

**Skagit County Planning Commission**  
**Public Hearing and Deliberations, Continued: Birdsvew Brewery 2014 CPA**  
**Work Session: Conservation and Development Incentive Program (CDI)**  
**September 15, 2015**

**Commissioners:**     **Josh Axthelm, Chair**  
                              **Keith Greenwood, Vice Chair**  
                              **Annie Lohman**  
                              **Kevin Meenaghan**  
                              **Tammy Candler**  
                              **Kathy Mitchell**  
                              **Amy Hughes**

**Staff:**                 **Dale Pernula, Planning Director**  
                              **Gary Christensen, Planning Manager**  
                              **Ryan Walters, Civil Deputy Prosecuting Attorney**  
                              **Kirk Johnson, Senior Planner**

**Public Remarks**  
**Commenters:**     **Randy Good**  
                              **Ellen Bynum, Friends of Skagit County**  
                              **Andrea Xaver**

**Public Hearing**  
**Commenters:**     **Luther Galbreath**  
                              **David Adams**  
                              **Ginger Kyritsis**  
                              **Erma Baude**  
                              **Pam Giecek**  
                              **Ed Giecek**  
                              **Jacquelyn Black**  
                              **Louis Daley**  
                              **Lindy Farthing**  
                              **Mike Farthing**  
                              **Ellen Bynum, Friends of Skagit County**  
                              **Eric Warner, Pacific Rim Tonewoods**  
                              **Jessie Mattingly**

**Chair Josh Axthelm:** (gavel) It's Tuesday, September the 15<sup>th</sup> and welcome to our Planning Commission meeting. Commissioners, are there any notes or changes to the agenda?

**Annie Lohman:** Yeah. The agenda at the back room is not the latest, latest great. It doesn't have the links to the additional documents. So in the future can we – when we have an agenda that takes the place of the one that we thought we were working on – can we have at the top where it says “amended” or something? Because –

Chair Axthelm: Now we've received an amended one once and then it was amended again – the latest one that we just received. Is that the same – Dale, is that the same one as in the back of the room?

Ms. Lohman: No, it's not. I looked.

Chair Axthelm: It's not. Okay.

Kevin Meenaghan: The amendment added – it came out a day after – added the two links. The one in the back of the room was the original. So the only addition was those two links.

Ms. Lohman: But I could not find the links on the Planning Commission website, so unless you went to the agenda they're not there. And I looked. Maybe I was blind but I could not find those two links other than from the agenda. So that was just all I wanted to say about the agenda.

Tammy Candler: I have a question about the agenda.

Chair Axthelm: And to both of mine it worked.

Ms. Lohman: Yeah, it did work but my point is is that if you didn't print out the second agenda, if you look at just the title it looks identical. You have to scroll through the entire agenda to find what changed. And then the referenced material that was supposed to be posted on the PC website – the Planning Commission website – was not there unless you went to the agenda that's posted and clicked those two links.

Chair Axthelm: Okay.

Ms. Lohman: And that agenda at the back of the room is not the last agenda, the latest agenda.

Chair Axthelm: Okay. Am I the only one that has a copy of this one?

Dale Pernula: The one that you have changed it in one manner and that's that this is a continuation of the public hearing from two weeks ago. That's the only change. It's not just deliberations. But the other issue I did not know of until just now and I will look into it and try to correct it so it won't happen again.

Ms. Lohman: But we need some kind of flag at the top at the heading so that we know that it is the latest agenda, because we have another life besides the Planning Commission.

Chair Axthelm: Is there a way to note it as a version on the agenda?

Mr. Pernula: We haven't run into this problem in the past that I'm aware of so it shouldn't have been an issue.

Ms. Lohman: Well, I mean, we've had a new agenda before and it's driven me crazy. This time it *really* drove me crazy. So...

Chair Axthelm: Okay.

Mr. Pernula: Okay. The link issue is one that's a real problem to me.

Chair Axthelm: Okay. Did anybody else have the same issue?

Kathy Mitchell: I saw the same thing.

Chair Axthelm: Okay. Okay, we'll take a look at it. All right, so –

Ms. Candler: I have a different question.

Chair Axthelm: Yes?

Ms. Candler: So as to whether or not this is our deliberations or a continued public hearing, what is the status of that? I thought we had continued our deliberations but apparently that's not the intention?

Chair Axthelm: Okay. And that was my understanding, is we are continuing deliberations.

Mr. Pernula: That's correct. The original agenda that went out did not say it was a continuation. It *is* a continuation. The write-up paragraph below it indicated correctly that it is a continuation of the public hearing, but the title was all that was wrong. It is a continuation tonight.

Ms. Candler: Is that something to do with notice? Or why would we do that? Why are we doing that?

Mr. Pernula: Because that was the action you took two weeks ago, was to continue it. It was not to deliberate.

Mr. Meenaghan: And we continued the public comment then, as well.

Ms. Lohman: Right.

Mr. Pernula: Yes.

Ms. Candler: Okay.

Mr. Pernula: And my understanding is the reason you wanted to do that is that you're going to consider some issues that weren't necessarily what was in the application, like a possible reduction of the size of the site, et cetera.

Chair Axthelm: That was probably my fault in the way that I worded it, but I think it'll be a good thing by how many people have shown up and more response than last time. Okay.

So, all right, so if there's no other objections to the agenda, we'll start the Public Remarks. And please remember that you have three minutes to comment.

Keith Greenwood: Did you want to differentiate between these public comments?

Chair Axthelm: Yes. And these comments aren't to do with the Birdseye View (sic) Brewery or the other items we have on the agenda today. I'm sorry – the Birdseye View Brewery – the public hearing issues.

Randy Good: Okay, and my comments are dealing with the public comments on the Conservation and Development Incentive Program. As the title – and that's following this public hearing.

Chair Axthelm: Please state your name and address.

Mr. Good: Randy Good, 35482 State Route 20, Sedro-Woolley. So my comments are dealing with the Conservation and Development Incentive Program.

As the title says, this is more of a developer's incentive for development program than preserving agriculture, forests, and open space lands. If the goal is to support farmland conservation efforts on Rural Resource-NRL and Rural Reserve, then form a program similar to the Farmland Legacy Program, which I'm one of the founding members of. We don't need a middleman broker buying and selling and transferring development rights. And also form a forest NRL and open space program to complement the Farmland Legacy Program. If this proposal *is* to move forward, language needs to be added to strictly prohibit developers like Forterra from coming onto our agricultural lands, forest lands, and open space lands to develop housing communities within these zones. The best solution – and it has been for a long time – is – to protect our agriculture industry – is to remove agriculture land *from* this proposal, as many have suggested, because we already have a successful voluntary Farmland Legacy Program and Comp Plan policies that are protecting our agricultural-zoned areas. Thank you for your time.

Ellen Bynum: Good evening, Commissioners and staff and audience and audience at home. Ellen Bynum, Friends of Skagit, 110 North First, Mount Vernon. In addition to the concepts and comments that Randy has put forward, I wanted to make a few comments about the proposed CDI Program. I don't think that the code and the policies are ready for prime time. There's a lot of unanswered concerns that are brought up by how it's written. The first of those is that the decision as to what is a suitable receiving area and a suitable sending area is going to be made by a level 1 administrative decision by the Planning Department. And I really think that in this county we feel very strongly about our planning. We spent two years initially putting together the Growth – you know, reading the Growth Management Act and then putting together a comprehensive plan. And about 2 to 300 people participated in that every week for a year. So I really like the model that Randy has suggested – that you come up with a citizen committee that can administer or – actually not administer – can create this program so that it actually can be reviewed and looked at by people who are going to be affected by what this program is going to do.

There are some other important areas that the Commissioners would be interested in looking at, and I'll have more comments and more detail when we do the public hearing. But one of the things I've done is I've looked at some of the other TDR programs around the country and almost all of them have a ranking criteria for the selection of both the receiving area and the sending area. And the ranking criteria tells which areas are your priorities. And for us, the priority, if you're going to do a transfer of development rights program – I don't think that agriculture should be included, but from the other zones you might want to think about which ones are the ones where the intention of the program is going to actually do what it says it's going to do: actually conserve the land. So in terms of the receiving areas, we feel like the cities should be the first priority for a receiving area and that the credits that you issue for such a program should be more if they're going into the city, to give some incentive to get the development back into the city.

The other thing is is I've looked a little bit at the proposal for the changes to the CaRD and one of the things about CaRD – or that's proposed – it's the Conservation and Reserve Development – is that the Department is recommending that smaller parcels be able to use the CaRD, which is putting an additional development right onto a small parcel, and they're saying seven to 10 acres. Well, really, if the program's going to be about conservation, what you want is the biggest bang for your buck, so you don't want two acres to be used for houses on a parcel that's seven acres. You only get five acres of conservation, right? So you really need to be looking at how much you're getting for what you're doing.

And then the other thing is is that I think it's totally inappropriate to have private parties administering and/or involved in this. Because unlike a land trust purchase that's a conservation easement from a private party to a public owner, or possibly from a public owner to – I mean, from private to private, this transaction also includes changes in planning, and that's a public issue. That's something that the citizens get to say yes or no about.

Mr. Greenwood: Ellen, that's –

Ms. Bynum: Yep.

Mr. Greenwood: Okay, thank you.

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

Chair Axthelm: Thank you.

Andrea Xaver: My name is Andrea Xaver. I'm 19814 State Route 9, Mount Vernon. I'm the fourth of six generations to have an organic farm – beyond the south end of Big Lake – and since 1972 I've spent a ton of money trying to protect my farmland from developers in the city of Mount Vernon. I'm also on the Farmland Legacy Program committee. I'm not speaking on their behalf, by any means, but I want to say that the Farmland Legacy Program is successful. There's a lot of people waiting in line to become a part of this. I'm surprised that the Transfer of Development Rights name has changed to something else – Conservation and Development *Incentives*, which always kind of makes my hair stand up – and I would hope that descriptions of conservation priority areas and the description for development priority areas are clearly defined before the public gets a chance to review it, so that when they can review it they know what they're talking about and they can take a look at a comprehensive overview of what this might mean effectively. And I keep saying it and I'll say it over and over, since 1940 we've lost almost half our farmland here in Skagit County. It's rich, wonderful farmland found no other place around the world, or certainly, you know, it doesn't have much competition. But since 1940 this county's population and that of the world has tripled. If we keep whittling away at our resource lands we're going to be in serious trouble. They can build in towns. Let them build in towns. There's nothing to stop them really, if you really stop and think about it. But they don't make farmland anymore and we need to take care of it.

Chair Axthelm: Are there any other public remarks?

Unidentified male voice in the audience: Can you speak on the Birdsvew Brewery today or not?

Chair Axthelm: Not in this but you can after in the public hearing section. This is just the first public remarks. This is general public comments. So you'll have yours in a few minutes.

Same male: Okay, thank you.

Chair Axthelm: Okay. So seeing none, are there any comments from the Commission?

Ms. Candler: Can I make a comment, actually? Are we going to move on to the public hearing on the –

Chair Axthelm: In just a minute, yeah.

Ms. Candler: When we move on, I just want to say that the comments that you guys are going to make are very important for us. Three minutes is a little bit of time. It's not a lot of time. And so I hope that everyone can just try to – just for your own benefit, our benefit, everybody just be concise and that way we'll hear what you really want to make a point on. Thank you.

Chair Axthelm: Thank you very much. Okay. With that, we'll move on to the next item on the agenda, the Birdsvew Brewery 2014 Comprehensive Plan Amendment Public Hearing, Continued. Dale, do you have any update on that you'd like to share?

Mr. Pernula: Yes. We have an updated, amended staff report and Gary Christensen is here to make a presentation on it.

Gary Christensen: Good evening, Planning Commission members and members of the audience and those watching on either TV or streaming video. Anywhere in the world could be watching.

A couple of things that I want to cite or refer to before I get into the supplemental staff report is that you've been provided with written correspondence which the Department received on this proposal which came into our department up until about 4:30 p.m. So you have what we have and that is, for the most part, the extent of what we've seen over the last couple of weeks. Included in the packet are I think about a dozen e-mails or letters indicating support for the Comp Plan amendment rezone. And toward the end of the packet you will find a letter from the proponents or the applicant as Birdsvew Brewery, as well as a letter from their representative, Skagit Surveyors and Engineer. And I am not going to summarize any of the comments or the letters that were submitted by the proponent and their representative, and they will, I know, have an opportunity to speak to that and they can touch on those points that they want to emphasize and bring to your attention.

Also you have a supplemental staff report which was provided to you in advance. Its date is September 8<sup>th</sup> of this year, and it supplements an earlier staff report which came out about a month ago in advance of the public hearing that you held two weeks ago. At that public hearing, you heard the Department present its report. You also heard from the applicant and proponent, as well as from members of the community. During those proceedings you elected to continue the public hearing, which also meant that the public comment period was still open and it is still open until you conclude that matter or until you close the public hearing. That does a couple of things. It preserves your ability to really kind of hear additional information, as well as things that the public may want to address as well.

When we last met a couple weeks ago, as a result of that public hearing you directed staff to do some additional research and look into some matters, and those are identified in the

supplemental staff report. And there were five issues that my notes reflected too, and hopefully they're the same issues or similar in nature to those that you had noted as well.

So what I want to do is not necessarily read the supplemental staff report in its entirety. I'm going to just try to touch on some key points and preserve the balance of the evening for those that are here and want to talk to you. So I want to honor and respect that as well.

So the five issues that came up when we last met were: protecting rural character; the second was wide variety of uses allowed under a rural commercial zone; the third issue was noise impacts from a pub or restaurant and live music which could be associated with it; you had a question about spot zoning and what is that, and what about other uses up and down SR 20, historically and so forth; and then contract rezoning, or what legal minds have referred to as concomitant agreements.

And so these were some questions, some issues, some things that you wanted some more information on. We conducted some research, did some additional analysis, and then addressed those five issues in the supplemental staff report.

So let me talk about the first one, protecting rural character. This is a fundamental requirement of the Growth Management Act and the County has addressed that requirement through its Comprehensive Plan, its goals, its policies, and the development regulations which implement the Comprehensive Plan. Now when local governments were required to develop comprehensive plans pursuant to the Growth Management Act – which was adopted back in 1990, so some 25 years ago – there were – the legislature adopted some goals and these goals were to guide local governments in the development of their comprehensive plans. So certainly these were kind of the framework upon which comprehensive plans and development regulations were put in place. They were not ranked. They're not in any order of preference. You know, one is not more important than the other. It's simply a number of goals, about a dozen. There's been – initially there was about a dozen and there's been one or two added since then. But they are to be considered or balanced when matters come before you in a legislative arena or when you are looking at Comprehensive Plan amendments, developing the code, and so forth. These goals are addressed, or are to be addressed as part of the decision-making process.

I thought it was important to include a legislative – a Washington State legislative finding which was issued back in 2002 and I think that helps provide a bit of a framework for rural character. Early in GMA rural element and character, although it was important it was not very well defined. It was kind of left to us to decide, and as a result of really not much guidance there were a lot of Hearing Board cases and lawsuits and so forth, and as a result of that, the legislature felt like they needed to provide a bit more direction. And I think you really find that in their legislative findings, which I won't read but they are in the staff report – supplemental staff report – and I think they're a good reference. They talk really about the importance of rural character. And certainly rural character is an issue that Counties address and not Cities and Towns, but it is certainly a major part of or component of the Skagit County landscape.

So with that as kind of a background, it's important for you as you consider these matters to balance these goals, to consider the County's Comprehensive Plan goals and policies, and the development regulations. And so really the task before you when you are looking at a Comprehensive Plan map amendment or a rezone is to balance these goals, to protect rural character, and to also assure that when there is a change that it's based on a change of circumstances, there's new information – in this particular case that rural character can be

maintained and protected. And you also want to assure that the use is compatible with adjoining uses. You simply don't want to be approving changes that are going to be creating either nuisances or conflicts or be problematic.

So let me now turn to the second issue, which is a wide variety of uses under a rural commercial zone. And I think rightfully so when we met two weeks ago there was some concern about, Well, jeez, if you're going to just take this entire parcel, of which only a small portion is currently developed for a business, what's going to happen on the remaining parcel? And anything under a rural commercial zone would allow a lot of other uses in addition to what is currently in place.

So one of the things that we looked at was: Could this proposal be modified or amended to be something less than the original proposal, which was to rezone 12 acres? And we found that yes, you can. And one of the things that the Department discussed was scaling this down, and there's a number of good reasons why to do so. We also had talked to the applicant and the proponent about it to make sure that this was compatible with their business plans as well. We were hopeful that we would be able to come forward or come back to you with kind of a modified rescale proposal that would serve a number of public interest needs, as well as the landowner who has some business aspirations.

So there's four, if not maybe more, good reasons why we would want to go from 12 acres to two acres – and this is on page 3 of the supplemental staff report. So there are a number of public as well as private interests that are served by going from the 12-acre – the original proposal – to something much smaller. And let me just read those for your benefit and those here in attendance and those who are watching somewhere.

“Redesignating only 2 acres legitimizes the footprint of the existing business.” So the Birdsvew Brewery, basically their business, their operations, their parking is conducted within about a two-acre portion of the original parcel. And by going from 12 acres to two acres, it removes some of the uncertainty that you and others might have about, Well, what's going to happen on the other 10 acres? I mean, is there going to be a lodge there or anything else that's permitted under any one of the rural commercial zones? So by going from 12 to two reduces the unknown factor and says that, you know, really what we want to do is look at a smaller parcel for rural commercial businesses.

Another thing that this does is that the existing residential dwelling and the commercial retail business can be separated through a simple land division. So even though you're starting with 12 acres and the proposal is now suggesting that two acres goes to a rural commercial zone, there's going to be 10 acres then that is left as Rural Reserve. Those can be bisected. Those can be separated. And there's a number of reasons why that might be of interest. It might be that there might – or there would be some changes in business plans or desires. You know, there's always circumstances that could arise that might mean that you want to separate off the rural residential piece and just keep the commercial zone. Or maybe you want to get out of the business and you no longer want to retain that but you still want to live on the land. You want to sell the property. So this does preserve an ability to be a bit more flexible in how the property could be used, sold, and utilized in the future.

Also we have found that when there – and I don't know if this is the case, but in other circumstances where financing institutions are involved in making business loans for commercial opportunities, they are not – the lending institutions are not interested in being landlords. They do not want to be encumbered or take on additional residential dwellings or

structures. They simply want to be able to typically separate those kind of uses. They're focusing on really kind of the commercial loan interest, and so it would be in their interest as well to be able to just have fee simple ownership or to be able to claim that should there be any business changes in the future.

Also by leaving 10 acres in Rural Reserve designation you are going to preserve or retain two development rights there, one for the existing dwelling and another development right that could be exercised or could be retained by simply going through the Conservation and Reserve Development, which would allow some smaller lots to be created with the balance then being set aside in open space. So there is also a benefit there in trying to retain 10 acres or more in the Rural Reserve designation.

And then, finally, the two-acre modified proposal would be limited to the existing Rural Business and we've suggested that that two acres be located up along SR 20. Certainly that's the highway frontage. That's where the business is actually occurring, and it just makes sense that not the entire parcel but just that parcel which is currently being utilized for the rural business.

Now there is a map or an aerial photo, and maybe I'll just refer to that. Okay, this yellow here is the 12-acre original parcel, okay? This lighter yellow is approximately two acres and this lighter yellow basically encompasses or includes the Birdsvie Brewery business. So when we're talking about going from 12 acres to two acres, this is really the schematic or the area that the Department would support in terms of a modification and a smaller footprint and a smaller acreage for rural commercial. Right back here, I think, is the existing residential dwelling. So any questions about that before I move on? Yes?

Ms. Lohman: When you're talking about a CaRD, you're only talking about residential development, never a commercial development.

Mr. Christensen: Yes.

Ms. Lohman: When you're talking about your densities in a CaRD, it is strictly residential.

Mr. Christensen: Yes. Yes. Yes, in this application it would only – the CaRD – would only be dealing with the Rural Reserve designation, the RRv. Typically commercial zones, the way that they divide property in a commercial zone is through a binding site plan and it's another type of land division, but that's how lots and parcels – well, you might have multiple ownerships on one commercial property or zone. So, yes, that is a different process.

Mr. Greenwood: Gary?

Mr. Christensen: Yeah?

Mr. Greenwood: This is all one parcel currently, correct?

Mr. Christensen: Yes. Yes.

Mr. Greenwood: Would this require a subdivision so that this becomes a separate parcel?

Mr. Christensen: It would not. It would not.

Mr. Greenwood: Just a separate zone within the same parcel.

Mr. Christensen: It would be a separate zone owned by one property owner. If they wanted to sell off the two-acre commercial zone or if they wanted to create an additional lot on the property for residential purposes, then they're going to have to go through a subdivision.

Mr. Greenwood: Okay.

Chair Axthelm: So why would you have it be part of the front of the property, not across the whole front of the property?

Mr. Christensen: Well, if you put it across the whole front of the property, it would be really skinny. It's not going to be very – it wouldn't be very deep. As it is now –

Chair Axthelm: No, no, that's not what I was saying. As opposed to having a certain distance back from the frontage.

Mr. Christensen: Yeah –

Chair Axthelm: Across the whole thing I see what you mean.

Mr. Christensen: Well, this is about 200 feet back and, Josh, I know when we last met you talked about out on Memorial Highway and that there're some businesses there that have the benefit of commercial zoning a couple hundred feet back off the highway. That isn't what really drove this kind of configuration. We really wanted to look at the footprint and make sure that all of the business opportunities would be appropriately located within the two-acre zone. It can certainly squish one way or another.

Chair Axthelm: Thank you.

Ms. Candler: Question.

Mr. Christensen: Yeah.

Ms. Candler: I'm assuming you've worked with the applicant on drawing those lines – and he's here tonight; maybe we'll hear from him on this – but has the applicant expressed any concerns that this will not accomplish the point of his application?

Mr. Christensen: I have not heard that. We have discussed it. But they can certainly address that in their comments, as well.

Ms. Candler: Okay.

Mr. Christensen: So we're to the third of five issues now. When we met, we heard that there was concern about noise impacts from the pub, the restaurant, and occasionally live music when it is held. And regardless of whether this particular proposal is approved or denied, all existing businesses need to conform to noise standards in Skagit County Code. There are a number of – or at least two places in Skagit County Code that have development standards which seek to minimize noise. And really what the County Code tries to do is to address public nuisances and noise and its effect on a neighborhood, adjoining property, and/or what might otherwise be an impact on the general public. So these are standards that *must* be met, regardless of whether this proposal is approved or not. So there are those standards in place.

Again, I'm not going to get into that. It can be a little technical. I've included some links to the code, as well as there are Skagit County Code provisions which have been attached as, I think, an exhibit to this too, if you really want to get into some of those standards. But, again, that's more of an implementation tool so that is something that is done at the development review stage or change of occupancy, or it can be complaints. The Health Department will go out and do noise readings. So those are all things that the code now requires.

I think it's important to bring to your attention that the County does not outright regulate music other than the noise emission. So, again, if there is a rural business or an establishment that it has music either within the confines of its walls or if it's outside, you still need to meet noise standards. And that's important to note. I did cite some existing rural commercial businesses that do provide some live music and entertainment. It may not be a complete list but: the Corner Tavern; the Edison Inn; the Longhorn in Edison, as well; the Conway Muse; the Big Lake Bar and Grill; and the Big Rock Café and Grocery. So there are some existing businesses that do provide music in their establishments, so it's certainly something not new to Skagit County.

Ms. Mitchell: Gary?

Mr. Christensen: Yes?

Ms. Mitchell: I have a question on that just so people understand some history with that. For instance, like the Longhorn did have some issues a few years ago.

Mr. Christensen: Yes.

Ms. Mitchell: And was that or was that not addressed appropriately?

Mr. Christensen: It took – it was – we had some complaints about noise there and we did investigations. We did noise metering and also then applied provisions of Skagit County Code to address the decibel readings and the noise. Now we have another tool that we can use if that music is outside. And I've alluded to that on page 5 of the supplemental staff report at the top. And so when there are music festivals or charitable events that are held outside in a zone where you can apply for a special use permit to do that, there are then other opportunities for the County to require that certain codes be met. I should say that impacts are being addressed. It could be a parking requirement; it could be sanitary; it could be buffering and screening; it could be hours of operation, days of the week. And you could even limit how many occurrences/how many special events could be held in one year. Now what you can't do is have more than 24 temporary events. You could – the County could – and this is not a matter that comes before you; it's typically dealt with as an administrative special use. But within that range of 24, there could be one event that's allowed per year or there could be as many as 24 or anything in between. So there is quite a bit of discretion as to how that's applied. And again, what we would want to be doing is trying to mitigate any impacts on surrounding or adjoining properties.

That helps, I think, address some of the live music concerns that have been expressed that are held just but a couple of times during the year. But if those were going to be pursued into the future as a result of this commercial rezone, then that would be something that the business owners would be required to attain.

Chair Axthelm: Annie, did you have a comment?

Ms. Lohman: I've got a question for you. So what's the trigger then that makes an applicant – anybody – have to go in for a special use permit? What if they – anybody – wanted to have something on a regular basis? Do we have any – do we have – as far as I know, I don't think we have anything. Do we?

Mr. Christensen: There – is it Challenger Ridge? Is that the winery upriver? Yeah, they have one so they have some limitations – temporary events. It can be problematic if it's a one-time event, because by the time somebody maybe figures out that they need a permit there's not enough time to even process it. So we will still do some review and have a consultation with them, but if it's more than one then we want to get a temporary administrative special use permit issued.

Ms. Lohman: But if you want to have a regular music venue – have music weekly –

Mr. Christensen: You can do that inside as much and as often as you want. You go outside, you can't do it more than 24 times in any given year.

Ms. Lohman: So the key is inside or outside.

Mr. Christensen: Yes.

Ms. Lohman: Okay. Okay, I didn't catch that.

Mr. Christensen: Yeah. I mean, 24 times a year could be, you know, Friday and Saturday, you know, as many as eight times a month times three months in a row, or it could be spread out over 12 months. So its intensity – the whole part of the administrative temporary events special use permit is to really address all of those issues – how many times, what months out of the year, what days of the week, how are you dealing with parking, how are you dealing with trying to mitigate noise in addition to meeting the standards that you have to operate under. So there is that ability to apply additional measures.

Okay, so now if we turn to issue number 4, spot zoning and other rural commercial uses along SR 20. Interestingly enough, our research indicated that between the towns of Hamilton and Concrete there's four existing rural commercial businesses. And those have been identified on page 5 on two maps, and they are – even though they're roughly in between both towns, they are within I think it was a two-mile stretch of SR 20. So they're somewhat kind of – I wouldn't say 'concentrated' but in close proximity to each other, so it's just not like one every five miles. They tend to kind of have congregated in the Birdsvew area, interestingly enough.

Now spot zoning is a term which has, over the years, created a great deal of legal argument as to whether a particular proposal or project really constitutes a spot zone. A spot zone is an application of zoning to a specific parcel or parcels of land within a larger zoned area when the rezoning is usually at odds with the Comprehensive Plan and current zoning restrictions. So what is included in the supplemental staff report is why spot zoning can be arbitrary and capricious and illegal, and it is something that one needs to consider in any kind of rezone or Comp Plan amendment. Now what I think really helps you analyze this is, What interest is being served? If there's some public interest being served in the Comp Plan amendment and rezone, then it typically is not a spot zone. If it's for personal gain and it's different than what others might enjoy, then I think there is some concern and issues. It doesn't necessarily rise to the fact that it's a spot zone. It's just a little difficult – more difficult test to apply. So it is something that we try to avoid. We do like to have land uses kind of – which are similar in nature, adjoining, and

not just kind of a spot here and there where uses are allowed. And you'll see some court cases and some other legal citations as to how spot zoning is addressed, and so you can just consider that in your deliberations as well.

And then finally the fifth issue is contract rezoning or concomitant agreements. I think last time we met it was just, Well, why don't we just – if we want to approve this, can we apply some conditions, much like the Hearing Examiner does for special use permits or like the Department might for other types of permits or approvals? So in my years here in Skagit County, which is nearing 30 now, I only remember but a couple of these and those were in the late '80s. And so legal counsel has advised against that. These are legislative matters which come before you, typically conditions of land use permits or approvals or more quasi-judicial in nature. And really the focus should be not on just allowing anything and then applying a bunch of conditions, but really applying the Comprehensive Plan goals and policies and designation criteria, and let that be the standard for your review. So some jurisdictions endorse it and use it; others don't. We have not practiced that type of planning for more than two decades.

So I think that is probably all I have to say. I do want to note the exhibits to the supplemental staff report, which more specifically are addressing the noise standards. So I just wanted you to know that there are standards that must be met for existing and future businesses, all of which are to try to avoid public nuisances.

And I don't have anything more to add, and I'd answer either questions now or later – whatever your preference is.

Chair Axthelm: I have a question on the spot zoning. So when you zone that two-acre parcel, is that what that's considered, is spot zoning?

Mr. Christensen: Well, it's by itself literally, but if you look at other uses between Concrete and Hamilton there are other existing rural commercial businesses which are isolated as well. You know, there's quite a bit of discretion here, and what's important is – when you are deliberating – is to have some Findings of Fact and some reasons why you think that this should be approved or not, whatever your desire is. But it's important to just really – spot zoning can be somewhat subjective and discretionary, and so you have a degree of latitude and you just need to address some of those issues through your deliberations.

Chair Axthelm: Any other questions?

Ms. Candler: Is there any practical issue or logistical issue with our discussing a two-acre rezone when the original application was for 12 acres? Is that something that can just be amended?

Mr. Christensen: Is that – I'm sorry. I couldn't quite hear you.

Ms. Candler: Is the two acres versus 12 acres – is that something that can just be amended?

Mr. Christensen: Yes. Yes, that can be part of your recommendation. It would be very – you could not simply recommend something *more* than 12 acres because we've advertised it as a 12-acre Comp Plan amendment rezone. You have the discretion to always have something less but nothing more, without really going through a whole public hearing notification process and some additional review. So the Department has recommended that, based on its supplemental

staff report and the original staff report, that it would be in the public's interest – and we believe also in private interest – to go from the 12 acres to two acres.

Chair Axthelm: Ryan, do you concur with that comment?

Ryan Walters: A couple of things. First of all, as Gary pointed out in his staff report with respect to spot zoning, spot zoning is not illegal. *Illegal* spot zoning is illegal, so it's not until you reach some point where the spot zoning is not in the public interest, as Gary has mentioned several times now, do you reach the point at which spot zoning is not legitimate. To go to your second question about what is the range of options you'd recommend, as Gary pointed out there would need to be additional process if you went beyond the scope of what has been advertised. But that's not something you have to worry about. If there needs to be additional process, that will happen but it would happen before the Board.

Chair Axthelm: Okay. That's it for me. Anybody else?

(silence)

Chair Axthelm: Do you have the list? There was a list at the back of the room. Before we open it up to public comment, I would like to make a comment as far as the time. Please keep your – we'd love to allow as much time as you want, but we can't give that to everybody so we've limited that to three minutes. And again, if you had more comments you could present those, or could submit those written, but in the hearing itself we only have so much time so we've limited that to three minutes as a standard. So please keep it to that and respect that, if you would. And as you come up, please state your name and your address. And I have a list of people that signed up. We can start with that, and if anybody else would like to add to that list you can after that. So the first person on the list is Luther Galbreath.

Luther Galbreath: Good afternoon. I'm Luther Galbreath, 41760 Lower Finney Creek Road, Concrete, Washington. I'm here as an advocate for the Brewery. They fill some needs in our community. They fill social needs and recreational needs. Recreationally we go there to get away from our mundane lives and have a cup of soup or a sandwich and a glass of beer, and talk to some friends and neighbors. Socially they have more fundraisers than anybody I know. I've gone to more fundraisers the last few years for worthy causes – the Oso slide, the firemen's, the fires in eastern Washington. The firemen down the road – the volunteer firemen – they have a big to-do every summer for them. For charity, for the hospitals, for cancer, for brain injuries. They've had fundraisers for a lot of things and I have given more money to fundraisers the last few years since I've been going there than I ever did. And socially I've met more people at Birdsvie Brewery that I didn't know from all walks of life – farmers, loggers, industry people from Tonewoods and Janicki Industries and from all walks of life, people from the schools and the school districts, the music people. And the bands are terrific. They're usually local bands. They're people that have played in little groups in the community here from Marblemount, Concrete, and Sedro-Woolley. They come there and we enjoy a little bit of music and a couple of beers and we talk with people, at lot of times people we didn't know. And I've gone there a lot in the summer when there were people just passing through – tourists. Tourists have a good time at the Brewery. They like it. But the cooking conditions at the Brewery are not up to snuff. They don't have enough existing facilities and they have no room to expand, and that really puts a kink in what's happening for us. Their food is great but they work really hard preparing it. And so I guess I'll try to stop now because I know you're going to limit me to three minutes. So thank you.

Chair Axthelm: Thank you. The next person on the list is Jessie Mattingly.

Jesse Mattingly: I'm speaking on behalf of the applicant. I don't know if you want me to go now or wait till the end.

Chair Axthelm: If you'd like to move to the end, that's up to you.

Ms. Mattingly: I'll wait till the end.

Chair Axthelm: Okay. Okay, that looks like a David. I don't have the name written out. It looks like D, C – the first letter's a D, the second letter's a C, P.O. Box 2013. Thank you.

David Adams: Hi. My name's Dave Adams, P.O. Box 2013, Concrete – 12077 State Route 530. I'm also here as an advocate. I've known Bill and Kris for the vast majority of the time that they've lived in the Skagit Valley and known them always to be very community-minded people and very good neighbors, too. I think that they – last year they were very blindsided to find that there was a neighbor that had a problem with this when no other neighbors had a complaint in the past. I have also been to many of the music events there. The ones that they have on the inside, you can't hear the noise even out in the parking lot half the time, so much less 1000 feet or 800 feet or however far away the nearest neighbor is. So I would recommend that you approve their application or recommend it for approval to the Commissioners. And whether it's two acres, three acres or 12 acres, I think you – I would recommend that you approve it. Thank you.

Chair Axthelm: Thank you. Next person is Ginger.

Ginger Kyritsis: You want to try that last name?

Chair Axthelm: No.

(laughter)

Chair Axthelm: I quit when I saw \_\_\_!

Ms. Kyritsis: Good evening. My name is Ginger Kyritsis, K-y-r-i-t-s-i-s. That's why you don't try to pronounce it. I'm on the Concrete Town Council. I'm also their appointed member of the Economic Development Task Force for Concrete, and I've been a friend of the Voigts and a patron at the Brewery for 2½ years – since I moved to Washington from Wisconsin.

I'm here in full support of the Brewery. I think that it's vital to our community. I think that it's probably the most respected business for miles, and that's really not an exaggeration. Every time we go there we're emptying our pockets, and I don't mean just for food and beer but because they host so many community needs – the fire department – like Luther was saying, heart attack, brain injuries, people whose homes have burned last year and this year. I think that if you ever needed a friend or a good company to live next to, these would be the people. And from what I understand, all that they're asking for is to bump out a couple of hundred square feet, which really isn't much. I have closets – or I used to – bigger than that for the kitchen and then another bump on the back of the building for coolers. The one event that's held outside is on a – I think it was called an amphitheater. It's a, I think, a 30-foot flatbed trailer – that's what the bands – that's what they get up on – once a year, and all of that money goes to the local – is it the Birdsvew Fire Department? – and we're out of there before it's dark. And it's an incredible

venue and it's just the camaraderie. I can't get that across enough – how important this business is and how important this family is to our community. Anytime somebody stops on Highway 20 and spends money upriver, we're happy. And we need you to give us a nod on that. You'll be happy. Thanks.

Chair Axthelm: Thank you. Okay, Erma Baude?

Erma Baude: Thank you. My name is Erma Baude. I live at 38062 Ammons Road in Concrete – mailing address, but it's Birdview because I'm just about two or three blocks that the crows fly from the business. And I am a homeowner so I'm ensconced in the community. I have met the Voigts right after I moved here, which is about nine years ago, and you could not ask for a better business in our area. The Voigts are very conscientious about drinking, about closing early. Even though they could stay open later and make more money they don't because they're very conscientious about the community and they care about the people. They encourage family dining. They encourage community involvement. They have a guitarfest on Fridays. They get the people – even the teenagers – to come in and do things. If someone wanted a club meeting, they allow people to come in and use their establishment for that. They are just really, really community-minded, more so than most businesses in our area. And a lot of this is all at their own expense. Fundraising is good, but they contribute their time, their business, their electric, their water for all of the events that they put on – the fundraising events. So I would like you to allow them to rezone in any manner that they need to because I would encourage their kind of business in our community. Thank you.

Chair Axthelm: Thank you. The next person on the list is Pam.

Pam Giecek: First of all, thank you so much for serving on this Commission. I didn't know how detailed it was and I'm just very impressed. My name is Pamela J. Giecek. I live at 7609 Pressentin Court in Concrete, Washington, and I support this rezoning request. Over the years Birdsvew Brewery has become a place where entire families can come and celebrate their life's events. My grandchildren love going there. It's where locals can feel at home. Many people have their one meal there and they go there to socialize and to eat. And they draw a lot of tourists there. There's always someone that's crossing over Highway 20 or who's going past it, and it's really impressive how they greet them and they feel so at home. It's just a fun place to drop in for a yummy meal or a mug of Bill's wonderful beer, which I don't drink beer but I've heard it's wonderful. So it just really makes sense to me that the County would zone this so it would enable them to enhance their kitchen so that they could expand their menu.

I don't know if you guys are aware of it, but from what other people have said the Brewery does give back to the community through fundraisers. It offers opportunities to local musicians to donate their talents, too. So we see a lot of people involved in our community in these events. Recently they raised an impressive \$5,500 from their little business for the wildfire victims. That just happened. Luther, I'm sure, donated an awful lot. Music is important at the Brewery and you can see that right when you walk in because the whole music room is filled with musical instruments you're just welcome to grab down and play, and a lot of people do. But I want you to know that their policy is pretty strict, and I always thought it was because Bill and Kris were really tired at the end of the day. But the music ends at 9 – that's bar time – whether it's an indoor event or an outdoor, even if the band is really good and we don't want it to stop.

So they do give back to the community. At least our community can do for them is to rezone their property so they can do this expansion that they seek. It's my opinion that Birdsvew Brewing Company should be rezoned. After all, they have street presence like all other

businesses up there on Highway 20. They already are serving a whole bunch of county tourists, as well as our community, and I do support the Birdsvew Brewery rezoning. Thank you for your time.

Chair Axthelm: Thank you. The next person on the list is Ed.

Ed Giecek: Hi, my name is Ed Giecek, 7609 Pressentin Court, Concrete, Washington. And I've known the Voigt family for the past nine years – ever since they opened the Brewery there, and I just want to echo all the nice things that have been said about them, and I'm in full support of this expansion they want to do. The kitchen really needs help to get it a little bit bigger, and I just think that you guys should okay it. Thank you.

Chair Axthelm: Thank you. The next person is Jacquelyn Black. That one was easy!

Jacquelyn Black: Good evening. My name is Jacquelyn Black. I currently reside at 46745 Baker Loop Road, Concrete, Washington. I'm not native. I've lived here for three years. And I'm reading from your supplement: "Help preserve rural-based economies and traditional rural lifestyles." It's been a very long time since I've seen a hitching post or horses hitched outside of a business. And again I'm going to expand something: "Enhance the rural sense of community and quality of life." That is the epitome of the Voigt family and the Birdsvew Brewing Company. Two weeks ago they raised over \$5000 for a community outside of Skagit County. They've raised money for Snohomish County with the Oso relief. Everything I've ever gone to at the Brewery has a community commitment. They do support *all* of the community. We all have our community meetings there. We meet there. We have our first dates there. We celebrate weddings and babies born. Their impact on the Upper East Skagit is immeasurable as it is now. If you expand, you're allowing the Voigt family and the Brewing Company to put Concrete and the Upper East Skagit on the map further. People come from all over. I've met people from different countries. I've met people from places I can't pronounce on the east side of the state, Anacortes, all the different little island communities. They all step up when Kris and Bill say, We're helping the community tonight. And if they put out something on Facebook tonight saying we're going to support a Planning Commissioner event, we'd all come out and support. If the Voigts put their family name behind it, we also know that the community of Concrete and Upper East Skagit can put it behind them too. We support the expansion and we hope you take that into consideration.

Chair Axthelm: Thank you. And the next one is Louis Daley.

Louis Daley: Good evening, Commissioners. I am here representing two interests. One is the Birdsvew Volunteer Fire Department. I'm the Treasurer of the Fire Department. I was appointed. And I'd just like to say that it's our most important fundraiser of the year that we have there at the Birdstock. And not only are the Voigts generous enough to let us use that venue to sell food and beverages to raise money for our scholarships, food bank donations, and just helping people in the community when they need it, but they donate all of the goods. They donate the food. They donate most everything we use to raise those funds.

The other interest I'd like to advocate is my own interest. I have a family. I have two small – two young boys and a 16-year-old daughter, and it's a great place for us to come and enjoy a meal, you know, a couple times a week actually. We frequent the business quite often. And I think it's in the best interest of the community to increase their economic viability by offering them the chance for this expansion and rezoning. And it's a great benefit for the upriver community. That's all I have. Thank you.

Chair Axthelm: Okay, thank *you*. Okay, the next person is Linda Farthing.

Lindy Farthing: Hi. I'm *Lindy*, L-i-n-d-y, Farthing. Don't feel bad. *Everybody* makes that mistake. It's not very common. Thank you, Planning Commissioners. I've read so much stuff in the last two weeks. I don't know how you guys do your job. It is just amazing to me the wealth of information that's out there. And you read one thing and it seems to say one thing, and you go down a paragraph and it's like a loophole that goes back the other way. But I live at Memory Lane. I'm the neighbor. I don't know if I'm the one that was a bad neighbor from last year. I don't disagree with anything that any of you said tonight. I agree with every single one of you. I believe that Bill and Kris are good people. I think that they work their butts off. I think Bill has singlehandedly created a brewery, brewed some – I'm not a beer drinker. I know nothing about it, but I've read a lot of things and Bill's doing a heck of a job and they both are with the business and it's a good thing.

My only concern is I live there and I can't believe none of you know that the music is really loud, and yet none of you have ever heard me complain. Never called the Sheriff, never wrote a complaint letter, never even talked to any of the other neighbors about it until one neighbor said to me she just didn't know if she could hack it. I don't know how to resolve that issue, you know? I really don't. I want to. How do you – well, for instance, was it the fifth? – or the last fundraiser, and I just tried sharing with Bill and I felt I'd had a good conversation with Bill and, you know, felt like – and what I know is the next time at the following fundraiser – and these fundraisers are fabulous! I mean, I agree – the music was so loud in my front yard – and if you want to look at the map, his furthest building to the south, which is past his house, is where – about across from there is where our house is. So I don't know how many feet that is. I was in my front yard and I heard the first band and all I could hear was bam, bam, bam. I went in the house, closed the window, and it was louder than it's ever been and I just, you know, waited. In two hours it was gone and then the next band started and it was Cajun music. And it was better than the thump, thump – please don't – I'm not – music is such a subjective thing. These bands are probably fantastic. You all would probably hate the stuff I listen to. But the Cajun music started and my dog started barking. He didn't – she did not like the singer, I guess – just the sound. Well, I had to rush and shush the dog because I'd read the recent – read recently the ordinances that there's all kinds of sound levels that supposedly businesses can't produce sounds above those, but there's kind of a loophole. It has to be a calibrated decibel reader, and the County doesn't have one and the Sheriff's Department doesn't have one, so there you go. But if your dog starts barking – let's say I wasn't home. My dog started barking and was barking for half-an-hour, somebody could call that in and it would – I asked the Sheriff, What do I do if I'm not home and somebody calls that in? And he said – and the dog's barking because of the music – he said, Well, it would be a judgment call. He said, I can't guarantee how it would turn out. He said, If it was me I would probably take that into account, but if – the first time it's a warning and there doesn't have to be a decibel reader when it's a dog barking. There's some loophole that says they – just somebody's word is all it is. And the second time it's not a warning. It's \$125 fine. And the third time it's even more stringent. So what do I do? I don't know – you know? I want to get along. And this sound is evidently more than the people there and, you know, I really believe they're having a good time, but –

Mr. Greenwood: Ms. Farthing, this has been quite a bit of additional time.

Ms. Farthing: Can I take my husband's time?

(several unintelligible voices)

Ms. Farthing: Okay. Okay. Sorry.

Mr. Greenwood: We're not set up to do that so –

Ms. Farthing: All right. All right.

Mr. Greenwood: So, you know, and –

Ms. Farthing: That's all. I have – I'm in agreement with the rezone. I really appreciate the supplement that was done so I would support that, but I also look forward to the hearing for the permits, the special permits. Thank you. Special use permits – temporary.

Mr. Greenwood: Okay, thanks.

Chair Axthelm: Okay. So Mike Farthing.

Mike Farthing: I don't have anything to say. I agree with everyone here.

Mr. Greenwood: You need to go up to the mic.

Chair Axthelm: Yeah. In order to be heard, you have to go to the microphone.

Mr. Farthing: Good evening, Commissioners. My name's Mike Farthing, 8144 Memory Lane. I didn't want to speak tonight because I took up too much time last time. But I know Bill loves dogs. He's got a couple. I have one and, you know, I don't know how to handle that. But we agree with everything these people have said. The Voigt family is a wonderful family doing a great job. We just have to get these little things like really loud music pointed at our house taken care of and we'll be happy, you know? So that's all I have.

Chair Axthelm: Thank you.

Ms. Farthing: I don't think he meant pointed at our house.

Chair Axthelm: Ellen Bynum?

Ms. Bynum: Ellen Bynum, Friends of Skagit County, 110 North First Street, Mount Vernon. The hard thing about situations like this is it's not about nice people. It's not about how good you are or how much you give to the community. It's really about what the law says. And so this makes the Planning Commissioners' job quite difficult and always has.

I had some questions that I have not had answered and perhaps Gary can answer them so that people would know about them. I didn't quite understand how the business was originally permitted – if it was permitted as a home business and then it became this other thing. So that would be something that I would want to know about. And then I would also like to know about the other businesses that are on Highway 20. You know, were they permitted as home businesses or were they not?

Then I want to talk a little bit about, Are there any other options for this operation to stay as it is? I assume that it has some kind of permit. No one's ever sort of said what that was. And is there another way to provide the expansion of the kitchen? And I'm thinking, you know, out of the box:

portable trailer kitchen, portable whatever. And the reason that I'm thinking about this is because I know that the County likes to be in compliance with the Comprehensive Plan and the Growth Management Act and I understand. Friends of Skagit County has done about 33 appeals on 68 issues so we like them to be in compliance. But I looked through the Growth Management Hearings Board decisions and I could not find any places where commercial ventures in rural areas that were not originally grandfathered in were permitted. Now maybe I didn't look hard enough. Maybe Ryan can speak to that. I did find a couple of cases where there was quite a bit of discussion about redesignation of an area to rural residential from inside of a resource land area. And it was done because rural resource land allowed certain activities, but it was ruled that that did not comply with the Growth Management Act. And that was from Friends versus Skagit County in 1999. So the question is: Does this mean that the County may not permit certain activities commercial in rural zones and then use the existence of those activities as a reason to redesignate rural zones to other categories? And I don't know the answer. But if the original FOSC case applies to this, I would think that you would have no choice but to turn down their application.

So it's difficult when the Comprehensive Plan – as well as it's written – is not good enough to answer questions that arise and it makes it hard for all of us, but we do need to follow the law because we've spent quite a few years and quite a lot of money getting the Comp Plan to keep Skagit the way it is. Now I don't know if you can put conditions on the existing zoning or some kind of other criteria. I understand that you might be able to address limiting the number of times that an outdoor venue happens. I don't think it's fair to have someone not be able to use their outside yard, you know, for the whole summer. 24 weeks is the whole summer. So that's – you know, it's a fairness issue on that. And as Gary said, you have some ability to control some of that and to limit some of that.

And again I want to say it's not about the people. It's not about what you're trying to do. It's not about how much we need economic development in Skagit County. It's, What does the law say and what does it permit us to do, and can we figure that out?

Chair Axthelm: Thank you, Ellen. And Eric Warner. Annie, did you have a comment before this? Hold on a second. Okay, go ahead.

Eric Warner: I've got 30 seconds. I didn't expect to speak like this. This is impressive. I'm Eric Warner. I live in Clear Lake, Washington, at 12930 Magnolia Lane. I just moved to Clear Lake from Birdsvie. Grew up in Newhalem. It is about the people because the people and the businesses in this county pay the tax dollars to make this county as great as it is. And I agree that everybody that's advocated for the Brewery here. I just figure I'll tell a little story and I'll turn in some written notes.

I'm part owner of Pacific Rim Tonewoods in Birdsvie, about 1000 feet east of the Brewery. We employ about 30 people. And my story's kind of about forestry and farmland and beer and music. And we supply Taylor Guitars with almost all their soundboards down in San Diego. It's about 160,000 guitar tops a year that comes out of Birdsvie. Just recently bought – Taylor got on his private jet and he came up with the Karl Strauss Brewing Company and visited the maltsters in the Skagit Business Park. And the reason for coming was to buy a local barley that had been malted here, but also to piggyback on a project we're doing where we're cloning figured maple and our local maple, and \_\_\_ is going to these guitar series that Taylor's building. And so they came out to see the maltsters. They also came to the mill to see and get a flavor for our mill and facility. It's 20 acres and we're probably louder than the Brewery next door. And it all ended up – before they headed back to their jet and headed back to San Diego – at the

Brewery where one of the – the brewmeister for this Karl Strauss Company – and they brew 60,000 barrels a year – and his executive sat across from Bill and said that was the best beer they've had of the pale ale, you know.

And what these guys do for the community and what this community does for upriver is pretty incredible. The resources that we have in Clear Lake – I'm on the Clear Lake Fire Department, I work with the Big Lake Fire Department, and I also work with Birdsvie if I need to. But, you know, there's not many resources upriver. What we have down here is pretty awesome. But this seems like an easy decision to not stand in the way of progress where many people from around the world, you know, benefit from. So I appreciate your time.

Chair Axthelm: Thank you. Is there anybody else who would like to speak first before Jessie speaks?

(silence)

Chair Axthelm: Okay, go ahead.

Ms. Mattingly: Hi. My name is Jessie Mattingly. I'm at 432 Rohrer Loop in Sedro-Woolley. I'm here on behalf of the applicant, Bill Voigt, my father. I wrote a letter. It has more details. You guys have that. I don't know if you had a chance to read through it so I wanted to sum everything up in there.

As a small family business, we've worked really hard over the past nine years to make our business what it is today. In order to keep growing and become even better, we're asking for the chance to rezone just two acres in order to perform our small kitchen and cooler expansion. It's just really hard for us to keep up with demand during the summer months. We can't put out enough food, we can't put out enough beer, and we're just really at a standstill with our current operations.

At the last hearing there was an issue raised about the future use of our property if we're rezoned. I think part of that is mitigated by just rezoning the two acres as opposed to the 12. We've owned the property for 26 years. Five out of seven family members work at the Brewery and we have every intention of keeping it in the family and keeping operating as a brewery. We don't have any plans to sell, but if that was to happen down the road we strongly feel that our proposal not be judged on a future what-if scenario that might not even happen.

Another issue was made about our business as a music venue. We have music one to two times a month, sometimes not even that. We hold a few fundraisers throughout the year that you've heard about today. At the last hearing our neighbor, Mike Farthing, said our music was an issue for him, and you heard that tonight again as well. So we were curious about, How loud is it? You know, how far is his house from our property? So as you can see on the screen here, we measured just to our property line nearest to his house and it was about 600 feet from the Brewery to the property line near his house. So then when we had our fundraiser on September 5<sup>th</sup>, we ordered a decibel reader from Amazon to see how loud it is nearest his house. So we had three bands playing throughout the day. We took a reading at every band and the highest reading we got was 38 decibels, which is well under the 55 decibels that is permitted under the WAC regulations for our area.

Ms. Farthing: Was that a calibrated decibel reader?

Ms. Mattingly: It probably was not calibrated.

Ms. Farthing: Okay \_\_\_\_\_

Chair Axthelm: Please. It's her turn at the mic. I'm sorry but it *is* her turn at the mic. Thank you.

Ms. Mattingly: So it's just such a big leap to say that we're a nuisance. And we're under the noise emissions. I feel even if we had a calibrated decibel reader I doubt it would make that almost over a 20 point jump. We've been considerate of our neighbors. We will continue to be considerate of our neighbors. We also don't feel it's fair to require us to get a special use permit when other businesses who have complaints against them, like the Longhorn in Edison, aren't required to get one. We don't have any complaints against us and we're not creating this high noise standard. So we will if we have to, but ideally we wouldn't want to have to pay all this extra money for this permit when we don't have that much noise being emitted.

So I hope this helps clarify our position and thank you for your consideration.

Chair Axthelm: Thank you. Are there any other comments from the public?

Ms. Bynum: Could I have an answer to my question from Gary? Is that possible? How is the business –

Chair Axthelm: I just want to make sure it's okay –

(several people talking at the same time)

Ms. Bynum: Okay, thank you.

Chair Axthelm: Okay. Keep it brief \_\_\_\_.

Ms. Farthing: I really resent –

Chair Axthelm: This is – sorry. Hold on a second. Commissioners, you say a point of order – whatever you want to do.

Ms. Farthing: I will be polite. We have no reason. We have absolutely – we don't – I invite all of the people here at the next benefit to come over to our house and tell me if they can hear the music. This is insane.

(several people in the audience speaking at the same time)

Chair Axthelm: Okay –

Ms. Farthing: You did not because if you had been at my house you would have heard it.

Chair Axthelm: Lindy. I'm sorry. I have to – we can't do this.

Ms. Farthing: All right.

Chair Axthelm: Thank you. Okay, so we can move on and close this portion of the meeting to public comment. I want to close this properly this time, Ryan, so how do I close the public hearing to public comment? Is that good enough?

Mr. Walters: Just close the public hearing.

Chair Axthelm: Okay. Oh, close the public hearing in general? Okay, so the public hearing is now closed and we'll move on to the next item on the agenda which is the – okay, so here's my question. It doesn't say deliberations on this. Which version was published?

Mr. Meenaghan: So we – at our last meeting we elected to postpone and continue the deliberations, so they're basically – we go right into it.

Chair Axthelm: Yeah, \_\_\_ comment because of the agenda because it's not published. Which one was published?

Mr. Meenaghan: Both.

Chair Axthelm: Let's get Ryan's –

Mr. Walters: Both copies of the agenda that went out included the statement that there's a public hearing and that there's deliberations, so I don't think we need to worry about that.

Chair Axthelm: Okay.

Mr. Walters: The issue that came up earlier was a question of the hyperlinks to the documents. But that's for a later agenda item and it doesn't relate to this.

Chair Axthelm: Okay. Thank you. Good. Okay, so we'll move on to the deliberation portion.

Mr. Meenaghan: Can I – Mr. Chairman, can I ask Ryan a question of how to go about continuing? Because I put a motion on the table that was seconded that's still on the table. And I just want to know what's the best way to handle this. So, Ryan, when we met two weeks ago we put a motion on the table, we seconded it, we deliberated, we postponed the decision. So there are two ways, I think, that we can handle this. I can withdraw my motion and restate, or I can amend it. Preference?

Mr. Walters: Typically when you lay a motion on the table, it's to handle something else immediately and then immediately return to it. So I think probably what you did is to postpone it to a later time.

Mr. Meenaghan: We did. That's exactly what we did.

Mr. Walters: So you are not able to withdraw the motion but you can postpone it indefinitely if you don't want to take action on the motion.

Ms. Candler: He wants to amend it.

Mr. Walters: Or you can amend it – or you can move to amend it.

Mr. Meenaghan: Okay. Is that what you'd like? All right. So, Mr. Chair, I move that we amend my previously stated motion to read that we concur with the analysis and findings presented in the staff reports of 13 August and September 8<sup>th</sup>, and we recommend to the Board of County Commissioners that the 2014 Comprehensive Plan be amended to change the approximately two-acre portion that's delineated in the September 8<sup>th</sup> staff report that constitutes the commercial part of the Birdsvew Brewery from Rural Reserve to Small-Scale Recreation and Tourism.

Chair Axthelm: Do we have a second on the motion?

Ms. **Candler**: Second.

(several Commissioners speaking at the same time)

Chair Axthelm: Okay, so can we restate the motion then? Is there a way to restate it briefer?

Mr. Meenaghan: Sure. Basically the restatement is that we are going to rezone the two acres that's been delineated in the related staff report from Rural Reserve to Small-Scale Tourism and Recreation – or Small-Scale Recreation and Tourism, in a nutshell.

So I guess first I would like to hear the answer to Ellen's question. I think we all would.

Mr. Christensen: Okay. I will do my best to address that. I think you will find answers to those questions in both the earlier staff report and the supplemental staff report. And if you read those not independently but together I think it paints a good picture of how this came to be, what the applicant is proposing and desiring, and what the Department's recommendations are based on provisions of the Growth Management Act, the Comprehensive Plan, and how we are addressing the issues which were raised at the public hearing previously. But let me more specifically address a couple of the questions.

So in the earlier staff report dated August 13<sup>th</sup>, readers will be able to find on page 3 under the Summary and Analysis, in which it kind of explains how things came to be. Certainly in 2005 the business started lawfully and legally as a brewing/tasting room. And due to its success, it has expanded over time to more closely resemble a brew pub and eatery. And that's really what brings us to this point in time today. So it started certainly in conformance with County codes, and due to its success it now needs County approval to be able to expand and offer a larger menu and an enlarged kitchen.

The second issue I want to address is appeals which have been made over time regarding Skagit County's actions to be compliant with the Growth Management Act. While there have been many appeals over the years by various parties – certainly Friends of Skagit County kind of led the cause – and it's true that initially some of the County's actions were found to be noncompliant with the Growth Management Act. And as a result of those appeals, the County took, in the late '90s, began a very deliberate, extensive review of existing commercial and industrial uses in the rural area as part of its responsibilities under the Growth Management Act. And remember there were these new legislature findings talking about the importance of rural character and the rural element, and about how to allow rural businesses to prosper and to expand, all of which had to be in harmony and keeping with rural character. I think Skagit County is proud to be able to say today we are fully compliant with GMA, especially when it comes to these matters of rural businesses and uses. And any reader can refer to again the earlier staff report where there's quite a bit of reference to LAMIRDS, or what is called Local

Areas of More Intensive Rural Development. And, again, these were legislators who felt it was important enough to address these issues about a lot of the confusion in the early '90s about GMA and its effect on rural areas. And because there was not much guidance then, the legislature found it very important to be able to provide local governments with some guidance and to hopefully reduce some of the appeals and controversies that had existed. So it was based on that new legislation and based on appeals that the County wanted to get it right. And we got it right, and today its Comprehensive Plan is fully GMA-compliant.

So I think those are important things to footnote and to be aware of. What wasn't working before was simply something in the past. What we have today is something that is working not only today but into the future, and it is indeed GMA-compliant. And until otherwise, it is the law. It is what we are bound by – our Comprehensive Plan, our development regulations – under the provision of state statute. So I think if there's any question about this action being illegal or improper or not compliant with the Growth Management Act, I think is – lacks finding and I would not concur.

Mr. Meenaghan: Okay, thank you. I'm done.

Chair Axthelm: Okay.

Ms. Candler: I think Ellen asked another question as well there. I want to ask something else first. It seems to me that the Department's position is the reason this isn't an illegal spot zone is because a *public* interest is being served. Is that fair to say?

Mr. Christensen: I think it's one of the tests that need to be met in determining whether a rezone or a Comp Plan amendment or the two, in this case, it's part of the deliberations or the decision-making in determining if this is appropriate or not. It's really not a complicated thing. You have the ability to say that a particular proposal because of its location, whatever the use might be, does constitute a spot zone. You have that discretion. And on the flip side, you also have the discretion to say even though it may be an isolated business that it isn't a spot zone, it isn't arbitrary, it isn't capricious. There are other cases up and down Highway 20 which are alluded to in the supplemental staff report which says that this wouldn't be the first time this has happened. It's probably the first time in a long time because most of the businesses along SR 20 have been pre-existing and have been there for some time. We simply don't see a lot of rural commercial rezones or Comp Plan amendments these days.

Ms. Candler: Maybe we don't have to decide whether it's a spot zone or not, but I have a question about that maybe for Ryan or for you, Gary, is – when you say public interest being served, is 'interest' further defined anywhere as far as – does it need to be a financial interest? Can it be more open than that? Can it be more like an interest of serving tourism or families that are neighbors? You're nodding, Ryan. Does that mean it's not limited to financial interest?

Mr. Christensen: I would say it's not necessarily *only* a financial interest. It certainly could be. But I think the public interest to be served is by revealing the Comprehensive Plan goals and policies, and if you can cite goals and policies which support your recommendation, then the public interest is served. If it's rural business opportunity and an expansion, certainly the legislature found a great deal of importance to address this issue, and in doing so asked that local governments – and in particular Counties, because we're the only ones that are dealing with the rural element – to come in and address where there can be rural expansion, there can be rural business opportunities, there can be more intensive use of the land that really originally under GMA was not envisioned. But because of some of the appeals in the early history of

GMA, it was a problem for all the Counties, west side and the east side, in trying to deal with this issue. There wasn't enough local discretion. And it was important to be able to maintain rural character by allowing appropriately scaled rural businesses and rural uses to locate outside of urban growth areas.

Ms. Candler: Thank you.

Chair Axthelm: Annie? Kathy?

Ms. Mitchell: I'm okay.

Chair Axthelm: Keith?

Mr. Greenwood: Yeah. I'm a little disappointed in the – my preliminary take on this is that I'm a little disappointed with the SEPA document itself, which kind of started the whole project, in that it looks to me as though we're – there's place where it states that the intent of the recommended change was to get the use in conformance with the Comp Plan when, in fact, we're looking to amend the Comp Plan to address the use. So I think we're doing it a little bit backwards. And the SEPA document says not applicable, not applicable to so many areas because it's just dealing with what it calls a rezone. So it looks like what's already happening is already covered and all we're doing is changing a letter on a map. So what's really happening is that we're going from a tasting room with its impacts to a venue and a business and a brew pub – an eatery – and its impacts. So traffic should be addressed, impervious surfaces should be addressed, waste should be addressed. What should be addressed, I think, in a SEPA document should be, What are the impacts to the environment, to the surrounding community? And many of those could be very positive. We could state what the positive impacts are because many of you already did.

So I guess I was disappointed with that, although, you know, we're not the ones making the determination on significance or not significance, I don't think. And we also don't make changes to the code with regard to noise, which was a big complaint issue, if not the only issue that I heard. And so many of our codes and code enforcement is driven by complaints, so if there isn't a complaint they're not usually just going to show up. So if a neighbor is upset, they should, you know, first go and talk to the neighbor – that's a good thing to do – and see if you can work something out and not be complaint-driven. If you reach an impasse, then there needs to be some enforcement. Now when I looked up some of the noise requirements, they have some comparative decibel readings for different types of activities and rock bands are equivalent to a jet flying over at 1000 feet, which causes ear damage. So that's one level on the scale and where this is supposed to be is in the quiet, urban nighttime type of noise level. So they have to address those things when they have an event or an ongoing business. So I also think that maybe having alcohol served along a highway may or may not be the best thing for any community, but if it's monitored and done appropriately it can be handled. And it's done all over the place. So having food served at an alcohol-serving environment seems like a beneficial situation. So if you like the environment, it's already serving food – I don't know if it's supposed to – it sounds like wine tasting you're supposed to give complimentary crackers or something. But we're talking about serving, and it sounds like from some of the letters people like the food. So there's already food being served. They just have inadequate facilities to serve the folks who are coming.

So with that, I would just say that I support it but let's encourage the neighborhood to address the noise concerns and just make sure that it's out in the open so that all the community and the

neighborhood is not adversely affected, because when we go to Findings, I believe we'll find that it fits the rural character and I believe that it fits – and they seem to think it fits and supports the rural upriver environment. And I guess I just thought that east of I-5 it had to be bluegrass or country so –

(laughter)

Mr. Greenwood: I thought there was a requirement on certain types of music, but perhaps not. So that's all I had to say. I did watch the deliberations last time and I did read all the notes so I feel prepared as much as the rest of you to comment and vote.

Ms. Mitchell: Can I say something real quick?

Chair Axthelm: What was it – along his lines?

Ms. Mitchell: Yeah.

Chair Axthelm: Yeah, go ahead, Kathy.

Ms. Mitchell: Coming from Cajun heritage, I'm voting for some Cajun too.

Chair Axthelm: Kevin?

Mr. Meenaghan: I didn't have anything further.

Chair Axthelm: Okay. Annie?

Ms. Lohman: I think part of the challenge here is I feel like we're on a teetering line between our legislative job and having TMI – too much information – of an applicant, and we're kind of trying to balance both of those. In a perfect world maybe there would be nothing on the land and somebody comes and says, This is my vision. But I do understand how a great idea and a venue or a meeting place could develop over time and then morph and then people realize, Hey, this is a really good deal, and it grows. And so how do you deal with a positive something when our code doesn't really have any definitive language to cover that? And we also don't have any language to cover obsolescence, because I'm sure that if you got out the map you're going to find places that are designated Rural Business or Rural Community or Rural something – or rural commercial – that there's nothing going on there. So how do you retire that, or even NRI – you know, Natural Resource Industrial – there's a – because it was drawn at a time and then it became obsolete? It doesn't fit anymore. It doesn't work. But we don't have a way to dial that back.

So we have this problem of trying to look forward and trying to accommodate positive future things but still be compliant. And that's where I'm challenged because if you have somebody that is pushing a rule and we rezone to accommodate – okay, they've really pushed really hard. And then you have another applicant that comes along and says, My business has now morphed and I can be creative and find a place that will make it work and make it legitimate so that I can grow. What are we going to say then? What are we going to say to the wineries that want to become something bigger – a restaurant? We don't have a mechanism to make this smooth. But at the same time, I live in a rural community. I mean, we've got all the ones listed in your footnote and I thoroughly appreciate those places and those opportunities. They speak to our rural character and they're part of what I think of as Skagit County. They're not suburban.

They're not cookie cutter. They're not like the I-5 corridor. They're unique. And so I don't want to slam the door and kill that, but at the same time how do we stay legislative when you're talking about boring stuff like the Comp Plan and the code? Here we've had so much information about the individual permit that I almost feel like it's good and it's bad to have all that extra detail. And so while I want to say yes, I'm not sure how to say yes.

Chair Axthelm: Amy?

Ms. Hughes: That's a good comment. When I look at this, I'm not looking at the owners and what they want to do right now. I'm looking at future generations. How is this going to take us down the road? How are other businesses going to either copycat it or not? But on the other hand, our rural communities need economic development. Open space cannot pay all the bills for Skagit County. This community needs a meeting place. Rural communities – part of the character are to be able to come together and get to know your neighbors. If you don't get to know your neighbors it's not rural because that's what rural people do. But finally the sound level is part of the rural character. I live in the rural community and if I had to look at a venue that had the possibility of having 24 events a year that I had to listen to until dark on a weekend, I don't know if that is an acceptable amount. And so we don't get to choose how that works. That's an administrative level. But I think at Skagit County we have to realize that that's a potential problem. So I support the economic development not only up on our east side of our county but on the north, south and west – close to roads, trying to keep the rural character. And so if there's not a legal reason that this can be shut down at the County Commissioner level, I think it would be a good thing for the community and I would remind future generations that noise levels are under their control through complaints.

Chair Axthelm: Thank you. I have a question about the events. Now with this new zoning it sounds like it can be 24 events. The existing zoning, how many would be allowed?

Mr. Christensen: If it's an outside music festival or charitable event, regardless of just staying as is or being allowed to expand under a rural commercial designation, you could not exceed more than 24 events in any given year.

Chair Axthelm: So you could get a special use permit as existing zoning or as new zoning?

Mr. Christensen: I'm not sure if the existing zoning allows temporary events. I think so.

Mr. Pernula: Remember that's the maximum number and they could be limited through the special use permit.

Chair Axthelm: No, I understand. I just was saying if it's really – we put it as a factor here, but is this really a factor? Because if both can have it, is the music really a factor?

Mr. Christensen: Well, you cannot be serving the kind of menu that they wish to serve under existing zoning.

Chair Axthelm: No, I'm just –

Mr. Christensen: It really –

Chair Axthelm: I'm separating those basically where you separate the music issue from the food issue. Because right now there's an issue with the music – seems to be a big factor – but if – the food portion aside – if it was still a tasting room, could they still have the events?

Ms. Lohman: Yeah. It's administrative.

Chair Axthelm: Ryan?

Mr. Christensen: If you're going to be outside and it's a music festival or a charitable event, if those temporary events are not identified in the Rural Reserve zone then you can't have those. You can only do what the code will allow. And there's a little bit of kind of education here perhaps. In a zoning district, you have uses that are permitted outright you're good to go. You get a building permit, change of occupancy permit. There are other uses which are discretionary and those are Hearing Examiner special uses or administrative special uses. Even though those uses may be allowed they may not be allowed. So you could get a permit or a land use approval but you may not. There's no assurance that that would happen. But under any zoning district, the list of permitted uses you're good to go. You still need to meet code requirements. You still need to get building permits. But it's not a land use issue per se.

Chair Axthelm: Yeah. But for the music venue, they could still do right now –

Mr. Christensen: Well, they can only do what the Rural Reserve zoning district would allow, and I would have to look at the code to see if temporary events are allowed by administrative special use.

Ms. Lohman: Mr. Chair? I have it printed out and temporary events are administrative special use.

Mr. Christensen: Okay.

Ms. Lohman: In Rural Reserve.

Mr. Christensen: In Rural Reserve. So to answer your question, they could have up to and as many as 24 events under current Rural Reserve zoning, but only through an administrative special use.

Chair Axthelm: Okay.

Mr. Christensen: They need to – they would – based on what we now know today, they would need to obtain that.

Mr. Meenaghan: Okay, may I ask for a clarification?

Chair Axthelm: Mm-hmm.

Mr. Meenaghan: What we are recommending or not recommending to the Board of County Commissioners is to rezone or not to rezone, period. We are not making any decisions about noise or special use permits or permitting process or any of that. That is all extraneous to our decision tonight. Is that right?

Mr. Christensen: Yeah.

Ms. Candler: No, not based on what he just said.

Chair Axthelm: Well, no, because if it's something that's allowed within the zoning – that's the question. I'm not combatting the music.

Mr. Meenaghan: It's a question. It doesn't have anything to do with what the applicant has asked for. They've asked for a rezone, period.

Ms. Candler: They've asked to go from having to get special uses to have this activity to not having to have a special use permit.

Ms. Lohman: But it still, it still is.

Mr. Christensen: Let me maybe try to clarify or provide you with some direction. You know, there's a sense of maybe struggle here a little bit, and by purpose that's kind of the way these things almost play out. First of all, there is no perfect plan. We adopt one and there's changing circumstances, there's differing community aspiration and goals, the area grows. So a comprehensive plan is not static. It's always kind of being reviewed. We're always applying a land use development activity or a proposal against the existing comprehensive plan goals, policies, and such. What's difficult is – and I've said this before. If we started under the Growth Management Act from scratch – there was nothing that existed – it'd be much easier. But now what we had to do with the passage of the Growth Management Act is try to blend the existing with new. And there's some inherent conflict with that or difficulty or discretion. You know, how do you resolve those issues? How do you assure that the uses are compatible, those that exist and those that are proposed? And so you go through processes such as this.

But the comment that was made by Kevin is a good one because really you need to step back a little bit and think of this as a non-project legislative action. It'd be a lot easier if there wasn't an existing business and you would just be trying to assess: Is this an appropriate rural commercial zone, based on what's happened, based on Comp Plan policies and goals? But it gets a bit confusing when you have an existing business that needs a Comp Plan amendment, needs to have a rezone to be able to have those business dreams fulfilled. If you chose to do nothing, they would still need to get an administrative special use to be able to have music festivals and events in the future. They could certainly continue to operate as they did since 2005 with just a beer tasting room, but there would be limitations on the kind of food that they could be serving. There would be some limitations as to what they could do. I think it's – there's probably limitations without a rezone that even some of their existing practices would still be able to be allowed to continue on.

So certainly what they're wanting to do is to legitimize their desires, and it's really your role and your responsibilities to not be concerned with the noise and the parking and such. Those are issues that are going to be addressed through the County Code. You need to focus on, really, Is this an appropriate type of land use designation? You need to think of it as a non-project legislative action. Environmental checklists on non-project legislative actions? You fill out the first two pages and the last two pages. Everything in between is not applicable. You will find that under any kind of SEPA review for a legislative non-project. You're not going to be addressing those kind of issues that you would otherwise address as a project-related proposal. Those are typically either departmental review or through the Hearing Examiner, and that's where you're going to get a very detailed, expanded checklist.

So the amount of information that's been provided is appropriate under these circumstances. But again, I would suggest or try to guide you to the bigger policy issues – and that being the land use designation – and let that be kind of the premise or the major component as your decision-making this evening.

Mr. Greenwood: I'd like to address that – sorry.

Chair Axthelm: This kind of went to the same comment. Kevin, I don't think you and I are a whole lot different here. I'm trying to show the same thing, is that the music is really not a factor. I mean, it is. I understand that it's important to the public, but it's not what we're talking about today and that's kind of what I was trying to get at, is, like, let's isolate that out of there.

Mr. Christensen: Yeah, so to – I think – support both of what you're saying, the music – the live music outside will be addressed one way or another, either as it currently exists or as it might exist sometime in the future.

Mr. Greenwood: I just wanted to – you know, because I brought up the point about maybe some project level information that I was looking for with the SEPA application, and there's a fortunate side to already having the existing venue and activity in that, you know, it kind of goes by the principle sometimes people think it's better to apologize than to ask for permission. And this kind of looks like that a little bit. But we've seen and fleshed out some of the impacts of a rezone. With or without a business, you put a two-acre rezone for something like that you're going to have – even if you're just selling trinkets that have a picture of Sauk Mountain on them – okay? – so people stop in there. What is the traffic level for something like that? It's going to range from two a month to much more. So we're looking at – we already see what's been fleshed out, so to separate the two I think is putting blinders on. So I think the music venue and the brewery – all those things are part of the actual picture. So if we just say non applicable, non-applicable, non-applicable, some of the questions that were raised early on – even the last meeting – were about water use and about power use and things like that that we say don't apply. But they're already being applied and they're already having an impact. So that's why I don't think you can force the two when it's already onsite.

Chair Axthelm: And my intention was not to just divorce it here or separate them out. You separate them because they're allowed through the same process in both zones. That's the only reason – just because to show that it's not something new for the zoning.

Mr. Greenwood: So what you're saying is to prevent the rezone would not change those impacts. I think that's what you're saying.

Chair Axthelm: Yeah, yeah. It may change them somewhat based on what the Hearings Examiner or the Administrator might change.

Mr. Christensen: So this is relatively new to you. These kinds of petitions and requests don't come to you often really, if at all, or certainly hasn't within many, many years. Now let's just remember not long ago, though, you had one before you, which was a commercial rezone out by Farmhouse Inn. Vacant property. No business. Okay? Really the review for that and the review for this should be one and the same. It's a non-project legislative issue. Focus on the goals and the policies is an appropriate use. This has become a bit more complicated because you have an existing business and you have these thoughts about mitigating impacts. That's really through development review. You need to focus on land use compatibility issues, just as you did at the Farmhouse Inn and a triangle piece rezone, which was: Is this an appropriate

use, given its proximity to other uses? There wasn't much more information than that on that particular proposal.

Mr. Greenwood: Well, there actually was, and there was a site plan and they had graphical depictions of what they wanted to do potentially with it, and also it was an unusual piece that – as most Commissioners found – wasn't usable for anything else. It was either going to be vacant and unusable, or allow the landowner to have something that would be usable. And this is not like that.

Ms. Lohman: But remember too what it became. The code itself was very limited on what – he wasn't going to be able to realize his site plan because our existing code didn't even allow for that.

Mr. Greenwood: And by the type of zoning that we restricted it to.

Ms. Lohman: Right. So while we had all that information, the code itself – what we could – our choices were very limited and so that further limited him. And, again, I think in a way it was a little bit of TMI for a legislative decision.

Mr. Greenwood: Perhaps, but at the same time I've been involved in environmental documentation before and even to court with them to the point where if you know some information that pertains to it they want to know it. And you can't just say – you can't hide it, basically. You can't say, Well, we always do this or we always do that. So if you always do that then you need to write it down. So if there's a practice that's ongoing and you're expecting it to happen then you have to put that down. So if it's a public disclosure document, you can't pick and choose too much, especially when it's already known information. So, I mean, just like if there's an eagle that flies over every night, you know, that needs to be known and disclosed, and any impacts. You could say there's none, but maybe there is one. So I know that the zoning wouldn't – in this case – wouldn't change it, but at the same time I think we can still address what the potential consequences are.

Chair Axthelm: Okay. So we have a motion. You know, I think we just need to make sure that we vote for the right reasons. You know, just because they're nice people, that doesn't necessarily give us the reason, but we have a lot of people from the community who want it for their reasons and I think it's important to consider that as well, and the code. I mean we have the code of laws that we have to go by. Just because everybody wants it around you doesn't mean it can happen, you know. We've all seen that happen before. And we all have businesses. I think you can understand from another standpoint if you'd like the business, but what happens if it was something you didn't like? If you imagine something you didn't like and it was put next to your property. You know, how would you respond to that? And I think having that understanding, we have to make a decision, right, for what's best for the community and what's best by the law at the same time. So let's move this forward.

Ms. Mitchell: So can we call for a vote?

Mr. Greenwood: Can I just – for clarification? The motion has been amended to a proposal, or are we just amending our recommendations to restrict the proposal that we would support to the two-acre parcel? Has the proponent reduced the proposal to two acres instead of 12 acres – which I would not support the 12-acre proposal but I would support the two-acre. So I don't know if that's a recommendation that the Commissioners actually – the Skagit Commissioners are the ones who make the determination on that or not.

Mr. Meenaghan: Yeah, our motion is – despite what the applicants originally asked for, based on the staff report and their discussion our motion is for two acres, or 1.96.

Ms. Lohman: On page 3, it is two – because it was on page 3.

Mr. Meenaghan: Yeah.

Chair Axthelm: Okay.

Mr. Greenwood: Okay.

Ms. Candler: Page 3 of the supplemental?

Ms. Lohman: Yeah, of the new one. Yeah.

Mr. Christensen: So for a point of clarification, this was originally proposed as a 12-acre Comp Plan amendment rezone. And that's how the original staff report addressed it. As a result of the public hearing, written comments, and public testimony, and as some of you raised, there was a question of, Could we have something less than 12 acres? And so based on your directive to the Department to look into that, we determined that yes, you could. And in the supplemental staff report, the Department, I think it's safe to say, is recommending that we go from 12 acres to two acres and that it be represented as included in the staff report and the map and as the motion references. Also I think it's also important for you to know as part of the record that the proponent and applicant is okay with going to two acres as well.

Chair Axthelm: Is that the case? Not that I didn't believe you – I just wanted to see it for now.

Mr. Greenwood: Okay, shall we call for a vote?

Ms. Lohman: Mr. Chairman?

Chair Axthelm: Yes?

Ms. Lohman: But one thing Gary said in his remarks was that it's going to be two separate zones but not separate parcels. So at the last meeting, Chairman, you brought up where multiple parcels can have different zones but one single parcel, and that is what it appears this is going to be.

Mr. Christensen: Probably what I suspect would happen is that there will be more than one parcel. There will be more than one P-number, that the Assessor's office for taxing purposes will probably assess the commercial property differently than it's going to assess the Rural Reserve. And so they will probably create another P-number, which would result in another parcel, but it would still remain under one ownership and would remain as such until such time as there was a land division that would allow the properties to be segregated.

Chair Axthelm: So a tax parcel?

Mr. Christensen: Yeah.

Ms. Lohman: And also the public is going to have future additional opportunity at the administrative level on those permits.

Mr. Christensen: Yes.

Ms. Lohman: So, like, this isn't – this is almost like we're at the 10,000-foot level.

Mr. Christensen: Yes.

Ms. Lohman: You're shaking your head.

Ms. Candler: You mean for the rezone or for the uses after rezone?

Ms. Lohman: Rezone.

Ms. Candler: I'm not sure. \_\_\_\_ that's right.

Ms. Lohman: What happens after the rezone, that gets beyond us.

Ms. Candler: Well, not really because it depends on the lists of uses.

Ms. Lohman: Right, right.

Ms. Mitchell: I'd like to call for the vote, please.

Mr. Walters: I have a couple other comments I would like to add on maybe before you vote, maybe after. The split zoning on a parcel: I actually don't think it will result in two different parcels in the Assessor's office. They usually keep those together as one. But I just want to point out that split zoning is usually not desirable. In this case I think it's perfectly fine because there's a reason to do it, but as an ordinary and general matter and for the future, we don't usually split parcels with zoning. Because unless there's a good reason, it just is a lot cleaner to keep it one zone per parcel. Here they have the ability to divide and maybe they end up doing that. Just FYI for future actions, we won't want to be splitting parcels without a reason in the future.

Also in case some of you go wandering through the rest of the County Code, there is a chapter in Title IX, not a development regulation but a regulation of general applicability for outdoor music festivals. For a variety of reasons, it is unconstitutional and we do not enforce it; we just haven't gotten around to repealing it yet. So if you happen across that, don't be thinking that that is going to solve the problem. It won't because we cannot enforce it. But it could end up being replaced with some other not-illegal ordinance, and if that were to happen then you could deal with or the County could deal with outdoor music in some other way. That has been on our radar for quite some time but it hasn't risen to the level where we've actually devoted time to fixing it yet.

Mr. Greenwood: So did you go to Woodstock?

Mr. Walters: No, but the ordinance –

Mr. Christensen: Ryan, I don't think, was even born then.

Mr. Walters: A glimmer in my parents' eye.

Mr. Greenwood: He was a naked baby at Woodstock!

Mr. Walters: Actually this ordinance I'm talking about was adopted in the aftermath of Woodstock, right around 1970.

Ms. Mitchell: Well, you know us real well. We'll be wandering in that code anyway.

Chair Axthelm: Yeah, go ahead.

Ms. Mitchell: I'd like to call for the vote.

Chair Axthelm: Okay.

Mr. Greenwood: No objection.

Mr. Walters: If there's no further discussion, you can proceed to the vote.

Chair Axthelm: Okay, shall we proceed to the vote? Any further questions or comments?

(silence)

Chair Axthelm: Okay. So all those in favor of the motion as presented by Kevin, say "aye."

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

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

(silence)

Chair Axthelm: The ayes have it. Unanimous.

(applause)

Mr. Walters: So this action will not be final until you also take action on the other item on the docket, which you'll be considering separately, and you generate a recorded motion for both of them. And then it won't be really final until the Board receives it and takes action, all of which should happen before the end of the year.

Chair Axthelm: Okay.

Mr. Greenwood: As far as developing Findings, when would we do that?

Ms. Candler: When you record a motion, are you going to propose Findings, or how's that going to work?

Mr. Walters: I think Kevin's motion included reference to Findings in the staff report.

Ms. Candler: The first one did but the second one as restated did not. I was paying attention to that because I think we should make our own Findings.

Mr. Walters: Well, I think in any event it'll be brought back to you for editing.

Chair Axthelm: In other words, we should have had the Findings before we \_\_\_\_\_, right?

Mr. Meenaghan: So I guess my question would be if the motion that I made made reference to the two staff reports that we concurred with and agreed with, and the motion says, Hey, we want to make this rezone, isn't that enough Findings? Do we need anything more?

Mr. Walters: That'll be a basis for the Findings.

Mr. Christensen: That'll be – that's enough direction for staff to prepare a recorded motion which can be brought back before you and you could concur.

Mr. Meenaghan: Okay.

Mr. Walters: And then you'll also finish up the Findings and Recommendation for the other item at the same time on the same document.

Chair Axthelm: Okay.

Mr. Christensen: Thank you.

Several audience members: Thank you.

Ms. Hughes: Thank you for your time.

Chair Axthelm: Okay, so let's move on to the next item on the agenda: the Conservation and Development Incentive Program Work Session.

Mr. Greenwood: Do you think we could take a brief break just to let the room clear and then we could stretch?

Chair Axthelm: Yep.

Mr. Greenwood: Is that okay?

Chair Axthelm: Is that all right with the Commission to take a quick break?

(several unintelligible comments from Commissioners)

Chair Axthelm: Would the Commission like to make a brief break?

Ms. Hughes: Yes, please.

Mr. Greenwood: Ladies, could we take a brief break?

(sounds of assent from several Commissioners)

Chair Axthelm: So let's get back in at 25 after.

(break)

Chair Axthelm: All right, so the Conservation and Development Incentives Program Work Session. Is that led by Kirk?

Kirk Johnson: Yep – just jump right in? Okay. So I am going to talk mostly from the staff report dated September 8<sup>th</sup>, which you should have. If not, there are copies of that. And I'll be referring to the image on the screen periodically.

So just a little bit of background: The Department last spoke to you about this in early June, I think, when we shared what we called at that point a policy framework for the Conservation and Development Incentives Program. It wasn't actual policy format and we didn't have any code developed at that time. So we've been working over the summer on developing the actual policies and developing the actual code, and in the process of developing the code some of the structure and the terminology of the proposed program have changed. So I'll talk about that as we go through that here. Really the intent, the purpose, the goals of the program remain very similar. It's just characterized or described a little bit differently.

So when we talked to you last time, I talked to you about a density credit component and a transfer of development rights component, and as we worked on the code – and I'd like to acknowledge Ryan's clear thinking on this – it really became clear that we were talking about two different things. One was creating a program that would allow certain areas where a landowner or a developer could access additional development potential by purchasing development credits. And they could do that – they could buy the credits either from the County or they could buy the credits on the private market from a landowner in a conservation priority area who was interested in selling their development rights. So you have a program that allows the purchase of development credits, and as the image on the screen shows, basically you could do that through a private transaction or you could do that through what's called a public transaction. You can purchase the credits from a private landowner or you can purchase the credits from the County.

At the same time there are landowners who may want to participate in the program who are in what we're calling "conservation priority" areas, areas that have been identified as a priority for conservation in the county. And they can sell their development rights and they can sell them to the County in a manner similar to the Farmland Legacy Program, or they can sell their development rights to a private buyer who would be a developer interested in accessing additional development potential in one of those development priority areas. And as the memo says on page 2, whether the purchase of the development credits is from the County or from the private landowner, it's the purchase of those credits motivated by the incentive additional development potential in the development priority areas which generates the funds to pay for the conservation of natural resource and open space land.

So it's kind of a self-contained system. What makes it go is the purchase of these development credits, either through the County or through a private landowner, and what results in the conservation is the purchase of the development rights from landowners interested in conserving their land. And that purchase can happen – the person looking to source the development credits can purchase the development rights or the County can purchase the development rights. It really depends where the landowner is more comfortable going to. And in either case the development rights are removed from the land to be conserved through a

conservation easement that the County holds, just like it does with the Farmland Legacy Program, that ensures permanent conservation of that land.

So that is the program in a nutshell, without reference to density credit or transfer of development rights. So maybe I'll stop right there and just see if you're with me or not at this point.

(silence)

Mr. Johnson: Okay, no questions?

Ms. Candler: I have a question. I don't know if it's the proper time.

Mr. Johnson: Okay.

Ms. Candler: Just because it's on the screen right now, you have listed the participating Cities. Burlington and Anacortes is considering. Do you know the status of whether Sedro-Woolley, Mount Vernon, any other Cities considering?

Mr. Johnson: I'm not aware of any other Cities that are considering it right now.

Ms. Candler: Have they been approached? Or what would – are they saying no or are they just not on your radar right now?

Mr. Johnson: I'd say it's not a priority for Mount Vernon right now. I'd say it's not a priority for Sedro-Woolley right now. I think really the Northern State development is a priority for Sedro-Woolley right now. This program is intended to be long term in nature and it's intended to be receptive to Cities that want to partner with the County over time, and so the policies would basically create an open door and we would continue to talk to the Cities about the option for coordinating and cooperating with the County with the hope and maybe the expectation that over time different Cities would see that there would be some benefit in doing that and partner with the County over time.

Ms. Candler: I don't want to belabor it, but I didn't understand. So the Northern State property is affecting it because they're busy with that and haven't talked to you about this, or it's affecting it because that's their concentration of their development area and they're not interested?

Mr. Johnson: Sedro-Woolley is a one-person shop. The Planning Director is the permit issuer is the building inspector – they may have a separate building inspector. You know, I have brought this up at monthly planners' meetings over the last couple of years and I just haven't gotten the sense that that one single planner with Sedro-Woolley that this is something that he has an interest or time to take on at this point.

Ms. Candler: Okay.

Chair Axthelm: The question I have is if the majority of the Cities within our county who – from my understanding here – we want to do – we want to transact with here, if they don't want to do the program isn't that an answer on the program? Why are we proceeding it? Why are we going after it? Because it seems to me it's already – the answer's already there. They don't want to do it.

Mr. Johnson: So there's a history as you look at other Counties that maybe started programs 10, 15 years ago and there was no City participation, and in part there was no City participation because there was no County program to participate with. And at least in some situations where the County has created a program and created something that different Cities can dock to, then over time those different Cities have said, Oh, okay, I could see how that would help us with our development goals, would help us with our conservation goals. Let's talk with the County about developing something in coordination with the County. I mean, the reality is that there still will be development in rural Skagit County and there still will be transactions that result in development potential being increased over time.

And, you know, one of the Commissioners has said pointblank, I don't think we should be purchasing development rights from ag landowners with public funds on the one hand and then granting upzones to other landowners on the other hand. We're kind of defeating our own purpose. So let's look – purchase of development rights is kind of the tool that can be done with public resources – tax dollars. Transfer of development rights or what, you know, this program here is a tool that can be done with private sector dollars by offering a development incentive. So we don't really have Cities participating with us with the Farmland Legacy Program, but that's not a reason that many people say, Well, we should cancel the Farmland Legacy Program because no Cities are participating with us. It's a program that could have an impact within kind of the scope of the development that the County controls, and it could have a broader impact within the scope of the development that the Cities control. The County can't *tell* the Cities to participate. The one area where I think the greatest potential is for developed credit purchases and conservation of land is in urban growth area expansions. And that is land that is under County jurisdiction until it's annexed. And so it seems to create a natural point of discussion between the County and the Cities if the County, as several of the Commissioners have said, were to say that urban growth area expansions shall be accompanied by development credit purchases, and then, you know, that's a natural point for discussion with the Cities in terms of this is what we're implementing as the County; now let's talk about whether you'll honor that policy commitment if you annex the properties before they develop at urban densities.

Chair Axthelm: Thank you.

Ms. Mitchell: I sent in some questions today. I think Kirk got all those. There was a list of 10 and it was kind of a lot of information based on the staff report. And just so everybody else knows, I put a copy of those on each of your places before you got here so you have an idea of what they are. And that's having gone through the staff report carefully several times, and I know you've done a heck of a lot of information before this. The kind of questions that I have there, as you can see they focus on the justification right out of the chutes, basically, on costs, on where it's going to come from. I understand that if somebody came to the County and purchased – you know, wanted to have the County purchase et cetera, so let's assume that that got started. But even for the first transaction, where does the money come from? It's not like we have an endowment or something, is it? Is there? Even to get started this is a – there's huge costs involved.

Mr. Johnson: Well, we have to separate conservation costs from administrative costs.

Chair Axthelm: Kirk, will the rest of your presentation answer some of these?

Mr. Johnson: Yeah, I think it probably would. Yeah, so maybe it would be good to go through that and then we can circle back.

Okay, so I'm going to skip over for the moment Planning Commission and public review, but that's coming up this fall. So on to page 3. So we are proposing that the Conservation and Development Incentive Program policies would be inserted as Goal H and related policies in chapter 2 of the Comprehensive Plan, which is the Urban, Open Space & Land Use Element. And the proposed code would become chapter 14.22, Conservation and Development Incentives Program, replacing another chapter 14.22, Records of Survey, which would go elsewhere.

So, again, the policies and code would establish a program to enable the voluntary and permanent conservation of farm, forest, and open space lands while encouraging development in urban areas and certain rural areas best suited for additional growth. And then I talked already about if you're a landowner interested in conserving your land, you could consider selling development rights to the County or to a private purchaser. If you're a developer or a landowner interested in doing more development, you can purchase development credits from the County or from the private landowner that wants to conserve the land. So on the conservation side, the financial resources to achieve the conservation come from those purchase of development credits. There's no source of public funds. This is not a – on the conservation side, this is not a taxpayer-supported program, unlike Farmland Legacy. And at least as is being talked about here, we're not considering applying to the state or federal governments for grants, which ultimately are taxpayer dollars. So the conservation would be funded by purchase of development credits.

If it's purchasing development credits from the County, then the County would receive those revenues and it would basically put them into a fund until they accumulated to a large enough amount to where one or more development rights could be purchased from landowners who were interested in conserving their land. So in that way it would act like a purchase of development rights program. The County would sell the credits, raise the revenues. When the revenues were adequate to purchase development rights, it would put out a call for proposals from interested landowners. If there were applications, then it would review those applications and rank them based on criteria of conservation value, and then it would determine its top priority and enter into negotiations with that particular landowner over purchasing their development rights and putting the land into a conservation easement. So again the funds are generated from the developer's purchase of the development credits in order to access additional development potential in the priority area. It might be an urban growth area. It might be a Rural Village. It might be a Rural Intermediate area. It might be a rural upzone from Rural Reserve to Rural Intermediate – something where the development potential of the property is being increased as a result of the County land use approval.

The other way that that could happen is there could be a private developer who's interested in getting a rural upzone or any of those kind of increases in development potential that I've mentioned, and they may decide that they may feel that they can do better by going to the private market. And maybe they can find a landowner who's willing to sell development rights at a lower price than the County is selling development credits through its fee schedule, and so they're welcome to go out in the private market to express their interest in purchasing, you know, five development credits to do the project that they want to do in Burlington or in a Rural Village. And if they can find a landowner that's interested in selling their development right and they can negotiate a price, then they would conduct that transaction, and again the landowner would retire the development rights with the County through a conservation easement. So again we're talking about the conservation dollars, not the administrative dollars. That's the developer purchasing the development rights, which are then converted into development credits that allow them to do their project. I see a lot of what look like puzzled stares to me.

Mr. Greenwood: I was just trying to figure out the chicken before the egg thing.

(several sounds of assent)

Mr. Greenwood: How do you buy – how do you sell something that you don't have, unless it's a paper building credit?

Mr. Johnson: Who doesn't have it?

Mr. Greenwood: The County. The County doesn't have any development credits to sell the guy who wants to develop, you know, unless it's an administrative thing where you're saying, Okay, we're going to give you so many and, here, you pay us for it. Now you've got some seed money that you can then go buy some credits. So it's not really a one-to-one thing, is it?

Mr. Johnson: Right. Right, it's not a one-to-one thing.

Mr. Greenwood: Okay.

Mr. Johnson: So if and when this program is created, there would be a fee schedule and basically it would say for these various upzones or these various infill opportunities, it would cost \$15,000 to purchase one development credit. And so basically the developer, the person who wanted, you know, to pursue that increase they would want to go through the process to see if they can get approved for it, but if they did then they could purchase it from the County at the \$15,000 or they could see if there's a landowner somewhere in the county in one of the conservation priority areas who's willing to sell their development right for that amount or less.

Mr. Greenwood: And that's why you have the tie between the money that you receive requiring it to go only into purchasing the conservation ground.

Mr. Johnson: Yeah. Yeah, it would go into a dedicated fund that could only be used to purchase development rights from landowners who were interested in selling them.

Ms. Lohman: But you would have to have some kind of repository set up, if you will. I don't know what to call it. Because a developer just going out there and looking at the tax rolls and maybe figuring out potential properties and then privately meeting with a bunch of private landowners – how are you going to police that activity or keep it in check or make sure the property owner doesn't get fleeced? Because you said that you have to separate the – that you're not talking about administrative dollars, and I don't see how you can *not* talk about administrative dollars because you've got all this responsibility and fiduciary responsibility that you can't *not* have in your plan. I just – the hair went up on the back of my neck when you said well, the developer could go just approach a bunch of private landowners, and I'm thinking, Holy cow, that could be like the Wild West!

Ms. Hughes: Well, and why would that be put in? Why is the government sharing responsibility with private developers? I don't understand that component of the plan.

Mr. Johnson: Well, let me respond to the first thing first. I mean, if I want to buy land I look in the want ads or I go to the Web to a real estate website and I look for people who are selling land. So we have this market where you can sell land or sell residences – I don't really know

where I'm going with this other than what we're trying to do is create a situation where – for property owners who want to – I mean –

Mr. Greenwood: Isn't it like conservation easements?

Mr. Johnson: Yeah. I take it back to the Farmland Legacy Program because the Farmland Legacy Program is a much loved program in Skagit County. I love it. It's saved 10,000 – conserved 10,000 acres of agricultural land. What it allows a landowner, an ag landowner to do is if they want to sell their one residential development right on their 40 acres of land, it allows them to separate that development right from the ownership of the land and sell the development right to the County, and the development right is then extinguished through a conservation easement. So they've sold the development right. They've gotten \$100,000. They buy another tractor or, you know, send their kids to school, and that land is conserved permanently and can be used for farming. What's different here is if the development right – if a development right is purchased by a private landowner, based on an exchange rate schedule, which we'll talk about, they can convert that into development credits that they can then use in any one of these designated development priority areas. So the development right's been retired from the conservation property.

The person who's purchased that right receives something of roughly equal value that then they can use in a development priority area. So it's not like they're taking that one development right from here and putting it on the map over there, kind of like Monopoly. They're putting forward the funds to purchase the development right. The County works with the landowner to conserve it, extinguish the rights on that property, and then that gives the developer the ability to, say, do four units of development in a receiving area. And basically – I mean, the County is saying by its land use policies and code that increases in development potential that occur through Comprehensive Plan amendments or rezones or the creation of an additional lot in certain situations like a Rural Intermediate zone, there's an increase in land value that happens when that approval is granted. And in some cases it's quite significant. And what the County is saying is under this program a portion of that will accrue to the landowner who has received that increase in land value, but a portion of it will be retained and used for conservation of farm, forest, and open space land.

Ms. Lohman: But on some of those upzones – I just have to say this out loud – the County's not getting something, because you're going to get tax. When you upzone there's the potential the County's going to get more property tax. So it isn't just because something got upzoned doesn't mean that it's a – the County gets nothing. When I see rural infill and I think about our – these areas Rural Intermediate and I would assume you're assuming Rural Villages and anything that's sort of like a Rural Village – but hasn't our zoning code already got that? So how can you use a – how can you use this to increase the zoning when we just went through an arduous exercise on changing the Comp Plan to change something, so wouldn't that kind of bypass what we just did?

Mr. Johnson: Well, so commercial rezones aren't a part of the program. So it's only looking at situations where there could be more residential development potential. So in the one instance of Comprehensive Plan amendments, those can happen now and they have to be considered and approved subject to the designation criteria in the Comprehensive Plan. So like – I don't know, probably most of you remember the Bayview – not Bayview Ridge but there was a rural –

Ms. Lohman: The Jensen-Peck?

Mr. Johnson: Yeah. So there was a Rural Reserve property and they asked to be added to Rural Intermediate. And I think with that rezone that was evaluated based on the Rural Intermediate designation criteria, I think a majority of the Planning Commission agreed that it met the Rural Intermediate designation criteria. And so as I recall they received two additional development rights as a result of that rezone. So what this program would say is that there would be – they would need to purchase two development credits in order to access those two additional development rights.

Ms. Lohman: In addition to going through the Comp Plan amendment process?

Mr. Johnson: Yeah. So basically the amount of the credit is based – so we've been working with an economic real estate consulting firm that's been doing a great deal of analysis on land values in Skagit County, and basically the amount of the credit, if the person were to go that route, is proposed at this point to be set at 50% of the increase in land value of the rezone. And I don't have the numbers in front of me, but let's say they've determined that each additional lot in Rural Intermediate – you know, from going from the Rural Reserve to the Rural Intermediate – each additional lot is worth \$40,000. A landowner developer would be willing to pay that for the additional lot. So what they're saying is price the development credit fee at half of that, or \$20,000.

So, yeah, that's a change in policy. Where people in the past could pay their \$5,000 application fee and go through the rigorous process and maybe get their approval and maybe not, under this program if they got their approval, then to utilize those two additional development rights they would still have the ability to do the original development that they had. But to utilize the two additional ones they would purchase two development credits and they could either purchase them from the County or they could try to find a landowner that was interested in conserving their land to see if they could get a better price on credits by going that route.

Chair Axthelm: You're saying beyond what was allowed by the rezone?

Mr. Johnson: No – beyond what was allowed before the rezone.

Chair Axthelm: That's a confusion because I thought that that was the situation that was allowing upzoning or allowing more dense development in a zone. Because the thing seems to me that if you go through the rezone that you wouldn't have to go through and pay for those additional development rights because you've already paid for it through the rezone process.

Ms. Lohman: Right.

Mr. Johnson: Well, the fee for the rezone is to cover the process of coming before you, and public review and comment, and response to comments, and environmental review. That's an administrative fee for the process itself.

Chair Axthelm: We're coming up on time. It was requested that we finish by nine. Do you – how much – are you pretty much done with your topic?

Mr. Johnson: Well, I'm sure we could go on for a long time.

Chair Axthelm: At least we get the information and then we can ask questions after – or, sorry, not after – through e-mail.

Mr. Johnson: Yeah, I would have a hard time condensing anything coherent into three minutes.

Ms. Lohman: I think –

Mr. Greenwood: Well, I think – go ahead. Ladies first!

Ms. Lohman: I almost think that this is a very large topic and that unless we want to go on for another hour, I mean, we can't really finish it even then. I think I would move that we invite Kirk to come back at our next meeting to continue, if there's room on the agenda. I mean, that's the challenge.

Chair Axthelm: Dale.

Mr. Pernula: Later in the meeting I was going to talk about the next meeting agenda and what's coming up, and what we have is a hearing on the Capital Facilities Plan. We also wanted to talk a little bit about Population and Employment Forecasts. That could be delayed – that part could be delayed until the 20<sup>th</sup>. I also wanted to talk about some community meetings that are coming up over the next few weeks and I'll be passing out a handout. So you've got a lot of things coming up in a short period of time.

Chair Axthelm: Is the TDR – not TDR, sorry.

Mr. Meenaghan: CDI.

Chair Axthelm: CDI Program – this is an essential – or not essential, but a – do we have a time limit on it?

Mr. Johnson: Well, it's one of the two 2014 Comp Plan amendments, along with Birdsview Brewing, so they're joined at the hip. The County can only amend the Comprehensive Plan once a year, so it can – the County Commissioners would need to either wait for this to be done this year in order to take action on Birdsview, or I suppose they could decide to separate the two and take action on Birdsview and extend this into the following year. We're operating on the assumption, based on what we've heard from them in the past, that they want to see us get projects done in the calendar year in which they're docketed. So we're going to move forward like that. Of course they have the ultimate decision about rolling something over into next year or not.

Chair Axthelm: So what's the will of the Commission?

Mr. Greenwood: I was just going to suggest that maybe Kirk could hit a couple of key points, but it sounds like Dale has at least a minute worth of conversation left. So I just wanted to comment that I like having a framework that we can look at now. This kind of puts some flesh on it to where to me it's a lot easier to see what's going on than where we were at, which was at a pretty conceptual level. So I think we've got something easier to chew on. Thank you.

Ms. Candler: I would like to hear him be able to finish maybe at the next meeting, if we could give it – I don't know what's a reasonable amount of time. At least a half-an-hour, maybe, for your presentation part?

Mr. Johnson: Yeah. What's the next meeting? Capital Facilities?

Mr. Pernula: It's Capital Facilities. There might be – depending on what happens at the public hearing, there might be some time at that meeting. That would be October 6<sup>th</sup>. If you wanted a special meeting, next week we have a workshop in Fidalgo Island, but there is an extra Tuesday in September, the 29<sup>th</sup>. That would be a possibility as well.

Chair Axthelm: \_\_\_ the next meeting? Capital Facilities.

Ms. Candler: Let's see how far we get at the next meeting.

Mr. Meenaghan: You know, and I guess my suggestion might be that a lot of us had questions. You know, Kathy submitted some already. But when we did that marijuana ordinance, I thought that many of us submitted questions and you all put together a great staff report. So if we could do that method and then get a staff report back with the answers to a lot of these questions, I think that'd be good. And I agree. I think we're – like Keith said – I think we're getting some more granularity on this.

Chair Axthelm: Okay.

Mr. Johnson: So what I think we'll need to talk about as a staff tomorrow is whether and how that affects moving this forward for release next week. Because if we really delay it for two weeks for another meeting with the Planning Commission and then don't release, then we're into probably mid- to late December for any deliberations and that's just not realistic in terms of the possibility of getting something done. So I just want to raise that so you're not totally surprised if we get back together in two weeks and, you know, you've seen a notice go out on this that it's out for public review and comment.

Chair Axthelm: Okay.

Mr. Greenwood: Yes, and that puts the impetus on us to get something in – comments on this – in a timely fashion so that they can respond and the public can see it, too.

Chair Axthelm: Okay, so we'll push it to the next meeting then. Okay, so we'll move on to the next item, the Department Update.

Ms. Lohman: So wait – sorry. So what did we decide?

Mr. Greenwood: Next meeting.

Chair Axthelm: Next meeting.

Ms. Lohman: Next meeting? The 29<sup>th</sup>?

Mr. Meenaghan: No, the 6<sup>th</sup> of October.

Mr. Pernula: October 6<sup>th</sup>.

Ms. Lohman: Okay. What happened with September 29<sup>th</sup>?

Chair Axthelm: No, that's an additional meeting. We already have two meetings within a month. Do you want to have an additional meeting?

Ms. Lohman: Oh, oh. It was an alternative date.

Chair Axthelm: Yes.

Ms. Lohman: Okay.

Chair Axthelm: Okay. Everybody okay to move on? Department Update. Go ahead, Dale.

Mr. Pernula: Okay, I have a couple flyers. I've been talking about these meetings for some time that are coming up. There have been four that are scheduled on the Comprehensive Plan. They're given at the bottom of this flyer. And did you get the agenda for the next week's meeting? I'll hand those out then.

Mr. Greenwood: Is there a time and a date stamp on this one? On the agenda?

Ms. Lohman: It's not amended – not 20 different versions.

Ms. Candler: Is this going to be the same agenda for all the meetings pretty much?

Mr. Pernula: Probably pretty much the same format, unless we find – figure out something else that may work better. So that's the schedule and that's the agenda for the meeting next week. It's not required that everybody goes to these meetings, but if it's in your district you're certainly encouraged to attend.

Mr. Meenaghan: Dale? I'm just going to say that this is in my backyard yet I'm going to be out of town on business travel next week so I cannot attend.

Mr. Greenwood: You get to go to Concrete then.

Mr. Meenaghan: Okay!

Ms. Hughes: You finally don't have to drive to a meeting and you're not going to be there at all!

Mr. Pernula: We're short on District 3 representation.

The second item I have to mention is that tomorrow afternoon in Burlington we have a meeting of the Growth Management Act Steering Committee. They will be considering four docketing items, two of which also require population allocations. The docketing only items include the Sedro-Woolley modifications for some expansion to the north, some expansion of commercial and industrial areas, and perhaps retraction of some other areas. We are recommending that be docketed.

The second one is one proposed by the County, which is an expansion of the Burlington urban growth area to include the Raspberry Ridge area so that sewer can be provided there, and other reasons.

The third would be putting back some of the residential area into Bayview Ridge, about 68 acres. That would require not only docketing but it would also require a population allocation – not a large population allocation, something on the order of 1000 people.

And then the fourth one requires a fairly large allocation of about 10,000 people and it's Butler Hill, which is north of Burlington.

So those are the items that are going to be considered among the other things tomorrow.

As I mentioned, the next meeting is on October 6<sup>th</sup>. It'll include the Capital Facilities Plan and now the CDI as well. And that's about it. That's all I have.

Chair Axthelm: Okay. Any other – any questions or comments from the Planning Commission?

Mr. Greenwood: Where is that meeting going to take place, Dale? The one tomorrow?

Mr. Pernula: Burlington City Hall at 2:30.

Chair Axthelm: Okay. So the next item on the agenda: Planning Commissioner Comments and Announcements. Any comments or announcements from the Planning Commission?

(silence)

Chair Axthelm: Okay, seeing none, do we have a motion to adjourn?

Ms. Lohman: Motion to adjourn.

Ms. Mitchell: Second.

Chair Axthelm: Okay. All those in favor?

Several Commissioners: Aye.

Chair Axthelm: (gavel) The meeting's adjourned.