone that they like to have fly-ins and events and it seemed ridiculous for us to require in Commercial or AVR-related zones where these activities should be taking place for them to get a special use permit that would limit the amount of events they could have per year. So we would like to make temporary events a permitted use in Commercial and AVR-related zones.

Mr. Walters: So the next one, C-18, has to do with administrative appeals for the State Environmental Policy Act. Jill and Betsy have been working on this one and under a recent project they identified a possible issue with our process. SEPA allows for only one administrative appeal and SEPA – the SEPA process is supposed to flow concurrent with the permit application process. So if you have a permit application that allows for two administrative appeals, you end up with a problem because you're only allowed by state law to have one administrative appeal.

So there are a couple of different solutions to this problem. One is to delete the administrative appeal. Two is to provide for an administrative appeal but somehow articulate when that administrative appeal of the SEPA aspect occurs so that there's no question that there's still only one SEPA administrative appeal. An administrative appeal, by the way, is an appeal that occurs before the County – before the Hearing Examiner, before the Board – versus a judicial appeal, which is in court.

So I don't know that we are – I don't know that we know what it is we would propose there, but we've identified this is a problem that needs to be fixed. And I believe Jill and Betsy are looking at other jurisdictions' codes to try to figure out how it is they handle this issue.

The next one is also more of a Jill than a Ryan, but maybe Brandon can talk about that one? C-19?

Mr. Black: I can wing it a little bit. We would like to clarify and discuss some options in looking at the Administrative Reduction of Setback policies. The intent has always been to make those a quick, simple, couple-of-page process for an applicant to flesh out with a 15-day comment period if there's any concerns from neighbors, and then move it along. And what we've discovered is that there's a connection between 14.16.810(4), which is the Administrative Reduction and Setback policies, and our variance criteria, which is outlined in Skagit County Code 14.110.030. It looks like Jill has proposed a couple of options here. We could amend and clarify the Administrative Reduction of Setback requests are not subject to the variance criteria. We could leave it unchanged so both the criteria in 14.16.810(4) and the variance criteria in

14.10 apply, which would then take it back to more of a longer process that is similar to a Hearing Examiner process, just without a Hearing Examiner. Or we could develop a hybrid approach where minor setback reduction requests would not require the application of the variance criteria, but more substantial requests would require application of the variance criteria.

Mr. Walters: So recently with the Stormwater Code proposal that came out last week, we also had to look at this section because technical deviations under the Stormwater Code currently are listed in this section and they're also listed in the Stormwater chapter, and the Stormwater chapter has criteria for when you can get a technical deviation. And I don't know that we've actually ever applied that but it would be the same issue here: Do you have to apply the variance criteria *and* the technical deviation criteria? Or can you only apply the technical deviation criteria? So in the Stormwater Code proposal that is out now for public comment we added a line that says technical deviations are processed only by the technical deviation criteria and not the administrative variance criteria. And that's the Department's recommendation here, option one, because it is simplest, consistent with the Department's past practice, and probably makes the most sense because if you wanted an administrative variance we could have just said, Get an administrative variance, and not invented all these other provisions for how you can, I guess, avoid having to do an administrative variance and just doing the simpler administrative reduction setback or technical deviation.

Mr. Black: C-20 is, in my mind, a housekeeping item. It's something I've been interested in looking into for several years now. We have three levels of home-based businesses. We have Home-Based Business 1, which is outright permitted, and then we have Home-Based Business 2 and Home-Based Business 3 which require special use permits, 2 being administrative, 3 being Hearing Examiner. The problem with it in our current code is in section 14.16.730 you have the criteria and the definition of the purpose of Home-Based Business 1. You don't have Home-Based Business 2 and 3 listed there. You have Home-Based Business 2 and 3 along with their specific criteria listed back under the Special Use section in 14.16.900. So what I'd like to see happen is that all of those criteria be listed in one section titled Home-Based Business and have the reference that they also need to address special use criteria in 900. But for the ease of the applicant looking at our code, if they can just go to one section that says Home-Based Business and get all three items in there and figure out which level they go to, it'd be a lot cleaner than has been going on.

Kind of along those same lines – in C-21 – we have always allowed folks to do Home-Based Business 1 as an outright permitted use. The code isn't real clear. It has reference to 25% of the dwelling unit being used for the home-based business, as well as Home-Based Business 2 has some reference to – I don't have that with me. I apologize – but to the residence. What we allow as a home-based business – we don't want to discourage folks from doing things in their shop or, you know, the woodworker that builds birdhouses and takes them to the farmers market. Those are incidental things that we don't have any business knowing about anyway. It's usually people doing woodwork. So what we would like to do is clarify that 25% of the living area of the dwelling unit can be used as a Home-Based Business 1 in an accessory structure.

And then I'd also like to talk about Home-Based Business 2 to clarify if we need to say that 50% of an accessory structure could be used – 50% of the size of a residential square footage could be used in accessory structure.

Home-Based Business 3 currently has no percentage. Instead it lists that the use be consistent with the residential area and properly permitted for the use. So there's, I guess, some housekeeping things and some size limits that would be nice to help folks clarify: How much

area of an accessory structure can you use for your home-based business before you expand too much to have to be moved to a commercial zone, and how do we determine those size limits?

C-22, I guess, is –

Ms. Mitchell: Brandon?

Chair Axthelm: She has a question.

Ms. Mitchell: I have a question for you. So in an instance like that, then if you change this code then it's anything moving forward and anything that's done before just continues as they were. Is that correct?

Mr. Black: Correct, yes.

Ms. Mitchell: Thank you.

Mr. Black: C-22: Currently in Skagit County Code we have an exemption in our "setback" definition for – "Permits are not required for fences 6 feet in height or less." The building code actually says you need a building permit after you get to 7 feet or higher. One of the things that has come up quite often is that with commercial and industrial – and specifically the Port more recently. The FAA requires it to have wildlife fences that are 8 feet in height, which makes sense. And we've had to do at least one – possibly two; I did not process it – administrative reductions and setbacks for the Port to have a fence to comply with the federal requirement. So what we would like to do is modify either the definition or, maybe more appropriately – this is up for discussion – put this in Setback, the Setback section, Skagit County Code 14.16.810, to allow for fences up to 8 feet in height in commercial, industrial, and aviation zones to be allowed on the property line – but you'd still be required to get a building permit – as opposed to anything currently over 6 feet in height. Anything 6 feet in height or less can be on the property line. Anything over 6 feet in height has to meet setbacks. And 7 feet in height was the new revision to get the building permit. Does that make sense?

Ms. Lohman: So you're narrowing it down to specific zones?

Mr. Black: Yes. The typical zones that we see that require the 8-foot height or would like it – would like 8-foot high fences – they typically have 6 feet of chain link and then 2 feet of, like, barb wire – are the commercial/industrial zones where folks want to keep their machinery or outside equipment secure, or the aviation zone where it's required for wildlife. The typical residential properties and fences that we've been seeing, it's rare if we get anything over 6, I-502 aside.

Mr. Walters: So the next one, C-23, would modify the definition of "adult group care facility" and would modify it simply by deleting the requirement not for them to be licensed but for them to be licensed as a nursing home, because there are types of adult group care facilities that aren't nursing homes – for instance, assisted living facilities. And that's all that that one would be.

The next one, C-24, would make some major modifications to the Concurrency chapter. We've looked through the Concurrency chapter a number of times doing the Capital Facilities Plan in the last couple years and there are many, many definitions in there that don't apply to any other section of the code and are for terms that are only used once. There are levels of service listed

in there that could be listed in there but they are also listed in the Comprehensive Plan where they *should* be listed, or in the Countywide Planning Policies in some cases. So what we'd like to do is move those levels of service to the Comprehensive Plan, make a cross-reference in there so that people can find them, but not have them duplicated because they cannot be in conflict with the Comprehensive Plan and levels of service shouldn't be changed except during the Comprehensive Plan Amendment process. There is also a timeline in that chapter for special purpose districts to submit Capital Facilities Plan data to the County. That timeline isn't being followed nor is it really an appropriate timeline because of what happens: submitting data way too early. So we would modify that timeline. And one possibility is that the Department might propose this code change through the Capital Facilities Plan Update instead of through the Comp Plan process, because it is part and parcel related to the Capital Facilities Plan Update and we do that every year.

C-25 is very much related. We have a state requirement – and this one could have been called an S-7 because this is a state requirement – we have a state requirement to adopt a latecomer code, or, I guess, more specifically to provide for latecomer agreements which requires, in effect, a code amendment. We need to provide for this as soon as possible, in my view, because if anyone wanted to provide services by paying for them upfront and then recover the cost of those services from people that move in to develop later and make use of those services, we have to today provide for that and we don't have a way for providing for that because we don't have this code provision in place. So this may also happen with the Capital Facilities Plan Update if it can be made ready by then. Otherwise, it would get pushed back to the Comp Plan Update. But basically it would authorize latecomer agreements and make them have the force of law for requiring contributions from latecomers.

Mr. Pernula: Okay, C-26 deals with Guemes Island. These are proposed code amendments that were proposed by the Guemes Island Subarea – or excuse me: the Guemes Island Planning Advisory Committee, and these are proposed code amendments to implement the Guemes Island Subarea Plan. And originally these were going to be part of the Shoreline Master Plan Update, but as we started going through them, we agreed with the Committee that they would like to see them island-wide and not just within the shoreline jurisdiction because some of these have broader application than just along the shoreline. So they're proposing those that are itemized as A through G below that.

The first one is to not allow density bonuses for CaRD developments, CaRD subdivisions.

The second one – and actually B and C both deal with their concern about saltwater intrusion on the island. And what they're suggesting is that we should have a requirement that any building permits for single-family residential, for accessory dwellings, and any other building permits that could impact groundwater resources – what they say is they shall comply with the Site Assessment Requirements as outlined in Skagit County Code 14.24.330 and to amend the code as follows: To require that initial project review by the Skagit County Planning and Development Services Department include staff from the County Health Department and the County staff hydrogeologist to evaluate likely impacts to groundwater quality and quantity.

To amend 14.16.710 to prohibit accessory dwelling units where the water source contains more than 25 parts per million or more of chlorides, and to require that the approved water source meet current quality requirements.

Then the next one deals with side-year setbacks. They have a drawing that goes with it, but basically what they would like to see is within the Rural Intermediate zone to require side-yard

setbacks totaling 30% of the average width of the lot or 30 feet, whichever is less, for the combination of the two sides, with an eight-foot minimum on each side; and to establish a 12-foot height limit at each side-yard setback line at the eight-foot point. But for each additional foot of building, with one foot of additional building height allowed for each foot inside the required setback up to a maximum height of 30 feet. So you would have a 12-foot building, then for each foot that you go back you would get an additional height to the building to a maximum of 30 feet.

They would like to make sure that open space that's designated on CaRDs be permanently preserved through the filing of protective easement or covenant before final subdivision approval.

And item G is solid fences higher than three feet must be set back a minimum of ten feet from the front street right-of-way. And solid fences are, by their terms, any fence that is less than 50% open. Solid fences that are within the setbacks are limited to six feet in height.

And once again, these are provisions, many of which are in their subarea plan, and they want to see implemented.

There is a C-27 that's listed as other amendments to the code as needed. We didn't identify any right there; however, on the following page you can see we show some that we would like to see docketed by the Board in the near future to come forward with the 2016 Update. The first one was when we did some new AEO zones related to the airport, the base of some of the maps that have height limits near the runways were based on mean sea level. That doesn't help us very much. What we needed is the actual elevations at that point. We have those maps now and we'd like to adopt those.

The second one is also dealing with the Airport Environs Overlay zone where we ran into a recent problem where at some of the zones real close to the runways if you have, for example, an aviation hangar or something like that you're allowed to pretty much cover the lot with hangars. But if you have something that's an industrial building there's a limitation on the lot coverage. But that didn't make a lot of sense and we'd like to change that. And there's nothing that's really requiring us to do that.

Item C-30, modification or elimination of some of the title notice requirements: We included some of those earlier in the presentation and we might find some more that might be burdensome and not necessary, and we're just letting you know of that.

So that's the total sum of our presentation unless any of you have anything more to add.

Ms. Lohman: Is it open to have questions?

Mr. Greenwood: What's the process _____ public or us?

Mr. Pernula: We'd certainly be open to any questions you have, then open it up to the public – either way you wish. But if you have some questions about some of these items – I mean, that's a long list of amendments.

Kevin Meenaghan: Are we doing questions first or comment first?

Mr. Greenwood: I'm afraid personally that if even I start asking questions – I've got a lot of questions and it could take a long time to get off the first page. And I'm concerned about the

public having a chance to at least respond and what their first impressions are. I don't know that they're prepared necessarily or have had enough time to digest this. But I guess my suggestion would be that we take the public comment first and then get into a little more depth, but if the public would rather we got into depth, then maybe they'd have some more questions, too.

(inaudible/unintelligible remarks from several Commissioners)

Chair Axthelm: All right. You'll be all right with that?

Mr. Meenaghan: Yeah. Why don't we do comment first?

Chair Axthelm: Okay. So go ahead and start with the public comment. Commissioners, I had them put on there the three minutes. Do we want to keep it at that or allow them for now?

(several sounds of assent from Commissioners)

Ms. Bynum: Okay. Well, I have more than three minutes but I will attempt to do a few and then I'll write to you about the others. These are just questions that I had when I went through this list of tasks. And so I'll be quick and just go through with a few comments.

On S-1, the transfer of jurisdiction: How many acres are affected in Skagit County? And I wasn't really aware that we had timber zonings within our UGAs. Do we have that? And where is it? And how many acres is it?

Mr. Christensen: It isn't necessarily zoning-specific. It's more about the ongoing activity, so it's ongoing forestry. You probably have read in the newspaper about – I think it's called the Hidden Lakes proposal in Mount Vernon?

Ms. Bynum: Right.

Mr. Christensen: So there's a classic –

Ms. Bynum: That's one example. Yeah, I just wondered how prevalent that was. And then I wanted to know if – what a non-forestry use was. Because is habitat a non-forestry use?

Mr. Christensen: Non-forestry use would be like a small-family residential development.

Ms. Bynum: Okay, so it has to be a development.

Mr. Christensen: It's a conversion, so non-forestry use would be initiated by the landowner who would be indicating that they are no longer intending to manage that land for timber resource purposes.

Ms. Bynum: Right, and I got that but I wanted to know how that – you know, if there was any other extension to that. And the reason I'm concerned about it is some people have said that one of the last places that we have to do very large developments is within Secondary and Industrial Forest. And although we don't permit that at the moment, our neighbors to the south have permitted fully contained communities – which are small towns – inside of forests. And we don't have that in our code to do that, but people are concerned about it. So that was why I was asking that.

Mr. Christensen: The Forest Practice Act deals with timber harvest.

Ms. Bynum: Right. It's a different thing.

Mr. Christensen: Basically, Ellen, this is addressing those lands in which a landowner is indicating that they are no longer going to be managing those lands regardless of what zone they're in. I mean, they can be in a UGA or they can be outside of which, and when they elect to not manage those lands for long-term commercial resource management then that authority's going to transfer, in this case, to Skagit County.

Ms. Bynum: Right. I get that part of it. It was just the ancillary thinking about, you know, what else does that might include, or how might you interpret something in a different way and it might cause a different problem. But you're not talking about lots of acres here.

Mr. Christensen: Without spending too much time, let me give you just a quick example. Let's say you've got 100 acres of land that's Secondary Forest and that landowner wants to build on – build a house on that 100 acres. They may elect then to take one acre out of that 100 acres and put a house on it. They're going to then declare that that one acre, and then perhaps a 300-foot area beyond, would be submitted by that landowner as a Class IV general permit. So that would be an indication that they were going to not retain that land under timber management. The other 99 acres would be continued to be managed under a timber management plan and, if they were proposing to harvest, it'd be a Class III permit then.

Ms. Bynum: Right.

Mr. Christensen: And that would still be under the review of DNR. So our authority would only be on the one acre – basically the building site.

Ms. Bynum: Right. And those requirements for that one acre would be the same as what zone?

Mr. Christensen: Well, the zone in which the property is located, but they'd be – in that particular case – they'd be subject to critical area review and other provisions of Skagit County Code.

Ms. Bynum: Right. Right. Right. I think people are quite confused about what the conversion means and how the overlays work with the zoning. So maybe that's something that can be written in a way that translates a little bit better.

One of the other concerns that was brought up to me is the change in the SEPA appeal. I know that it's duplicative and I know you're only supposed to do one SEPA appeal, but people are concerned that somehow the change in the way that you do the SEPA appeal might jeopardize them being able to appeal. So it needs to be sort of reworked a little bit so that, you know, you know that you have the SEPA appeal included and it's not going to be eliminated and it is going to be a tool that can be used by citizens when they think that a development is inappropriate.

The third thing that I had was I got quite a few comments about whether government should be concerned about the time that it takes somebody to build a development. And in the sense that no one that I spoke to – and so as a sample of six, say – no one thought you should change the codes to make it somehow more convenient for somebody who wants to build a certain development. In other words, the public comes in, a person comes in, an applicant comes in and wants to build a certain type of development. They read the code, they consult with

Brandon or whoever and they should know what their restrictions are. And the people that were saying to me we don't want to change the code so that you're making exceptions for one individual because they couldn't get a loan or their loan expired or something else happened in their life. And they actually have some amount of skepticism about even making permitting go faster. They'd rather see the criteria be upheld and be very good and effective in what you're trying to accomplish rather than making it expedient.

Mr. Greenwood: Ellen?

Ms. Bynum: Do you understand? Yeah, I'm stopping. Do you understand what I'm saying?

Mr. Black: Yes.

Ms. Bynum: Okay. So I'll write the rest of it.

Chair Axthelm: And we did allow you extra time just because of the answers in the middle of it.

Ms. Bynum: Yes, thank you.

Ms. Ehlers: Carol very much appreciates the way you have reviewed these because it makes more sense to hear what you're talking about than it just does to just read the words with all the numbers. And as I hear it, much of what looked odd turned out to be things that we talked about in the days we wrote it and said, Should it be this way or that way? And so we tried this way and it's clear it didn't work, so you're now proposing that way. When it comes to what Ellen was just bringing up about the time, there was a brilliant presentation by Marianne Manville-Ailles on exactly that subject, and if you could find it it would help the Planning Commission and anyone in the public. Because a number of subdivisions that were valid in 2006 collapsed by the end of 2007 when the economic collapse happened and people simply didn't have the money. If you need me to review what happened in the crisis of '6, '7, and '8 I'd be glad to, but not tonight. Because it was the kind of thing that had nothing to do with local speculators per se. It had to do with the fact that a large project cost a lot of money and if you can't get it you can't do it. And there's a lot of restrictions.

We found in this county years ago that if you have the water rights – George Theodoratus found this. You can go back and look at that 1994 lawsuit. He had the right to develop upriver. He got the right to water for it. He wanted to do the development in stages and Ecology said flat no: If you can't do the whole development at one time, forget it. Well, that's not how you do sensible development. Where I live a man bought the property. His first subdivision was 1944, 1945 right after the war. The last subdivision that was done was 1998. And that's how you can – when they tried to speed it up – the son – that's when he got in financial trouble. So that's not for public analysis but it's a good illustration.

I have a couple of other questions, though. Right to manage resource lands. I spoke about that this morning. State law mandates that you protect the resource lands by a law, 1438, with a half-mile protection. Oh, we have a mile. State law intends that when somebody builds a house in the large acreage agricultural zone or the large acreage forestry zone – the one house in the 20-acre forest or the same in the ag – that you don't turn around and complain because the farmer's plowing. And that happened. If you put a subdivision, like they did up at Nookachamps, next to a successful large dairy farm, you don't turn around and complain because you smell the dairy. And under that guise, it made perfect sense. They then twisted it and did a whole bunch of spot zones for resources. I got one stuck next to me, or across the street from me. Resource

land. It was supposed to be mineral. What do you mean it wasn't allowed to be mineral? All these years we were left with the horror of a mine uphill across the street from us. And because it was across the street, my neighbor, who bought a platted lot when he was very young – shoreline lots were cheap then. They were $6000. I think he paid 4. He bought it in '62. He wasn't old enough to build until 2000. He was told that because the land uphill would be timber-cut and the drainage would destroy his cliff that he had to put his house 80 feet back from the cliff and that he could never complain, no matter what happened across the road in that resource land.

When the law was written, I went to Wes Hagen, the leading assessor, who said, My golly, just think of the land you're destroying because this resource land, which was a spot zone in a residential area, where there were water rights for a commercial water system, all of a sudden was turned into a resource land that you have to protect because there aren't any trees anywhere and there isn't any gravel anywhere. And so for a mile all the way around it hundreds of houses in a residential zone –

Mr. Greenwood: Hey, Carol, that's about five minutes. I'm sensitive to the issue myself.

Ms. Ehlers: That's all right. I wanted to make sure that you understand that it's a two-way sword. And while we protect resource lands you don't turn around and screw those who have houses with a spot zone. And the County tried to do that with the marijuana but thank goodness you all had more sense. Thank you for that one.

Mr. Knutzen: Just as a short comment about my talk earlier, I'm not familiar with your proceedings and how to proceed. It was not intended to be a general comment. I've noticed in attachment 1 under the Skagit County Resolution R201and so on, the last comment there indicates that we have an opportunity to see if we can get back in the urban growth area. It was my intention to proceed with that process and we would like all the help we can get. And that was my only reason for coming here tonight and talking about that. I assume that you'll give them copies of my note?

Mr. Pernula: Sure. I've got it right here.

Mr. Knutzen: Thank you.

Mr. Stauffer: I'm Ed Stauffer, west Alger. A daunting task: At this point I have some 30 proposals which were explained verbally for the first time, not only to me but to you. Ms. Bynum made that point. Why does the staff who, according to Mr. Walters' description, have an annual opportunity to review process aside from the structured regular Comprehensive Plan Update process, get to sit on something that our professional staff who is well paid forty hours a week plus whatever time at night that it's on their mind enough to think about it, to dream up these kinds of things and then hold them to dump them on both you and the public with rationale and explanation the night upon which you're supposed to deliberate? Now my next opportunity in this is going to be at public hearing. And we've all been through this process over and over again. It was impossible for me to make coherent remarks and assessment or do any research on any of these proposals that have been brought up and presented with whatever elegance or lack of experience or hidden agenda or lack of hidden agenda that may exist, or incompetence or brilliance, or local or global interests, none of these issues have been developed for us on any of these proposals at this point with the exception of three, C-20, C-21, I believe, C-22, which were presented by one of the staff members. They cleaned up a process for obvious reasons anyone could see. My point is that if those have been presented to you in a format

much earlier, you wouldn't be faced with a task of making a stupid decision based on incomplete opportunity to think about it, talk about it, research it, ask for clarification, prioritize. This is a broken process. I really apologize, as a constituent, for putting you in the position to make these kinds of decisions that are going to impact the lives of 20,000 rural homeowners in Skagit County without adequate participation.

Ms. Ehlers, with your permission: I've heard a rumor that there's an employee now in the County staff of some gravity and experience and background who's made the recommendation, at least among staff, that all land uses prior to the adoption of the Growth Management Act be disallowed. That's end game for me, folks. And I hope you heard me, because I expect you to help me. Thank you.

Chair Axthelm: Are there any other public comments?

Mr. Meenaghan: Mr. Chair, can I ask a question to staff?

Chair Axthelm: Yes.

Mr. Meenaghan: The intent tonight is not for us to deliberate on this, correct? This is a work session, right? We're not making any decisions? Is that right?

Mr. Pernula: That's correct.

Mr. Meenaghan: Okay.

Mr. Walters: I would also point out that the list of code amendments here was the subject of a public hearing before the Board when they decided the scope of the 2016 Comprehensive Plan Amendment – or Comprehensive Plan Update. It was adopted by resolution in 2014 – not this year, but last year; that this memo was published almost two weeks ago with this in-depth discussion of these; you're not asked to make any decisions tonight and, in fact, you will make a decision on your recommendation to the Board who will then make a later decision probably months from now. Yes, after a public hearing and a written comment period.

Mr. Meenaghan: Okay.

Mr. Walters: I guess, to expand a little more on that, what we are asking you is for your initial thoughts and feedback. There must be a point at which you give your initial thoughts. This would be it. And then the Department will be able to generate the code text, taking into account your feedback and the feedback from the public, so that if there are red flags, a different approach that we should take to some of these problems – something like that – we can have that upfront and early before we draft the code that will then come to you as a formal proposal.

(unintelligible remarks among Commissioners about how to proceed with their discussion)

Chair Axthelm: You want to allow everybody a couple highlights ___ through?

Mr. Temples: Yeah, yeah.

Chair Axthelm: Because somebody else might have the same question and answer.

Ms. Mitchell: One thing I'd like to point out, though, is that there are some people that are more versed on some particular areas than others and I would defer to somebody that has experience in that area for more information or more questions.

Mr. Meenaghan: There are eight of us here. If we each take eight minutes that gives us an hour and then ten minutes for update. Is that reasonable?

Chair Axthelm: Is that reasonable for everybody?

Mr. Meenaghan: And then anything above and beyond that, we write the questions and suggestions. Because, again, we're not making decisions here. This is some recommendations to the staff to help them formulate code.

Mr. Temples: I think that's actually an excellent idea, which is what we did last time. We sent a bunch of the questions to you folks because the meeting got so long, so it seems reasonable. Discuss the grayest issues we have with this, if any.

Mr. Greenwood: Yeah. I'm thinking of an alternative approach. _____ an approach people feel comfortable with – eight minutes?

Ms. Lohman: I don't agree with that idea.

Mr. Greenwood: I'm more inclined to maybe initiate conversation with each of the Commissioners so that we could hit our high points, and then maybe follow with the questions by the other Commissioners on the same subject would be appropriate. Because I have questions on just about every one so for me to do it in eight minutes, you know, Ryan took more than eight minutes. Not that I'm making a presentation but, you know, I've done a little bit of background on some of these.

Ms. Lohman: Well, I think we might need more time even.

Chair Axthelm: This is not a decision-making either. It's a question period.

Ms. Lohman: Right, right, but I think we should – this is our opportunity to publicly state our first glance impression, I guess.

Mr. Greenwood: And I agree. I'd like the public to hear what our impressions are rather than seeing the writing go to staff. Then there's even more concern about things happening in the background.

Ms. Lohman: But we're kind of diddling our time away.

Mr. Greenwood: What do you think?

Ms. Candler: I think as we deliberate we now have less than eight minutes apiece, so I think we should start now. That's my take on it.

Mr. Temples: Why don't we start a round-robin and see where it goes, I guess?

Chair Axthelm: I think if you start with a couple questions then it doesn't become – if you start with eight minutes – and I like the idea but I think when it gets down to the end of the line the

last person doesn't have the interest as much. If we can just keep it down to a couple questions and then just run down the line and then come back through.

Mr. Meenaghan: That's fine too.

Chair Axthelm: But that's up to you. Do you want to proceed that way or towards Kevin?

Ms. Candler: I'll start.

Chair Axthelm: Okay. Just start with a couple questions.

Ms. Candler: Gary, I had the same question as Ellen, actually, about the S-1. I understand that's a state something that is by statute we're going to have to deal with, but I didn't get a clear sense of how much land you think is affected here. I guess it doesn't matter if it's in the UGA? It could be anywhere in the county so that means there is going to be a lot of land affected. But the example you gave was a place where you'd have 100 acres and someone might want to build a house on 1 acre. Is there going to be very much of that land that's zoned one house per acre? I mean, we're not talking about taking one acre out. Aren't we going to be talking about taking 20 or 40 out most of the time? Maybe I'm thinking of it wrong. I don't know.

Mr. Christensen: Yeah, I'll try to be brief and respectful of your time. It's more about the land use activity than it is the zone. It really is based on that portion of the land which is no longer going to be managed for timber purposes. It could be within the urban growth area. It could be outside of the urban growth area. It's not necessarily zone-specific, zoning district-specific. It is initiated by the landowner so they indeed are going to DNR because they are proposing to harvest some timber, and if they are going to harvest more than 5000 board feet of timber, they need to get a Forest Practice permit. That's basically a little bit more than a logging truck. So if they're proposing to do that, and if they're going to sell it, they need a Forest Practice permit.

So there are a number of different types of permit classes, I think I through VI. Class IV, Generals, are when that landowner is no longer proposing to manage a portion or all of that property under a timber management plan. So when they indicate that they're going to convert or no longer manage either the entire parcel or a portion, then in terms of Forest Practice Act that buildable area or envelope, be it 1 acre out of the 100 as I used in the example, would be converted. The other 99 acres would be continued to be managed as a timber farm or management operation. So our authority and review would be only over the 1 acre, not a 40-acre. It's not a minimum lot size. This is regarding a land use activity. So it's not being regulated per a zoning district minimum lot size. You can have 100 acres of forestland in Secondary Forest and put a house on that without a land division. It's one house per 20 acres. You own 100 acres, you in essence have five development rights. You don't need to exercise all of those. You could choose to just build one house on your 100 acres and indicate that you're going to convert 1 acre of the 100, and that authority or review for that particular parcel would come under the County's jurisdiction then. The other 99 acres would be continued to be reviewed under the authority of DNR.

Ms. Candler: Okay. Thank you.

Mr. Christensen: I hope that helps clarify it.

Ms. Candler: I think so. Thank you.

Chair Axthelm: So in light of this – the question here – do you want to – if you have other questions, should we want to go ahead and cover it that way? On the same subject. Okay. So perhaps maybe the way to do it – do we still just go down through the list?

Mr. Temples: 30 items?

Mr. Greenwood: I think it would go too slow that way. Maybe we could just get your attention and maybe jump in on that particular subject. My question on this one surrounds – my initial question surrounds: Have we worked with the Forest Advisory Board on the approach you want to take in dealing with this issue?

Mr. Christensen: I was before them earlier this month at their monthly meeting so they are well aware of this being a proposed code amendment, along with another issue of interest which I didn't discuss because it's proceeding in a parallel path but independent of this process, and that's the Rural Forestry Initiative, which would take a considerable amount of time to discuss that. But that is ongoing and we're collaborating with the Forest Advisory Board on that issue as well.

Mr. Greenwood: Okay, so do they have an invitation from staff to participate and help craft that language to address the issue? Because I think you might find that there are some who don't think there's as much of a problem as some others might.

Mr. Christensen: Yes, in my discussion with them at their earlier monthly meeting this month, there's not consensus amongst the members about whether they like this idea of transferring jurisdiction. The problem is is that it's not an option. It's a requirement under state statute. And the concern that the County has is that under the 2016 Update, under the Growth Management Act, we are to assure that since our last update that we are consistent with all statutory changes that have occurred. So the risk that the County has – not that there would appear to be or could be an appeal – would be for someone to file an appeal for a failure to act because the County didn't do what state statute was requiring it to do.

Mr. Greenwood: Who does the staff believe – who do *we* believe – is the lead agency for conversion applications now? Who's handling the lead agency?

Mr. Christensen: They apply to the state.

Mr. Greenwood: And the state turns them away. Is that not correct? They turn them to the County because the County has jurisdiction currently, not the state. You can't file a Forest Practices application for a conversion process. They'll turn you away.

Mr. Christensen: It goes to DNR.

Mr. Greenwood: It has to go to the County first. They can go to the DNR's office but they don't get any satisfaction there. Because they won't process it until they get County approval on that conversion.

Mr. Christensen: Well, it's – yes. I mean, we do review those so the process really isn't much different than what's currently going on.

Mr. Greenwood: Correct.

Mr. Christensen: It's just a formality. We're just wanting to adopt procedurally under code what state law requires of us, which we're already doing, just as you indicated, Keith.

Mr. Greenwood: But isn't there an additional piece of background information historically whereby the County attempted to adopt some Forest Practice regulations, and in collaboration with the DNR there was some conflicts there and the DNR did not accept what we had proposed and it was dropped?

Mr. Christensen: Yes. Yes.

Mr. Greenwood: And then the legislature extended the timeframe for compliance with the request.

Mr. Christensen: Yes. Yeah, I know at the state level when this was approved in 1997 local governments, counties in particular, were very reluctant to take this on. They viewed it as an unfunded mandate – simply the state requiring local governments to again do something that initially we all felt was the purview of the state. And we were concerned that this was going to be costly, timely, and that we were going to have to hire foresters. But as time has proven, that's not been the case. And so we have worked with the DNR and it's really a matter of formality in adopting a code, similar to that which King County has done and Snohomish County just did within the last month. Their County Council just assumed or adopted regulations that puts Snohomish County in charge of Class IV Generals.

Mr. Greenwood: Well, I guess I would just like to – since this is about process, I'd like to encourage the staff to at least identify what the options are as recommendations from the Forest Advisory Board, because that's what we have. And they're the most versed, as you are, in this process. In the description even I see there's a quote that I can't even – I had trouble finding. Where it says "likely to be converted," I could not find that in the code so I don't know where that quote comes from. There are similar discussions but basically, as you described, Gary, I think accurately, that the landowner proposes a conversion and then it gets triggered into jurisdiction by the County. So if it's – there are ways that they can – you can be in a UGA or not in a UGA and it can or cannot be – it doesn't have to go under County jurisdiction. There're some requirements for a management plan if it is in UGA to continue in ongoing forest practice, as I think the case came up with the Hidden Lakes project. So I think there's a process that's been ongoing. It continues to, I think, work. If we need to satisfy a state mandate and the DNR, I know, they've stated that they're interested in handing off more of this jurisdiction, let's refine that process. I think that's appropriate. But refine it with the Forest Advisory Board, I think would be more helpful than you guys doing it by yourself.

Mr. Christensen: And we agree. No, this isn't being done just in-house. It's in with collaboration of the FAB.

Mr. Greenwood: Okay, so I'd like to see what they have to say pertaining to it, and even if it's in disagreement with what the County staff thinks we should do, let's at least know where they're coming from.

Chair Axthelm: Any comments on that one?

Ms. Candler: My next question is about C-1, and I don't know if this is something you want to answer right now or if you want to think about it. I'm wondering – the proposal, I guess, is to make certain types of permits still vest and all other permits not vest, I think was the idea.

Mr. Walters: That's correct.

Ms. Candler: Anyway, I'm just wondering in my own mind if there are other types of permits that should still vest.

Mr. Walters: The two that are listed there are the ones that state law creates a vesting provision for. And we don't list any others. So you might suggest others but the proposal includes only the ones that state law would vest.

Ms. Candler: So has there been any discussion –

Mr. Walters: The one other that would vest under state law are development agreements, which sort of are understood because development agreements are long-term contracts.

Ms. Candler: And so there hasn't been any discussion of anything that should be added to that?

Mr. Walters: No.

Ms. Candler: Okay. And my next question is under C-4. The proposal is for a change in fees if – basically for non-site-specific map amendments, and I'm just wondering where that came from. Sort of what's the impetus for that one?

Mr. Walters: The fee schedule already indicates that there's no fee for these types of amendments, but we would write it into the code as well. This has come up in some discussions earlier this year among people that may want to submit suggestions for Comprehensive Plan policy amendments or development regulation amendments.

Ms. Candler: So you'd be making it consistent with what's already being done.

Mr. Walters: Correct. It's already in the fee schedule. And the fee for a map amendment is substantial. It's $5000.

Chair Axthelm: Does anybody have any comments or questions ____ issues __?

Ms. Mitchell: I don't have questions yet. I need to understand some of the other things better before I can even do that.

Mr. Temples: I'm going to jump to one area that I've read and reread and reread, and maybe Gary or Dale could clarify this for me. On C-26, the Guemes Island proposal they sent us, item D, I had a hard time with the way they wrote up these setbacks, and then at the very end it talks about to a "maximum height of 30 feet," and I thought the maximum height level for most residential construction was 35 feet.

Mr. Pernula: That's correct. They want to lower that to 30 feet.

Mr. Temples: Why?

Mr. Pernula: I think, as much as anything, to preserve views on Guemes Island. But the way it works on the setbacks is that you have a minimum setback that you have to meet and then if

you do meet that minimum setback you're only allowed a certain height of the building. What was it? 18 feet? Then if you have additional setback, you get additional height. That's really all that it says there. We also have some drawings that can go with that to show it as well.

Mr. Temples: But is that again – if everywhere else is required 35 feet, why are they suggesting 30 except they don't want to get their view cut off?

Mr. Pernula: I think that's the main reason because it is on an island and they want things to be at a very small scale. They want to keep views. And it *is* in their adopted plan.

Mr. Temples: Okay.

Mr. Walters: Also I think the height limit is 40 feet in Rural Reserve and Rural Intermediate. In the shoreline jurisdiction it would be 35, but they're proposing that this apply not just in shoreline jurisdiction but basically throughout the whole island.

Chair Axthelm: What is it currently on Guemes?

Mr. Walters: I believe it is 40. Brandon also thinks it's 40.

Ms. Lohman: What is it in the shoreline one? I thought it was –

Mr. Walters: What is that?

Ms. Lohman: I thought it was 25.

Mr. Walters: I'm sorry.

Ms. Lohman: I thought it was 25 in the shoreline.

Mr. Walters: 35.

Ms. Lohman: It's 35?

Mr. Walters: Well, okay, so let me qualify that. Under state law, 35 is the maximum that can be allowed in the shoreline jurisdiction without, I think, a conditional use permit. Under the current Shoreline Plan it might be lower. It might be 25. But it's definitely not the 40 that's allowed outside.

Ms. Candler: And the same section here – does anybody – do we know what the current setback is for the – I was wondering why they wanted ten feet under G. They want ten feet from the right-of-way of the street. Do you know what their current setback is for a –

Mr. Pernula: For a fence?

Ms. Candler: For a fence that's, I guess, three feet – higher than three feet. I understand for corners, but is that – what would that be a change from, I guess is the question? Does anybody know?

Mr. Pernula: Six feet all the way around.

Ms. Candler: It has to be set back ten.

Mr. Pernula: But what they're proposing is for those that are in the front yards normally would be much lower than that. That's actually a fairly standard provision in cities. It's not in our County Code but that is a fairly standard provision – similar to what they have here. Often you're allowed three-foot fences in front yards or on corners, but behind the building setback you're allowed to go to six feet.

Ms. Candler: And is that similar to D – they're already adopted in their own area plan?

Mr. Pernula: That is, I believe, in their plan. I'd have to double-check on that. But a lot of this stuff is right out of their plan.

Chair Axthelm: See, I would have a concern about that. With a six – oh, sorry – limit of three feet and you're in a rural area, if you have animals or things like that it doesn't work that way. You'd have to have taller.

Mr. Pernula: Yes, you can have it taller than that but it's got to be back – that distance from the road.

Chair Axthelm: Which basically makes that land unusable. For a rural area it means that more – I mean, if you have animals or if you have things to take care of then it means more to maintain.

Mr. Pernula: True.

Mr. Walters: Well, also, though, it does indicate that *solid* fences higher than three feet, so you can have a less-than-solid fence.

Mr. Pernula: If it's 50% open.

Chair Axthelm: So it's view preservation.

Mr. Pernula: Yeah.

Mr. Greenwood: Are all of these elements A through G, they have been adopted by their subarea plan? Or approved or incorporated in their subarea plan?

Mr. Pernula: I believe most of those are. I'd have to go through and check the specific language on each one of those to verify it, and I can do that for you if you wish.

Mr. Greenwood: I think that'd be helpful for me to know that they're the ones that cooked them up and adopted them and vetted them then they must be island-specific, because they don't seem –

Mr. Pernula: I know a number of those are. I recognize those from the plan, like the height of the structures with the additional setback and so on.

Mr. Walters: Definitely they're all from the plan, though my question is, Do they vary at all in the precise text? Also the plan adopts all of these as "should" statements, so not mandatory. But that is a plan that was developed and promulgated by the Guemes Island Planning Advisory

Committee, which is an elected body on Guemes, and adopted by the Board of County Commissioners.

Chair Axthelm: Any other comments on that?

Ms. Lohman: On this whole section?

Chair Axthelm: Yeah. It doesn't mean you can't come back to it. It's just that while we're on the subject you might as well continue it.

Ms. Lohman: Are we at random order? Are we in random order?

Mr. Greenwood: On the subject, I defer. I let Robert jump over. I do have a question or two, so if it's on the subject that would be great. Otherwise, I could change the subject.

Ms. Lohman: Okay, yes. Okay, on B, is this a building prohibition? I mean, when I read it at first that's how it came across. And is it the right language right out of their plan? I wanted to make sure that it did match the adopted plan and doesn't just become a way to keep somebody they don't want to have build.

And then the next one, C, is this a temporary situation – that reading, having that test?

Mr. Pernula: I didn't think so. I thought it was something – they have a permanent concern about saltwater intrusion on Guemes Island and they don't want to see it occur.

Ms. Lohman: Is there, like, an alternative a property owner could do, like maybe some rainwater catchment or something to come up with, when you're talking about B and C?

Mr. Pernula: Sure. Good point.

Ms. Lohman: Because that's suggesting that you're going to – I want to make sure that you're not just arbitrarily precluding a property owner from exercising their right when there might possibly be some alternatives that we don't want to slam the door on.

Mr. Pernula: We'll check into that and see if there are already alternatives in those code sections, the larger parts of those code sections.

Ms. Lohman: And I also thought G was – I stumbled on G and D and E, the height. I tripped over the way that it's worded as well. And I read it and read it and read it, and went, What? So that tells you – here several people have pointed it out so something's wrong with the words.

Mr. Walters: Well, those words won't be the code. Those words are their words, either out of their subarea plan or out of their memo, so the words that go into the code will be more consistent with what is in the code now.

Ms. Lohman: Because this document then is a mixture of proposed language and dialogue about a future date coming up with proposed language. So that's why I'm – so – I just want to stop there.

Mr. Temples: Think of it as a schematic.

Ms. Lohman: There you go.

Chair Axthelm: I think it might be good to differentiate on there which of those items are already in their subarea plan.

Mr. Pernula: I believe that one with the height is. I remember reading almost precisely what's here. They do have a drawing in their subarea plan showing/illustrating how it works.

Mr. Temples: Would that drawing be included in the final?

Mr. Pernula: I can get it to you, yeah.

Mr. Walters: Well, when we looked at it before you said that maybe it was more confusing.

Mr. Pernula: A drawing is kind of confusing to enforce because you can't do the arithmetic interpolation as easy as you can with numbers because you're measuring off of a drawing. We'll present it in the best way we can.

Chair Axthelm: Anybody else? Keith?

Mr. Greenwood: Just going down the list then, going back to page 2, which is page 1, I guess I have a question about allowing battery charging stations and other "electric vehicle infrastructure." Should they – it says to allow electric vehicle infrastructure as a use in all areas. Should they be in the same place with fueling stations? If we combine those, is that going to be something that *requires* them to be at the same place or *suggests* that they be at the same place? Because quite often I see them (at) entirely different places and I don't know if electricity and gasoline are good things to mix in the same environment, how you separate those. I see them in parking structures and parking lots sometimes, just in a little corner. Some of these type of service stations – self-service service stations for electric vehicles. We have one here, don't we?

Mr. Walters: We do.

Mr. Greenwood: So that's not a fueling station.

Mr. Walters: I have electricity and gasoline in my same car.

Mr. Greenwood: See and that's scary to me. They told me not to use my cell phone at the gas station, let alone somebody's electric car!

Mr. Walters: It's pretty good. Yeah, your 12-volt battery can fry a wrench in half, so it can cause a spark to ignite your gasoline, too. But what I would say in response to the first part of your question is it would not *require* electric vehicle infrastructure; it would *allow* it. That's what the state law requires, is that we allow it and not create a barrier to provision of electric vehicle infrastructure.

Mr. Temples: You're encouraging it.

Mr. Walters: So we would – we're proposing to just list it on the same line next to vehicle fueling stations. So fueling and charging, just treat them as the same type of thing. There are cars pulling up and parking and getting fuel or batteries or electricity the same ____.

Mr. Greenwood: But don't they have different types of impacts on the neighboring communities? I mean, if you've got a – I've seen them at pretty fancy, high-rise type of facilities, and having a gas station there is not the same thing as having a little corner of the parking lot with the little plug-in with a little car with a cord going into it. I just think about some of the impacts.

Mr. Walters: Yes; however, the zones that we're talking about are not going to be the residential zones or the natural resource zones, so there aren't very many zones left that we'll be talking about – sort of as we went through with marijuana. And the differences in the impacts are maybe likely negligible. If you want to parse through all the zones for the impacts on electric vehicle infrastructure you'll be able to do that, but it sort of seems unlikely that there will be a significant enough difference and a significant enough demand for the charging stations to make it worth your while. Most of the time the charging stations appear on Interstate 5. Rural Freeway Service, for instance, is, I think, the zone that the big Tesla supercharge station next to the Fairfield's – is that what it's called? – at Cook Road – that one. Also there's a charging station at Anderson Road at the electrical school down there.

Mr. Greenwood: I guess what I was looking for was fueling stations – gas, diesel, that sort of thing – there's a place for those, and having electric I'm feeling more comfortable that you can successfully do both at the same location at the same time. I'm not having so much of a problem with having a charging station at a fueling station, but I would be more concerned about having a fueling station get confused with a charging station. So I think there's enough of a difference, as far as impact to a community, having one of those and where they go. So maybe it could be in the same code section but make some differentiation in that they're not the same.

Mr. Walters: Yeah, you'll definitely be able to have one without the other, even if they're listed on the same line. You wouldn't be required to have fueling with charging or vice-versa. Does that address –

Mr. Greenwood: Yeah.

Mr. Temples: Well, it's like up on the Highway 20 up by the pass. You get up there by one little town – I can't think of the name of it, but there's an electric charging station up there and across the block on the other side is a gas station. They're basically both fueling stations.

Chair Axthelm: And I can understand where one would fit in without impacts, but when you start to go with several then it starts to look like a gas station kind of thing. I guess it depends on how it looks.

Mr. Walters: And you might be inclined to permit electric charging stations in more locations than gas stations, but I think just for simplicity, fulfill the state requirement, we just make them all in the same zones that vehicle fueling stations –

Mr. Greenwood: Well, sometimes, though, we get into trouble where we say, These are the acceptable uses in this particular zone, and so we open it up and allow those types of activities and then we have something that we're unsure about – is it agriculture, is it commercial, is it industrial? – and then, boom, it's in the commercial. So I want to be careful to not open up a particular zone to inappropriate, conflicting uses, I guess.

Mr. Walters: And I think that the approach proposed here is a conservative approach, because a gas station is clearly a more significant use than an electric vehicle silent, clean, no pollution charging station.

Mr. Greenwood: That depends where the electricity comes from, huh?

Chair Axthelm: Exactly.

Mr. Greenwood: A diesel-burning generator that creates the electricity plug into your car.

Mr. Walters: No, because the diesel-burning generator is not onsite.

Mr. Greenwood: Oh, okay. All right. That's true.

Ms. Mitchell: Tangential question: When these things come up – for instance, like the one in the parking lot – who buys those, puts them in, maintains, and those kinds of things? Is it the property owner or the landowner?

Mr. Walters: It varies.

Ms. Mitchell: So every time you see one of those, somebody else is responsible for it? Is that the idea?

Mr. Walters: No, it varies.

Ms. Mitchell: Okay. Thank you.

Mr. Walters: For instance, the County's charging stations are owned by the County, operated by the County. The payment processing is done by a third party provider. I believe the ones at Cook Road are owned by Tesla, operated by Tesla, probably under some kind of lease from the hotel or the adjacent use. I think there is a fueling station right next – they're between the hotel and a gas station. But there are some that are free; there is no third party provider. There're some that could be leased. It varies a lot.

Mr. Greenwood: Oh, C-7, which is on page 5, talks about Secondary Forest-Natural Resource Lands permitted uses. Clarify distinction between water divergent structure and impounds and watershed management, but not including water diversion structures, impoundment dams or hydroelectric generation. The statement was made that no one knows what watershed management means. Who did we ask?

Mr. Walters: The staff that are interpreting and applying the code.

Mr. Greenwood: Okay, that would be another question I would suggest you ask the Forest Advisory Board because I think they'll give you an answer for that. And if not, you can look it up on the Internet and you'll find it. So just watershed management activities can be different than water diversion, structures, and impoundments. So I'd look to see what fits into that category before we eliminate it. Okay?

Chair Axthelm: Okay, ___? Or any other questions on that comment? Robert?

Mr. Temples: None.

Chair Axthelm: Okay. Kevin?

Mr. Meenaghan: General question about the S-1 through S-6: What is our ability in Skagit County to – because these are coming from the state – what's our ability to say we disagree with these, or do we have any ability to say that?

Mr. Walters: We don't have a lot of ability to just say no. We have the ability to just never get around to getting it done, like several other things that we've been slowly working on. But the problem that has been articulated a couple of times tonight is that we will submit a checklist to the Department of Commerce indicating that we have done these mandatory items with our Comprehensive Plan Update, and if we have not checked all those boxes they will put us on the list of bad counties that don't get any grant money. And that has – in the past we have been non-compliant with the Growth Management Act for lengthy periods and it has not, in fact, affected in any noticeable way our ability to get grant funds or highway funds or that kind of thing. But that could change in the future, especially in a time of much more limited resources. The list of bad counties may become a list of counties that really, in fact, don't get state dollars.

Mr. Christensen: I think the risk that we have – and if I'm not using the term correctly, Ryan could correct me – but it would be an appeal based on a failure to act –

Mr. Walters: Oh, and that – yes.

Mr. Christensen: – to do what you're required to do. Now there may be an appeal or not. It might simply be moot. And some of these statutory changes have been in place for years and we've not taken any action, but the problem is that we have under an Update is that we're required to go and look at all of the statutory changes since our last Update and to make sure that under the Growth Management Act that our Comp Plan and development regulations are current with state law. So if we're not, somebody could appeal, based on, I think, the legal term "failure to act." We didn't do what we were required to do.

Mr. Walters: Also, since resolution of the last part of the *Abenroth* appeal, the Bayview Ridge Subarea Plan, and our Ag-CAO appeal with enrollment in the Voluntary Stewardship Program, we do not have any outstanding GMA compliance issues and we understand that the Board would like to keep it that way.

Mr. Christensen: It would not be a preferred outcome to be not – to be held not in compliance with the Act under a Hearings Board ruling. Worse yet would be not only not in compliance but invalidated, which would carry even further ramifications. Now the problem that we would have under an appeal is that GMA says that there is local deference given to local governments when, in fact, they act on a comprehensive plan and development regulations, and it's presumed valid upon adoption. If we're appealed on that action – and we would argue that we are compliant because we took action; the County Commissioners did – if we were to be overturned and found by the Hearings Board to be either not in compliance or that, under a more severe determination, held to be invalid, then the responsibility is placed back on the County in terms of proving its case on a remand or on its future action – that we are indeed then – we lose the deference given to local governments upon its initial adoption when we're presumed to be valid. If our action is overturned, then there's a higher standard of review and the duty then shifts to the County to prove that it's in GMA compliance. So it's a much – the bar is raised if we have to come back and then prove that our remedial action is now in compliance with the Act.

Mr. Meenaghan: Oh. Okay. And I guess my point for asking that is I don't think that we at the County should roll over and just accept what the state is mandating us to do. If we think that there's something that needs to be addressed or isn't right, then we should push back on that. I don't think we should roll over. Not that I'm saying any of these are. I'm just saying that's the way we should be.

And my second point to that is that Ryan brought up the – you know, we may not get funded for these grants and stuff. Does that mean that the Planning Commission gets paid less if that happens?

Ms. Mitchell: Absolutely.

Mr. Meenaghan: Okay. All right. Thank you for that.

Chair Axthelm: Okay. Are you done? Is there anybody else that has a comment on that same question?

Mr. Meenaghan: Yes.

Mr. Greenwood: I'd like to get a raise, too. I don't know about you.

Mr. Meenaghan: Yeah, I'm all for it.

Chair Axthelm: So I – along the lines of his comment, are there any of these items S-1 through S-6 that – so you say they're required items. Are they required because of a grant that we took?

Mr. Walters: No.

Chair Axthelm: Or are they required in general because of state law?

Mr. Walters: They're required because of state law. S-5 is not necessarily an affirmative requirement to do something, but it allows you to spend impact fees over ten years instead of six. Also we've already accomplished S-5. But some of these requirements take that form. Others, like S-6 is a requirement, an affirmative requirement by the state to update the Shoreline Master Program. We also got a grant from the state to assist us with that, but we had the requirement to do the update before we got the grant, and the grant has long since expired and we spent all the money. Same with S-2: We have an affirmative requirement from the state to update the critical areas ordinance on a set schedule. S-1, that's an affirmative requirement unrelated to any kind of grant to transfer jurisdiction. S-3, that was just some electric vehicle incentive legislation from some years back that we need to make sure that we accomplish during the Update. And S-4 is an extension of the time allowed to complete subdivisions, which is a benefit for subdivision applicants. It's really not a significant burden on the County to accomplish that code change. As you can see, it's drafted in basically two sentences there. But it is – the state has changed the subdivision laws so we have an obligation to comply with them.

Chair Axthelm: Okay. Because free money's great – I mean, grants. If it's free money that's great. It gets more money for the County. But if it comes with a hitch and that hitch is not necessarily something the County wants or is ready for, that's where I have issues.

Mr. Walters: Yes, and that is a frequent narrative spun by some people but it is almost never applicable, because the Board of County Commissioners does not approve grant contracts where they have obligations to adopt things as a result of the grant contract.

Chair Axthelm: Okay. That's nice to publicly *hear*!

Mr. Walters: Yeah.

Mr. Christensen: Let me expand a little bit on that as well. I've been at this for some time in Skagit County and certainly was part of our initial efforts in the early '90s addressing GMA. And we early on – and many other counties – Kevin, in kind of response to your comment about we should be careful about what we adopt and do and if we don't agree perhaps we shouldn't. In addition to the two potential challenges before the Hearings Boards, which are noncompliance and invalidity, there's still yet another action that the Governor can take, which I'm only aware of the Governor having done it once in the '90s, and it was Chelan County. They took a very brazen kind of attitude toward GMA and felt it was a loss of local control and decision-making, and basically told the state to go to hell. And the Governor imposed sanctions, which didn't have anything to do with grant money. It dealt with liquor tax revenues, fuel tax revenues, road monies, which Chelan County no longer got. And those County Commissioners were unelected and some new County Commissioners were elected.

Mr. Meenaghan: Yeah, you think?!

Mr. Christensen: So there are some serious ramifications and, you know, we don't take it lightly. But I do think you make a good point. We need to truly understand what those statutory requirements are and what their effects are, and to do the right thing.

Mr. Greenwood: Some of them are guidelines with some flexibility within, as we're finding in the Shorelines, correct?

Mr. Christensen: Yeah, certainly so. And there is a certain degree of latitude in all of this – some a lot and in other areas not so much. So you have to deal with them all on a case by case basis. But ultimately it's the County Commissioners that will decide. We took a very strong stance in the '90s. And under the *Abenroth* case, 60c, you know, there was over 100 issues that were raised on appeal and we spent a good many years trying to get into compliance. It cost the County a lot of money and ultimately we won some and we lost some. So lessons learned. But I don't think that that's a war we necessarily want. So we want to do the right thing and, again, ultimately the County Commissioners will make that judgment and take action and then we'll defend it.

Mr. Walters: The other example of that would be the Ag-Critical Areas Ordinance. We wanted to balance in a way that other counties were – other high profile counties – were not doing the protection of agricultural lands and critical areas. And we ultimately prevailed before the Supreme Court on the narrow question of the fact that we do get to balance those two things. Now there are limits on how far the scale can tip and the court articulated those limits as well, and it also cost us a good deal of money to get there. But I think everybody – at least the current County electeds feel that that was the appropriate course to take: to litigate that as necessary to find that balance, as articulated by the Supreme Court. However, the items before you here – at least 1 through 5 – are very mild. The only one of really significant import is S-6. Unless something dramatic comes out of S-2, which we don't anticipate, S-1 through 5 are very mild.

Mr. Meenaghan: One more question: C-12. This is the one that has to do with this mail disclosure for NRL to landowners. What is the requirement for that? Is that something we self-imposed in our previous code and we now go we're not doing it; it's dumb; let's get out – get it out? We have never done it. So should we or is it just a – are we just taking it out because we haven't done it, or should we be doing it?

Amy Hughes: Why was it written?

Mr. Christensen: I could probably – I was here when we talked about it, but it's going to test my memory a bit because it was probably over 20 years ago that this came to be. We've done it, I think, once. We did so in the form of including a notice, I think, on tax statements that went out. The purpose of this back in the '90s was based on the notion that the Growth Management Act was saying protect and conserve natural resource lands. And Skagit County has had a long history of doing that, back to the '60s when the first Comp Plan was adopted. It spoke about the importance of agriculture and timber management as a way of life and an important economic driver in our economy. And it was felt that the more we could do to emphasize the importance of natural resource management as a way of life and an economic driver and so forth, and we felt it was best to really let people know as many different ways as we could as often as we could. I think it was well-intended, but always good ideas maybe aren't very practical. And so it was only done once. It was looked at more as a burden. And so the question is, really, should we continue to do something we haven't done very often?

Mr. Meenaghan: And the bang for the buck was probably zero.

Mr. Christensen: I'm sorry – what was that again?

Mr. Meenaghan: The bang for the buck was probably zero on the one time we did it.

Mr. Christensen: You know, if it reaches one person and makes a big difference, is that a good return on the investment? You know, I think really a lot of this for the natural resource lands was to try to minimize nuisance complaints. If you're going to live out in the farmland, if you're going to be in the wild land, urban fringe the more that people know about the importance of natural resource management and industries the better. And maybe somebody, you know, that has lived out of the area and moves into it – I mean, I remember stories being told about how you drive through the Skagit Valley either during the Tulip Festival and you think, Gosh, this is a great place to live. I'd like to live there. And we all know that agriculture makes terrific lawns and farmland, I should say. So people from outside the area don't necessarily know what we know. And so it was really an effort to try to kind of provide a little bit of buyer beware.

Mr. Walters: So there is a state law requirement already that requires a seller to provide that disclosure to the buyer. We don't enforce that. Nobody really enforces that so whether that happens or not I don't know. But there is that requirement already existing in state law.

Also, in terms of nuisance complaints, obviously we don't take code enforcement action against nuisance complaints against natural resource activity. So people can complain but we're not going to do anything about that. It's more of a setting of expectations type of thing, and there are multiple mechanisms described here in this memo to try to lay out those expectations. Some of them are more onerous than others. Some of them are more effective than others. And I think the idea here is to eliminate the onerous ones that aren't effective – that quadrant in that matrix. Those should go away. And then the ones in the outer two quadrants maybe we hold onto. The one that is not onerous and is effective we definitely should hold onto, but we should review that

and figure it out, because as these regulations grow the gradual impact of these minute regulations really starts to add up.

The story that I related before about the title notice requirement and our efforts last year to try to get people to actually do the title notice: We added to the property information page on the website, as I indicated, a line that says sale requires NRL disclosure. And you could click on it and it would take you to the page that described what that was – not the code section but a handout that said you live within x-feet of Natural Resource Land and when you sell you have to put this thing in your recording or give to the buyer. *Really* a large number of phone calls about that because it was in red on the page – an unmanageable number of phone calls, not just to the Planning Department but to the Assessor's office, the Treasurer's office. So I think what happened is we changed it to black. All the phone calls stopped. No one saw it anymore because it wasn't in red. And none of that is to suggest to you that anyone actually *did* anything as a result of it, because we didn't see that.

Mr. Greenwood: Well, see, and I was – I want to disagree with that, Ryan, because I came from an area that there were very few counties that had an open and such a prominent and necessary situation where people were coming and going and they needed to understand that there could be inconveniences with agriculture and other activities. People move in to the area. Maybe they don't stay very long because they came from some sunnier place. But they'll move into a place that has forest activities and right away they're calling – Hey, this is my ground. This is my back yard. How can they cut those trees? Sometimes it's people with lots of money and lawyers and things like that so – sorry, Ryan – but they – anyway, I've seen doctors move right next to forested hill slopes and then they're calling in questioning. And the example I would use is Napa County. Okay, so vineyards, wine, that sort of thing – there's activities that take place at inconvenient times and there's dust and there's fungal agents to control what people like to drink. So if they didn't have that right-to-farm on people's taxes, they didn't know it existed. And I had a gentleman who – I believe he was on the Planning Commission at one time – he asked me within a year, he said, How come we don't have a right-to-farm act here? I said we do. Right to practice forestry? We do. I mean, it's in there. So we need to find a more effective way perhaps of getting that out to people. When I – maybe I used the right title company because I used Chicago Title –

Mr. Walters: Me, too. They do it. So that's one.

Mr. Greenwood: – and I had to – I said, Wow, this is great! What a neat place to live because they actually protect what I like to do for a living. So I think we just need to find a more effective way of letting people know about the inconveniences.

Ms. Lohman: Well, and to dovetail on that, I think just because you have noncompliance by certain title companies or maybe certain real estate agents, I don't think that should be a blank check that says, Oh, this is a bad rule. We need to get rid of it. Maybe it needs to be re-crafted so that it is more definitive and workable. And I agree that repeatedly filing – I mean, for example, my own self. We tore down an old barn and we replaced it with a new barn. I am applying for a farm building in the farm zone. I wrote a check with my farm bank account and I had to go record a document acknowledging I'm in an Ag-NRL. I thought it was stupid. And so we need to get rid of stupid and go back to what the intent was. It was to acknowledge that whatever activity you're doing within the Ag-NRL or a Forestry-NRL or whatever NRL you're acknowledging that it is in there. But I don't think for every single activity that you need to ring the bell. It doesn't make sense.

Mr. Walters: And we may be able to craft that solution perhaps by requiring it to be included on tax statements or on assessments, which are *already* mailed.

Ms. Lohman: And maybe the answer is partially in *who* is doing the recording, because I think maybe switching it from the seller to the buyer – but somewhere the seller needs to disclose to some of these people. Because some of these folks, I think their idea of rural is more of a suburban type environment, and we are a *working* rural and that is different than in, you know, somebody's just got a couple horses and they're out playing. I mean, it's a little bit different. And I think strongly that C-12, 13, and 14 need to go to the Ag Advisory, because I think some of this language – I remember when I was on the Ag Advisory I believe some of this language came out of when I was on there or slightly before me, and I really urge you to kick it back to them for crafting some better language. But I really think that we have a giant potential for nuisance complaints because of our proximity to all the major cities in this county. Agriculture's on their borders. Not only that, we've got a major freeway bisecting us, plus Highway 20 and on and on, and we're between Vancouver and Seattle. We're in a vice all the way around and it looks really pretty and benign and it looks so simple, and nobody ever sees us when we're out working. They just see that it's pretty.

Mr. Greenwood: And if people don't know that there's a right-to-farm and a right-to-forest they complain, and then when they don't get satisfaction from their complaint, whether it's the DNR or my office, then they go to their legislator.

Ms. Lohman: And I think it was a little bit cavalier to say that – you know, to minimize the complaint thing because they may not be complaining to the County but they are complaining to DOE, Department of Ag, and whoever else, and they are obligated to investigate and they shut us down. Because they are obligated to investigate even if it is a benign activity and an allowed activity and even if there's no impact.

Mr. Greenwood: And I have some landowners who know and they approach me quite different when they have an issue, and we can deal with it a lot easier than having it be confrontational because of ignorance.

Ms. Lohman: Because some of these complaints are perception rather than there's an actual thing going on.

Mr. Christensen: Yeah. Annie, I agree with you. I don't like stupid things either. I think what –

Ms. Lohman: I mean because that's how it's being administered because that's what the words say to do.

Mr. Christensen: I think what we're trying to do here is find a better way in which to do it. We're looking for a greater efficiency. I think the idea is good and I think we – you know, there's, I think, two purposes behind this. One is to let the public know that Natural Resource Land activities are important in Skagit County, whether it's timber or agriculture and, in some cases, mineral. And at one time we used to have a right-to-farm ordinance. We are, I think, the second county in the state – Yakima was first – and under GMA, then, we modified that to be right-to-manage Natural Resource Lands, so that provided – what we were providing for, protection for agriculture, we wanted to do for timber, too. And the purpose there was to let people know that these are important activities in Skagit County and you may encounter them wherever you might live. Interestingly enough, when I built a house in Mount Vernon just off of Division, not far from Haggen – I might say in the middle of the city of Mount Vernon – I signed one of these

disclosure statements because the real estate agent told me that, You know, we don't even check to see if you're within a mile of agriculture. We just do it as a matter of protocol because we think – well, first of all, it minimizes their risk and liability in terms of letting buyers and sellers know, but they also – some feel it's important for people to know how important resource lands are in Skagit County.

Now what might that do besides also be a public policy of importance? It may help minimize nuisance complaints. Now it's not going to inoculate a landowner from it and nobody's going to be able to go before a judge and say, They're causing me harm, and look here in Skagit County Code: It says that I have to accept all of these activities. They have to be best management activities, but I feel that they are a nuisance. They're not going to be able to point to Skagit County Code and say – or in defense – They can't come before me, and raise these challenges. They have every right to do so. But I think what we're trying to do is just get the message out, and we want people to know that these are activities that are very customary throughout Skagit County. And not everybody has grown up here. Not everybody is accustomed to our Natural Resource Land activities. So it's kind of funny because I think we – and I'll wrap up here quickly – we are kind of creatures of habit and, you know, we like to complain. And, you know, Kevin will acknowledge this: You know, it's not a resource land issue, but if you live on Fidalgo Island you're going to complain about jet noise. And, you know, it's a similar thing. It's a nuisance-related issue and people are going to complain about it. But yet, you know, there are others on the island that will say it's the sounds of freedom. So all that we can do to let people know about these kinds of activities hopefully kind of ratchets down some of the emotions and the controversies and the conflicts that might otherwise arise.

Chair Axthelm: Kevin, did you get your _____? Annie, it's your turn.

Ms. Lohman: It's my turn? All right. My question is on C-5. You were contemplating removing the requirement that development projects must be commenced within two years, and you talked about the suggestion that speculation really didn't ever realize. Well, my question is, Should there be a time limit? Is there a – should we have some kind of reasonable time limit?

Mr. Christensen: You know, I'm trying to think of a time in the last 25 years that we did a commercial rezone. I don't think we have.

Ms. Lohman: Because I would think that if you went to all that trouble – that agony of getting a rezone – that you must be wanting to do it really bad.

Mr. Christensen: Actually we just did one recently out by Farmhouse Inn. We removed – just east of the gas station there was kind of a smaller, triangular piece of property, and to say, Hey, you've got two years to put a use on that property or you're going to lose it; it's going to revert back to Rural Reserve. We made it a conscious decision to say that land shouldn't be rural. It should be – it's compatible with adjacent uses, it's highway-related, a commercial use is okay. And I don't think it's so much a development proposal that's of interest but rather, Is that the best use of the land and is it compatible long-term? I think that really should be the policy question.

Ms. Lohman: With no caveat of time limit.

Mr. Christensen: I'm sorry?

Ms. Lohman: Without a caveat of having a time limit.

Mr. Christensen: I'm sorry. Without a –

Ms. Lohman: Without a time limit.

Mr. Christensen: Yeah, I mean, it would serve –

Ms. Lohman: I don't know. I was asking a question.

Mr. Christensen: It hasn't served any purpose over the years, especially within an urban growth area because really it's more the prerogative of the City or the Town.

Ms. Lohman: Right.

Mr. Christensen: That's, I think, the next one, C-6. But C-6 is going to apply only to UGAs which are Cities and Towns, with the exception of Bayview Ridge, and it has limited practicability there. But I think, again, having a do-something-within-two-years – and I think we originally thought that that was a way to kind of flush people out and deal with more real projects rather than any kind of speculation. It just hasn't come to fruition. We just haven't seen that. It hasn't been – I don't know if it really serves a purpose.

Ms. Lohman: And then my next question was on C-10 where you were talking about – the current chapter is Unclassifed use permits. Fire halls and stations like that, are they in that essential –

Mr. Christensen: Special use permit.

Ms. Lohman: They're not in that essential –

Mr. Christensen: They're not in this.

Ms. Lohman: Okay. And then –

Mr. Christensen: And I think I'm getting what you're maybe coming from, Annie, on that. Years ago we had a Public Use zone and that's where schools and hospitals and churches and fire stations and libraries were only allowed. And that was a zoning district. And with GMA now in place saying that – and with our Comp Plan and our zoning map being the same, for a fire station or a school to get necessary permits and not be in that zone would require a Comp Plan amendment and a rezone, which happens only once in a year and, as we know, can take not months, maybe not a year, maybe several years. And it wasn't very responsive to, in particular, fire districts who wanted to build fire stations. So we dealt with public uses then all as a special use permit and then decided which zones we would allow those because we thought we could be more responsive to special purpose district needs and to make sure that public health, safety, and welfare issues were being addressed in an expedient and timely way.

Ms. Lohman: Okay, and then the last – well, probably not the last for me. I don't think we should apologize for how much time we're taking on the Shoreline Master Plan. I think we're going at it very methodically and deliberatively, and it is a drastic change from what's already on the books, so I don't think we should apologize for it taking us time to do it well. And I just wanted to commend us for doing good work, and the staff, too. I'm done.

Ms. Hughes: Just to start, I want to thank the effort that's going into this. It's daunting and looking at it the first time through – since I'm new – it is hard to look at all of this. But, on the other hand, I support cleaning up past issues that need to be cleaned up. There are so many laws on the books from 1935 that I would like the state legislature every time they pass a new law to see if there's an old law that needs to be put to rest. So I appreciate the efforts, and I guess we just love our county so much is why we become defensive.

The question I have would be on C-13. It would be: Why was it written in the first place? And when I see as an alternative the Department will propose to delete the requirement, I want to go back to the why and see if deleting is where we need to go with it. I'm kind of confused on that whole one.

Mr. Walters: Well, there is the state law requirement for the seller to provide to the buyer a disclosure statement. So this section seems to be modeled on that state law requirement. Now that state law requirement, I believe, is in – it's in one of the two RCWs that are listed here at the end of C-13. I think it – if I recall correctly – has to do just with right-to-farm and not the forestland. In our experience with this over the past year, we were thinking that having the buyer sign the disclosure agreement first of all would be much more effective than it just being included in the pile of paperwork that the buyer signs. But, second, recording it with the title is of no particular value. What's important is the disclosure, not the fact that it gets recorded with the title, because no one is researching these things on the title before they're buying as a way to determine where it is in relation to Natural Resource Land, and you're creating multiple title notices on the same title if you're recording it every time the property changes hands.

So there may be more effective ways to accomplish the same result. I particularly like the idea of actually having it sent out on the tax statements or on the assessments, but also we have talked over the years about wouldn't it be nice if there were a booklet entitled "So You're Thinking of Buying Property in Skagit County," and it could explain to you how the zoning code works, how Natural Resource Lands protection works, where there's an airport, where there's a Navy base, and you would know all those things in advance. It might lead to less hard feelings when people end up with a piece of property where there's some restriction they weren't familiar with or some impact from a gravel pit or the Navy base or something like that. That seems less likely to happen in the near term, but maybe the tax statement thing could be something that could happen.

Ms. Hughes: So does it make sense doing it hand-in-hand so people know this is going away but this is what we think is more effective?

Mr. Walters: Well, and the next one, C-14, actually would have a direct replacement. C-14 also requires the title notice, so you could be recording the title notice many times on your same piece of property. C-14 requires the title notice at the time of permit processing. And GMA requires something that we are not currently doing, which is to include that natural resource notice in the text of the permit that we issue. So what we're suggesting in C-14 is to replace the title notice requirement at the time of permit application with embedding the notice in the permit – the issued permit itself.

Ms. Hughes: Okay.

Mr. Temples: Mr. Chair, in light of the time this evening and the fact that we're going to be revisiting this several times over the next few months, do we want to do as we did last time and

suggest additional questions could be sent to staff? I think we're going to be reviewing this many more times – are we not, Dale?

Mr. Pernula: You'll be reviewing the code at least, yes.

Chair Axthelm: Do any of the Commissioners have any comments that they want to have addressed at this time? I mean, that they're not comfortable with just as sending in.

Mr. Walters: Especially with respect to this Natural Resource Land title notice issue, you could send all of your suggestions about that and we could draft *all* of them so that when it comes back to you as a code proposal you would have all those options.

Ms. Lohman: But aren't you going to bring that before the Ag Advisory?

Mr. Walters: Well, and that. We have that written down.

Ms. Lohman: And then they could also weigh in with some comments.

Mr. Greenwood: I guess I'm not that comfortable with just doing a written comment now because I thought the Department was looking for some direction as to how to proceed.

Mr. Temples: And we're going to have to continue some other time.

Mr. Greenwood: I guess, or if there's some way we could encapsulate process into each one of these, rather than specific questions or concerns. Because I just don't think that – I mean, there's a lot of items that have not been very well vetted, and I'd kind of like to know what the process is that we're planning to go through rather than just notification of us and then take it back.

Mr. Christensen: Keith, in response to an earlier question that you asked and Annie, one of which was to vet this before the FAB and the AAB, we have in the past and we could certainly take these proposals which deal with ag and timber – or all of them – and say, you know, Are there any concerns or issues? Or if there are ones that you think in particular we need to do that with, we'd be interested in knowing. I mean, we could do it all or we could be judge and jury and decide which ones to take.

Mr. Greenwood: Well, that's what I want to avoid. I don't want it all to be on your head, and I don't think it's your responsibility completely to come up with all of the answers necessarily. But if there's opportunities for – people use the word 'collaboration' a lot, but… You know with regard to latecomer agreements, I think it would be really good to know what the processes are that other jurisdictions are using for that. That's not a new concept. I think there's some notification issues that may have some holes in them that this process in talking about natural resource and right-to-farm, that can address holes I see where – we've got homeowners associations and people are citing the wrong homeowners association in their deed and then they don't even know that there's one or what the requirements are, and then it gets sold to the next person and it just gets lost. They're referring to some development that's four blocks away and so the conditions don't even apply. So whether it's an enforcement issue or if it's a clarity of documentation, I think I'd like to refine some of these processes with people who know what they're talking about in that particular issue. I don't know that much about Guemes Island so I would tend to defer it to that particular subarea plan set of developers and advisors when it comes to setbacks on fences – some of the things that they identify about solid fences versus

transparent. We've talked about opaque versus transparent of late. Maybe some eight-foot fences that are transparent are different than a six-foot solid fence, you know? A wood fence at six feet is different than an eight-foot wood fence, you know, even in a commercial setting. One house has junk cars behind it because it's a – what's sometimes required so you don't see stuff. An eight-foot fence to keep deer from jumping over is a different type of fence because it can be seen through. So I just think that some of these could be – maybe if we can identify some additional resources to help come up with the appropriate language. That's all I – maybe a summary from me.

Chair Axthelm: (unintelligible)

Mr. Greenwood: I want to go home!

Chair Axthelm: You want additional time.

Mr. Greenwood: I feel like we've only gone through a third of it, but I'd like to spend at least a little bit more time, even if we just dedicate an hour or so in the next meeting. I don't know if we could fit that in.

Chair Axthelm: Dale?

Mr. Pernula: Well, what I was going to bring up in a few minutes would be our future agendas for the Planning Commission, and perhaps you could schedule some time. I'll tell you what we've got scheduled right now. On your next meeting, July 7th, is the public hearing on the Stormwater Code Update. Now we don't know how much that time will take – how much time it will take. It might take an hour. It might take two hours – maybe more. I don't know. But it seems to me that there might be an opportunity to talk at that time. I don't know if we'll be able to get feedback from the FAB or the AAB by then, but perhaps. The following meeting is July 21st. I'm kind of assuming that we'll have a Shoreline Master Program work session because we're not totally through with it yet. Originally we were going to have the public hearing on it, but certainly that's not going to happen. It's going to be pushed forward. But depending on how much time we take on Shorelines at that meeting, there might be some time then.

And we haven't scheduled a meeting in August yet, but it's sure looking like we might get a meeting or two in August.

Mr. Greenwood: I'd like to suggest that we finish this discussion and then go into Stormwater Update before we take on a new – tackle a new set of issues.

Mr. Pernula: The schedule – the Stormwater public hearing's already been scheduled. The notice has gone out. It's a public hearing on the whole thing.

Mr. Greenwood: All right.

Chair Axthelm: So put it on the tail end of the Stormwater hearing?

Mr. Greenwood: Because it's an ongoing process, right? I mean we're just –

Mr. Walters: It's an ongoing process for both of those items – Stormwater and this one. The deadline is quite a ways out. I mean, some of these code amendments are quite simple. Some of them are less simple, although you have raised questions with ones I thought were simple.

Mr. Greenwood: That's me! That's me.

Mr. Walters: I know that's – yeah.

Ms. Mitchell: And not for us. I was going to say I think we all benefit from hearing these exchanges and types of questions asked from areas that are not familiar to us, or being able to chime in if they are. And when you do get information from the FAB folks and the AAB folks, how will we know what that is? Are you going to post it online, are you going to bring it here, or what do you think?

Mr. Christensen: We'll probably come and provide you with an update.

Ms. Mitchell: Okay.

Mr. Christensen: I think that there's good – I think updating you in a forum such as this would provide good interactive dialogue.

Ms. Mitchell: And certainly invite those guys anytime.

Mr. Meenaghan: And I might submit that the way we did I-502 where we had a lot of questions and we submitted questions and you did a staff report, I think if you were able to do that same kind of thing, combine that with the Forest Advisory and the Ag Advisory comments, provide that back to us, it gives us some scoping on these different code amendments. And then I'm hoping from that we can provide you feedback on we agree with C-1 and we disagree with C-2, C-3 we recommend this – you know, whatever it is – because you need our recommendation to go write code. I mean, that's what it comes down to.

Mr. Greenwood: Otherwise, we end up just making a decision or making recommendations once it's already crafted. When it comes before the Comp Plan Update, do we include it or not include it?

Mr. Meenaghan: Right.

Chair Axthelm: We'd rather get our comments in now so it can make a difference on the code itself.

Ms. Lohman: Well, can we all see each other's? Can we Reply All? Because it's – I think it would be beneficial if we could see what everybody else is saying.

Mr. Walters: You cannot Reply All.

Ms. Lohman: I know. I said that just to get you.

Mr. Walters: Right.

Ms. Mitchell: But if you could post it somewhere or something.

Mr. Walters: Well, what we did before was take everybody's questions, condense the ones that were duplicates, and answer them all.

Mr. Meenaghan: Yep, and that staff report – 502 I'll go back to as an example – it combined everybody's questions into one staff report, so they're all there. I thought that worked great.

Chair Axthelm: _____. So then we move on to the next item, the Department Update. Do you have anything –

Mr. Pernula: That's what I already gave you, and I will put this issue at the tail end of the July 7th meeting. And the 21st will probably be Shorelines. That's really what I was going to go over so I'm done.

Chair Axthelm: Okay.

Mr. Walters: And I would also say that the Stormwater Code proposal is out on the website open for public comment. It's lengthy so you might not want to start reading it before the Planning Commission meeting.

Mr. Pernula: One last point, too, is a couple of you were there this morning but the Board of County Commissioners held a hearing on the final marijuana ordinance and they'll be taking action on it before too long.

Mr. Temples: Before tomorrow?

Mr. Pernula: Not before tomorrow.

(laughter)

Mr. Temples: Oh. That's what I thought I heard. I went, Huh?

Ms. Mitchell: Oh, and the one piece, Dale, about when the public comment finishes. It's 4:30 Thursday. Is that correct?

Mr. Pernula: That's correct.

Ms. Mitchell: So if somebody still wants to put in a comment you can, but you'd have to do it specifically through the PDS Comments section.

Mr. Temples: Mr. Chair, would you entertain a thought of a motion to adjourn?

Chair Axthelm: Actually not quite yet. We still need Planning Commissioner Comments and Announcements.

Mr. Temples: Oh, I'm sorry.

Chair Axthelm: Next item on the agenda: Planning Commissioner Comments and Announcements. But hold that thought!

Mr. Greenwood: I have one.

Chair Axthelm: Okay.

Mr. Greenwood: Gary mentioned it earlier – you mentioned that the Rural Forestry Initiative is on a parallel track but not necessarily on the same footing or the same pace necessarily as this amendment pertaining to jurisdiction of forest practices. But I know it's been on the work plan for a long time and it gets – and maybe because of the process – it just gets put further and further back and it gets referenced with this amendment. I've seen it referenced in the last work plan. And so I'd like it to at least be drug along or hooked on somehow so that it keeps going in the process. Because I know it's been important to the Forest Advisory Board for a long time and, you know, at some point they need to decide or we need to decide that it's not a good idea or it *is* a good idea. And if it has merits, let's make it happen. If not, let them get on to something else.

Mr. Christensen: Yes. It has been around a long time!

Mr. Greenwood: I know.

Mr. Christensen: I remember when we had the 2005 Update, which we finally finished in 2007, we had what were called Miscellaneous Code Amendments and there was about 119 of them. About six of them fell by the wayside because they were just too controversial and too complex and the like. RFI was one of them. And I think we had good intentions of addressing it last year but we had other items that came up that took what limited resources we had. But the County Commissioners in adopting the work program for this year identified this as a priority item and we are spending time on it. I am. And I think we have good intentions of having this addressed sometime this fall, with regard to a public hearing on the matter. And that, of course, requires a lot of upfront work: consultation with the FAB; looking at what other jurisdictions have done; having some discussion with DNR – all of which is ongoing. So we certainly are as much interested as you and they and everybody else that wants to see this get wrapped up.

Mr. Greenwood: Okay, because I'm interested in seeing it completed at some level, and whether it comes out with options. You know, that might be one way we approach it, where it has options of adopt, don't adopt, and then and/or drop it. If it's not even appropriate conceptually then let's get rid of it. That's all I had on that.

Chair Axthelm: Any other comments or announcements?

Mr. Meenaghan: I was just going to make a suggestion that if we do – I know it was mentioned we've got a lot to do, and we talked about August. And I would actually suggest that if we're going to add, maybe we add in July and to keep August freed up as much as possible. That's just my suggestion. Just one guy.

Chair Axthelm: Okay. Any other comments?

Ms. Lohman: Well, I'm not going to be here Tuesday the 12th – is it the 12th? August – whatever the Fair date is. So I'll just be right up front.

Mr. Temples: Well, we can still have a quorum.

Mr. Greenwood: But, I mean, there's another alternative to consider. It might be having a different – rather than a regularly scheduled August timeframe, which has always been in conflict with the Fair, maybe we have it at a different date in August. Since we're having two a month these days anyway, maybe it's just the alternative date. In the past we've had one a month, as I recall.

Ms. Lohman: Yeah.

Mr. Pernula: As these things approach and we see how these items have progressed, we'll poll you and see what's a good time for each of you.

Chair Axthelm: I would think that would be appropriate as to avoid the Skagit County Fair, just because of supporting that and the Fair itself.

Ms. Lohman: Well, it's a County activity.

Chair Axthelm: It's County, yeah. Okay. I will not be here on the 7th of July. So you'll have that one.

Mr. Greenwood: Well, I can tell you that's my anniversary so it's not going to be a long meeting if I'm in charge.

(laughter)

Mr. Pernula: It's Brandon's anniversary tonight.

Mr. Black: Thanks. Sorry for _____! Why didn't you tell me ahead of time!

Ms. Mitchell: We apologize.

Mr. Greenwood: You're going to come to the meeting on the 7th and…

Chair Axthelm: Any other comments? Matt Mahaffie – any word from him?

Mr. Pernula: I am not sure when he will be coming back regularly. He's still working – he's trying to close out his old firm and he's starting a new job so it's going to be a little bit of time. I don't know when that is.

Chair Axthelm: It hasn't hurt us yet, but if we get at a point where we don't have a quorum that will impact it some. Okay.

Mr. Temples: I would like to entertain a motion to adjourn.

Ms. Candler: I'll second the motion.

Chair Axthelm: Okay, it's been, let's see – a motion made and seconded. Any opposed to that? Or how does that – all in favor, say "aye."

All Commissioners: Aye.

Chair Axthelm: All opposed, say "nay."

Ms. Lohman: Nay.

Chair Axthelm: (gavel) Ayes have it.