

**Skagit County Planning Commission
Review: Birdsvew Brewery 2014 CPA
Public Hearing: 2016-2021 CFP and TIP
Work Session: CDI Program
October 6, 2015**

Commissioners: **Josh Axthelm, Chair
Keith Greenwood, Vice Chair
Annie Lohman
Hollie Del Vecchio
Tammy Candler
Amy Hughes
Kathy Mitchell
Kevin Meenaghan (absent)**

Staff: **Dale Pernula, Planning Director
Gary Christensen, Planning Manager
Ryan Walters, Civil Deputy Prosecuting Attorney
Forrest Jones, Public Works Transportation Program Section
Manager**

Public Remarks
Commenters: **Ellen Bynum, Friends of Skagit County**

Public Hearing
Commenters: **Randy Good
Carol Ehlers
Ellen Bynum, Friends of Skagit County**

Chair Josh Axthelm: It's Tuesday, October the 6th. Welcome to our Planning Commission meeting. We call this meeting (gavel) to order. If you'll notice your agenda, we'll have first of all Public Remarks, as usual, and then Birdsvew Brewery Comprehensive Plan Amendment. It's the acceptance of the Findings of Fact. And then fourth on the agenda is a Public Hearing for the 2016-2021 Capital Facilities Plan and Transportation Improvement Program and Related Code Amendments. And then fifth is Conservation and Development Incentives Program Work Session, continued from last time. And number six is the Department Update and seven, Planning Commissioner Comments.

So let's start with the Public Remarks.

Annie Lohman: Mr. Chairman? Could we introduce our new member?

Chair Axthelm: Yes, and we do have a new Planning Commission member, so if you'd like to introduce yourself.

Hollie Del Vecchio: Absolutely. Thank you very much. It's Hollie Del Vecchio. I can spell that for you if you like. But I am a resident of Sedro-Woolley – been here for about four months. Do you want me to actually talk or just say my name?

Chair Axthelm: No, you can talk ____.

Keith Greenwood: A description would be good.

Ms. Del Vecchio: I moved to Sedro-Woolley with my family about four – three or four months ago. I am a western Washington native, though. I've been out in other locations for a while and just decided to return home. I am a practicing land use and estate planning attorney with an office up in Bellingham. I'm also a former land use professor down – I taught mostly down at Cal Poly Pomona, a little bit at Portland State, and I'm happy to be here. Thank you.

Chair Axthelm: And she's District 3.

Ms. Del Vecchio: Yes.

Chair Axthelm: So we still have one position open for District 3. Okay, so let's go ahead and move forward to Public Remarks.

Ellen Bynum: Good evening, Commissioners. Ellen Bynum, Friends of Skagit County, Mount Vernon. I wanted to take the opportunity to give you a list of some comments and questions that I've been receiving from individuals in the public and from various organizations concerning the Conservation and Development Incentives Program. These are questions that the people that gave them to me and asked me to sort of consolidate them and vet them think it's important for you to know the answers to before you pass any legislation. So I won't read them all and I will give you copies when I get done.

But basically we wanted to emphasize to you that the literature on transfer of development rights in particular emphasizes that in areas that have really good planning TDRs are not necessary. So even though TDRs may be on the books in different places, they may be useful or not useful. If you do really good planning, you don't have a need to go back and rethink what you've done. So TDRs get used in places where you want to revisit, perhaps, the lack of open space in an urban growth area or you want to create a park inside of an annexed area that is possibly an area that you didn't plan for a park and now you need to do that. So you might use a TDR program to transfer development rights to other parts of a city or other parts of an urban area. It's not a tool that gets used very much for conservation per se. Now that said, there are – Kirk will probably correct me, if he's around – there are lots of places that have them on the books but they're not typically a mechanism that's quite useful in rural areas.

So one of the things that Skagit has is we have a really good Comprehensive Plan, and we have identified and protected our resource lands and our critical areas and our shoreline, and we also have UGAs that are approximately appropriately sized for projected population growths. So in that sense we don't – we might have a need to conserve certain areas but we have planned pretty well for the things that we have identified under GMA as being important.

But one of the things that I wanted to point out was that Skagit County has – this is the third revisit of the TDR idea and the last two times we rejected it. One of the reasons that it was rejected is that the purchase of development rights program called the Farmland Legacy

Program is in place, it's been operating, and it's pretty important to keep that going. So we wanted to know what has changed to make TDRs necessary now? What is the urgency to add the program now? Are there any downsides if we *don't* add the program now? And then what does a TDR program do that can't be done using current existing zoning and perhaps adding a density bonus credit program in areas that we want more development?

The other things that are of concern are: What's the definition of "free market" if it allows the County to decide who can and cannot participate in a TDR program and what the actual prices of the transaction can be? A lot of people are concerned about the cost-benefit analysis for the program, which I don't really think the Department has done. They could do that. It's apparently fairly expensive to add a staff person, part-time or full-time, to run the program, and then there is a lot of concern that the program might also be proposed to be managed by a private party as a contract. That was not acceptable to most of the people that I spoke with. So we want to know: What are the costs of adding the program and what are the estimated revenues and expenses?

And then, How does the TDR program affect the County, City or Town tax revenue? How does removing a development right affect the appraised value of a piece of land and, therefore, the taxes that are on that land? Are properties in sending areas going to lose value? Are properties in receiving areas going to gain value? Who benefits from these changes in value? And are such changes in the public interest? So won't the reduction in value of parcels in a TDR program cause an overall property tax shortfall, and then the rest of us will have increased taxes to make up the difference from that?

Mr. Greenwood: Ellen?

Ms. Bynum: So –

Mr. Greenwood: Ellen?

Ms. Bynum: Yeah. So –

Mr. Greenwood: You spoke three minutes.

Ms. Bynum: These are concerns that are pretty good and we'd like you to consider them before you accept what's presented to you.

Mr. Greenwood: Thank you.

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

(silence)

Chair Axthelm: Seeing none, we'll move on to the next item on our agenda, the Birdsvew Brewery Comprehensive Plan Amendment. We need to review the Findings of Fact – the Findings of Fact as the Planning Department has drafted for us.

Gary Christensen: Good evening.

Chair Axthelm: Good evening.

Mr. Christensen: Gary Christensen with Skagit County Planning and Development Seniors – Services. You have been provided in advance a copy of your recorded motion regarding the Birdsvie Brewery proposed amendment to the Comprehensive Plan and land use and zoning map. It was provided to you in advance and asked for your review and if you had any comments or questions to contact me and, if so, we could address those questions and clarify them if need be. One of the things that – well, there’s two minor amendments. One is kind of a scrivener’s error, which is reflected in actually the title. We have been referring to this project or petition as PL12-0268 and the correct file number is PL14-0288, so I’ve made that correction in the recorded motion and I can show you where those have occurred. They occur in the title and then under the proposal name, and even though the whole title shows as a strikeout and an insertion it’s really only the PL number that’s being changed. You’ll see that also in the footer.

And then there was another question from a Planning Commission member about, Well, what’s going to be allowed with this Comp Plan Amendment and a rezone? And if you turn to the recommendation on page 3, your recommendation is to designate approximately a two-acre parcel from what already exists, which is Rural Reserve, to what is proposed or what you’re recommending, which is Small-Scale Recreation and Tourism. And then again there you’ll notice that the PL number has been changed to correct the right number.

Now what I’ve done to address that just to provide additional clarity is under Finding number 8 where it says that the existing business, Birdsvie Brewery, is compatible with surrounding rural land uses provided that it is appropriately scaled and sized and limited to the two acres along SR 20. And then that’s referred to as Exhibit A so you know where that two acres is generally located, and that the current and any future business operations would or have to remain compliant with Skagit County Code. And then I’ve generalized here: “health, building, planning, noise, and then really any other land use and environmental permit requirements.” So that’s kind of a catchall thing. Basically any business out there or land use has to be compliant with Skagit County Code. Now what I’ve added here is that any allowable land uses or those that will be allowable with this Comp Plan Amendment and rezone would be those that are prescribed in Skagit County Code 14.16.130, which is the Small-Scale Recreation and Tourism zoning district, as it exists today or as it may be amended any time hereafter. So hopefully that will be clearer to the reader or anybody who comes upon this document at some later date knows what requirements would be expected.

And then the new Finding number 12 is just indicating that previous documents may have inadvertently referred to this petition under the file number PL12-0268. For the record, the correct petition file number is PL14-0288.

And that’s all that I have, and I could answer any questions that you may have on your recorded motion.

Chair Axthelm: What did that previous file number refer to?

Mr. Christensen: Sorry?

Chair Axthelm: What did the previous file number refer to?

Mr. Christensen: I think – I’m not sure but it might have been like a Parks and Recreation project file number. It was a couple years ago.

So if we just – in this particular case, the red and blue is showing where the changes occurred, and if we just turn those off and give you the final everything gets accepted and then it gets cleaned up. And Dale has this version with the amendments accepted. He signed and the Chair of the Planning Commission could sign as well, if you all concur. This really is an attempt to reflect your deliberations and your discussion, and creates for the record your Findings and your Reasons for your action, as well as your Recommendation to the Board of County Commissioners.

Ms. Lohman: Mr. Chairman, a question?

Ms. Lohman: Gary, so then the only change is that PL14-0288 from the one we all printed out?

Mr. Christensen: Yes, and the – well, the addition –

Ms. Lohman: I was quickly –

Mr. Christensen: The only other change would be to Finding number 8. Is this showing up on your monitors? So the red is new language, or additional language. So there's an amendment to Finding number 8 and then there's a new Finding number 12. That's what would be different than the version that you had received earlier.

Mr. Greenwood: I did not submit suggested changes to you but I wanted to forward a couple that occurred to me in my last reading, which was that in Finding number 4, since we discussed that this is not ag, per se, that I believe the final sentence should read "Hops and barley, which are used in the brewing business, are grown on the site for demonstration purposes," because that's what the proponent said that that's what they were onsite for. It makes it kind of look like maybe something a little different.

And then on item number 6, it says that the business has operated for years and has received widespread community support. I know we talked about it being a nonconforming use, but I feel for more accuracy to either specify the number of years that it's been in business or to change the words "for years" to "since 2005."

Mr. Christensen: Finding number 2 does that.

Mr. Greenwood: Okay. Well, then that solves that problem then. To highlight a couple of points in the Findings, we don't have to change the font or anything but in Finding number 7 there's reference to – in the last sentence – one adjacent neighbor complained about noise. And the fact that they brought it to the attention of the Commission I think was a little bit noble, being one in a group. But I wanted it to not look like they are the villain, as was portrayed at times in public testimony, but they are the victims so they are the people who actually had needed to be addressed in a helpful way.

And then in Finding number 9, I wanted to highlight to the proponent, or the applicant, that there is a special use permit that's required for these temporary events, which have actually been a source of some of that complaint and controversy. And I'm not sure, I didn't hear it clearly, that they had been pursuing or getting special use permits for those temporary events. So just to make that clear, for the record.

Ms. Lohman: And I thought they –

Chair Axthelm: Which they mention in there – the special use permits.

Mr. Greenwood: Correct. I just wanted to highlight that for the proponent.

Mr. Christensen: Are you just agreeing with that Finding or are you wanting to see a change to the Finding?

Mr. Greenwood: I do not think there needs to be a change. I just wanted to amplify those two points for the record.

Mr. Christensen: Okay.

Tammy Candler: Can I say something about that, Mr. Chairman?

Chair Axthelm: Yeah.

Ms. Candler: I agree with your statement on section 7, making those neighbors out to be the villain. I almost think I would propose a change to the language. Rather than the word “complained” – I know it’s just semantics, but maybe “voiced a concern,” or something a little softer there I think would be appropriate or preferable.

Amy Hughes: “Highlighted”?

Ms. Candler: “Highlighted an issue,” or “expressed an issue that they’ve experienced” – something a little softer than “complained.”

Ms. Lohman: Because there’s silence.

Mr. Christensen: Here’s a number of words. Pick your word.

Ms. Candler: They don’t like any of those! They all say grumbled. I mean –

Chair Axthelm: I think “commented.” He came and he commented on it.

Ms. Candler: “Commented” would be good – better.

Mr. Christensen: Is “commented” a strong enough word, based on their testimony?

Kathy Mitchell: They were rather vociferous.

Chair Axthelm: “Testified”?

Mr. Christensen: I mean, “complained” does to some extent provide a description of their testimony. And if you think it should be characterized differently, I can certainly put a different word in there, or words.

Ms. Lohman: Keep in mind they also bent over backwards to be a good neighbor while they were trying to point out an obvious elephant in the room, which was the noise. Because everybody was not recognizing there was that problem.

Ms. Candler: I think ultimately even expressed that they were in support of the amendment, despite their concern. Could we put “voiced a concern”? Do you think –

(sounds of assent)

Ms. Candler: – is that – I think that would maybe be a better word.

Mr. Christensen: Strike “complained” and put “voiced concerns”?

Ms. Candler: Yeah.

Mr. Christensen: Is there general agreement/consensus with that?

Ms. Mitchell: That’s fine with me.

Mr. Greenwood: I’m thinking along the lines of “identified a conflict,” “a use conflict,” “potential use conflict,” which I think will be ongoing unless they do go through the route of pursuing a special use permit with its mitigating factors.

Ms. Candler: I like that language.

Ms. Lohman: Can you repeat that?

Mr. Greenwood: “Identified a conflict, a land use conflict, in the neighborhood pertaining to noise.” Let me see if I – let me work on that. Let me see if I can come up with some words that reflect what I said.

Chair Axthelm: Okay, so let’s leave that for a second. Do we want to add the statement “for demonstration purposes only” in number 4?

Mr. Greenwood: I just said “for demonstration purposes.” Whether they use it or not, I think is ____.

Ms. Lohman: I think you do because otherwise it mischaracterizes when you – especially when you look at the map.

Mr. Christensen: Although I don’t know that they are just growing them for people to go out there and look and see hops. They may actually be utilizing some of the hops that they’re growing onsite in their beer-making process. So I wouldn’t want to incorrectly –

Mr. Greenwood: That’s why I said “for demonstration purposes.” It might be a – it sounded like a minor component whether they use it or not.

Ms. Lohman: It’s a token amount.

Chair Axthelm: And that’s what I heard as well. Did everybody –

Ms. Mitchell: Right, but I think what Gary’s saying is it’s possible they could not only do that but actually use them.

Ms. Lohman: Well, yeah, but in a token way rather than – he has to go out and source crops from elsewhere. He’s not growing all of his hops there and he’s not growing all of his barley.

Mr. Christensen: I don’t know. It could be that one of his varieties is clearly hops only from his site. I think maybe the vagueness here is better than trying to dial in on the specificity.

Ms. Lohman: You could even strike it.

Chair Axthelm: Does it really matter?

Ms. Lohman: Because it’s really immaterial.

Mr. Greenwood: Well, I think it does in the sense that like – and it is similar to vineyards, but I think there was a big part of it that was – he said it was for demonstration purposes, so I’d like to have it reflect that, but even more so is that a lot of wineries will set up and then people come in to see the process and see – and they might source from outsource as well, so there’s some level of supplying your own product. But he didn’t give the indication that it was an agricultural type of site. I don’t want to go too far into what he did and why he did it, but it was initially established as a tasting room and then it developed into something else.

Chair Axthelm: I think for our interpretation of it is that it’s for demonstration purposes. Seems to be the vast majority. Are you okay with that?

Ms. Mitchell: We’re good.

Mr. Christensen: Okay, you tell me where you want the change and how you want it worded.

Chair Axthelm: “...are grown onsite for demonstration purposes.” You okay with that?

Ms. Lohman: Yeah.

Chair Axthelm: Are there any other comments beyond what Keith said?

(silence)

Chair Axthelm: Okay. So you’re on, Keith. No pressure!

Mr. Christensen: Okay? Just there?

Chair Axthelm: No, he had the one more comment on 7.

Ms. Lohman: I have something, Mr. Chairman.

Chair Axthelm: Okay. Go ahead, Annie.

Ms. Lohman: It’s kind of an overall – this was a case of a cart before the horse. The guy had his tasting room and it morphed a bit. And I don’t want to all of a sudden seem like the Planning Commission will just roll over if somebody wants to push really hard and use the theory that we’re going to ask for forgiveness if we do something, because there’s been a lot of cases

where we haven't done that at all, where at a lower level it's not come to us. Maybe somebody in a department at a permit level has turned people away. So I don't want this to be a we've-opened-the-door to if you have a winery or a vegetable garden that morphs into an entertainment venue that you all of a sudden have a mechanism now that you can just call it Small-Scale Tourism because we did it once.

Mr. Christensen: I would respond by just saying that in a Comprehensive Plan Amendment and rezone request the legislative action or nature of this kind of action is very discretionary. It isn't necessarily precedent-setting, and that's why it's important to have Findings of Fact and Reasons for Action because in these particular facts you may arrive at this decision, but under a similar request with different facts you may have a different decision.

Ms. Lohman: Because for me, too, a lot of the detail was in the locale – the proximity to other rural business, the proximity to the Rural Intermediate zones, the density scenario that was in that particular locale. But I didn't really see that idea captured in any of our Findings.

Mr. Christensen: If you look at Finding number 5, which talks about – well, first of all let me refer you to Finding number 4, which says that this was a legitimate pre-existing, nonconforming use, and that not only is it meeting rural service and rural residents' needs but there are also visitors. And number 5 then really kind of refers to –

Ms. Lohman: Wait. Excuse me. I think you misread that. It's *not* a legitimate pre-existing, nonconforming use.

Mr. Christensen: It will legitimize a pre-existing, nonconforming use.

Ms. Lohman: Right.

Mr. Christensen: And so with that as the background, it's not only providing economic and job-related opportunities for rural residents or upriver communities, but also it's providing, as our Comp Plan policies allude to, it's serving the traveling public as well, and visitors. And its proximity to the river and the Cascade Highway Loop to a state park and campground – these are all reasons why this particular request is consistent with the County's Comprehensive Plan and other statutory requirements.

Ms. Lohman: But it – but it – there's a little bit more because it was a density thing for me. And I don't know if other people were persuaded. If it was a little bit more of a – if it didn't have that little cluster there that kind of made it almost like a village, if you will – because you can be a community or village-like without being designated. That was part of what made the whole thing fly.

Mr. Christensen: Yeah, and that was alluded to in the supplemental staff report where there was a map that showed some other kind of sprinkled rural commercial uses along Highway 20. And without just copying and pasting the whole staff report into the recorded motion, Finding number 7 refers to your continuing the September 1st public hearing to September 5th (sic) to address a number of issues, one of which was spot zoning and other rural commercial uses along SR 20. So it's generally referred to here, but certainly the entire record is –

Ms. Lohman: I think I would like to insert an additional Finding, maybe after 4 or 5, right in that same area that addresses that the locale of this particular business –

Mr. Christensen: Do you have some language you would like to suggest?

Ms. Lohman: How about can I come back to it and I will come up with the language? But I would like to address that it is the locale of that particular one that is part of the driver, too – not just the generalities that it's the other ones that we're talking about. So I will work on it real quick.

Chair Axthelm: Part of my concern when this came up was setting precedence – is that here's a business that didn't have a conforming use. It was doing a business beyond what they were supposed to and then is coming in to have it legalized, or legitimized. And so I think they did it – I'm glad that they came and took care of it here, but I didn't want this to set precedence for other businesses to all of a sudden start up – no matter whether it's a brewery or any other business – and just put their business wherever they wanted it and if they were there long enough that they would be able to stay. So I think we were pretty clear in the hearings and in the meetings previous that we didn't want that to happen. Is that what you're trying to say, is let's have a statement in here to that effect?

Ms. Lohman: Yes. Yes. Yes, because it is that specificity of that. Because it's more than they *happened* to be on that byway. It's more – because you can set up anything that you want and create a draw, and I don't want it to be that you can just set it up anywhere. It has to have other elements along with it.

Chair Axthelm: We do need to move on as quickly as we can to deal with things on the agenda, so is there anybody else that can help her with this? Any suggestions?

Mr. Christensen: Do you want this to come back to you in two weeks?

Chair Axthelm: No.

Ms. Lohman: No.

Mr. Greenwood: In the near term, I do have a couple of suggestions on the replacement for the section on complaint about noise, and I like option number 2 that I came up with the best where it says – let me read it in full: "One adjacent neighbor identified a consistent noise conflict when music festivals and charitable events are held outside." The other option was: "One adjacent neighbor in testimony described an occasional noise conflict when music festivals and charitable events are held outside."

Ms. Mitchell: That's pretty accurate.

Mr. Greenwood: Number – the first one or the second one?

Ms. Candler: Second. I have a question. Keith, how come you went away from "identified a land use conflict"? Is there a reason for that? Because I liked that you characterized it that way because that's kind of the whole thing we were talking about are the uses.

Mr. Greenwood: Yeah, I just wanted to be specific on their – not complaint, but there theme was it's the noise. And I think the noise obviously is part for sure of the use issue, and that's what sets the thresholds for noise.

Ms. Candler: But what if we worded it: “One adjacent neighbor identified a land use conflict regarding noise when music festivals and charitable events are held outside”?

Mr. Greenwood: That’s okay. I’m good with that.

Chair Axthelm: Are we all good with that?

Ms. Mitchell: Could you repeat that please?

Ms. Candler: “One adjacent neighbor identified a land use conflict regarding noise...”

Ms. Mitchell: Okay, a question then, because I don’t know if I understand.

Chair Axthelm: Let’s get it written here real quick and then we can look at that ____.

Mr. Christensen: “One adjacent neighbor identified a land use” – was it “issue”?

Ms. Candler: “...conflict regarding” and then you take out “complained about” and resume with “noise.”

Ms. Mitchell: So the question that I have is – I’m not a lawyer, but is it a land use conflict if they get a special use permit to do those anyway?

Ms. Candler: The way I think of it is, I think of it as their land use is enjoying the comfort and quiet of their home. Their neighboring land use is having a concert. Those are in conflict. It’s bound to happen and whatever, but that’s, I think, the conflict. Is that the way you were thinking of it, Keith?

Mr. Greenwood: That’s fine. I think that reflects the intent.

Mr. Christensen: And a way to mitigate that – not necessarily to make it go away but to deal with the – you know, the how often, when, and what hours would be through the special use permit process where conditions can be applied.

Mr. Greenwood: Yeah, I think that’s specified in the Finding of Fact.

Ms. Candler: The point, I think, of wording it this way is so that we can acknowledge that this neighbor came in and actually had very legitimate, issue-directed comments to make, and I think it’s appropriate that we acknowledge that.

Mr. Christensen: So there are current code requirements that address health, building, planning, noise, other environmental issues that just through permit processing or just operating the business you need to be in compliance with. With regard to the outdoor music, the temporary events, that can be specifically addressed by adding conditions to that permit that would go well and beyond anything that is in current code today.

Chair Axthelm: Okay. Annie, do you have anything?

Ms. Lohman: Yes. I’ll pass it to you.

Chair Axthelm: Would you like to read it yourself? Okay. So Annie has “The proximity of the business to an established rural community and within a short distance to existing rural businesses supports this designation.” Did I read it right?

Ms. Lohman: Mm-hmm. So we can insert it or have it as ____.

Chair Axthelm: Let’s just type it in there and then we can adjust it if we need to.

Mr. Christensen: You would like that – I didn’t quite hear everything, but tell me where you want it and then you’ll have to read again so I can type it in.

Chair Axthelm: Yeah. Between 4 and 5? Does that work?

Ms. Lohman: Mm-hmm.

Chair Axthelm: Okay. All right, it says: “The proximity of the businesses” – or “of the business” – excuse me – “...proximity of the business to an established rural community and within a short distance to existing rural businesses supports this designation.”

Ms. Candler: So the third word should be “of.”

Ms. Lohman: Gary, your third word needs to be “of.”

Mr. Christensen: “The proximity to...”

Ms. Lohman: “Of.”

Ms. Candler: “Of.”

Mr. Christensen: “of the...” – strike “to” and put in “of”?

Ms. Candler: Yes.

Mr. Christensen: Okay. Like that? “The proximity of the business...”? Okay.

Chair Axthelm: Should we have anything – there was a concern about setting precedence. Or does this cover it? Any other thoughts?

Ms. Candler: Maybe – the only thought I would have is if we would add that by way of more like “While the Planning Commission doesn’t want to set precedent of nonconforming uses, the proximity...” I mean, if any – if we address it, I would think that would be the way.

Chair Axthelm: Yeah.

Mr. Christensen: So a friendly amendment to new Finding number 5? Okay.

Ms. Candler: Yes. Thank you.

Mr. Christensen: And how did you –

Chair Axthelm: Go ahead, Annie.

Ms. Lohman: I think we're all holding the ____.

Ms. Candler: "While the Planning Commission generally does not support nonconforming uses..."

Mr. Christensen: Should I say "generally does not" or just –

Chair Axthelm: "Generally" – yes, please.

Mr. Christensen: Did I hear "generally"?

Ms. Candler: You did. Yes.

Ms. Lohman: But then that suggests – the way that that reads now – it's still nonconforming but we're going to look the other way.

Chair Axthelm: No. It's saying that it's – sorry. I didn't get it. That was bad!

Ms. Candler: I thought about that, too. We would have to say, "While the Planning Commission generally does not support legitimizing nonconforming uses, the proximity..." I mean, if you want to add that word.

Ms. Lohman: Yeah, that would work. It's hard to write in public like this.

Mr. Greenwood: You ought to try and type it – imagine, with everybody looking over your shoulder!

Ms. Lohman: Yeah, because he's got to worry about spelling.

Mr. Greenwood: He does.

Mr. Christensen: Well, that's why you have spellcheck, though – much easier on the computer than it is on a flip chart where no spellcheck exists.

Chair Axthelm: So are we okay with that statement there?

Ms. Lohman: But...

Ms. Candler: And I think the rest of the Findings support it as well, so maybe it should actually say that: "The proximity of the business to established rural community within a short distance to rural existing businesses as well as the other Findings support this designation."

Mr. Christensen: I think if you look at your recorded motion, which says that you are recommending the redesignation and the aforementioned Findings of Fact and Reasons for Action be approved based on the following vote...

Ms. Candler: It implies that we're looking at all the Findings together?

Mr. Christensen: And I think – yeah, it's –

Chair Axthelm: Yeah, this is part of a Reason for Action.

Ms. Candler: Okay.

Mr. Christensen: And certainly a part of the record is both the initial staff report and the supplemental staff report – really anything that's on file and a matter of the record can be utilized to augment or defend any appeals, should they come forward.

Chair Axthelm: Okay. Unless there's any further comment, we need a motion.

Ms. Candler: Gary, could you scroll back up to the first one first so we can reread it?

Mr. Christensen: Which page – or the first change?

Ms. Candler: The first change, please.

Mr. Christensen: Right here?

Ms. Candler: There we go. Thank you.

Ms. Lohman: Is the calling it a nonconforming – is that the right word?

Chair Axthelm: It is a nonconforming use. *Nonconforming* – should be *nonconforming* use.

Mr. Christensen: Oh, yeah, nonconfirming – nonconforming.

Chair Axthelm: It's a typo.

Ms. Lohman: Because really he was a conforming use but he wants to be something else that's not allowed.

Chair Axthelm: Nope.

Mr. Greenwood: No.

Chair Axthelm: He wasn't a conforming use.

Ms. Lohman: But he became nonconforming because he actually pushed the envelope.

Chair Axthelm: So currently he is nonconforming.

Ms. Lohman: But nonconforming tends to – I'm under the impression that it was an allowed activity until a change kind of pulled the rug out from under you. But that's not what happened. He knew what – he created his tasting room and then gradually over time expanded to something beyond the tasting room, which was allowed. But what he became wasn't ever allowed.

Mr. Christensen: What he started with was allowed.

Ms. Lohman: Right.

Mr. Christensen: What he now is doing and what he would like to do would require a Comp Plan amendment and a rezone.

Ms. Candler: But – I have a question – but, Gary, wasn't he a nonconforming use approved by the County for an interim in there? Wasn't he operating a kitchen, a small kitchen, as a nonconforming use briefly?

Mr. Christensen: Yes. He went from a tasting room to basically a pub and a restaurant, and based on his success he needs to go through a Comp Plan amendment and a rezone to get his business located in a zoning district which allows that type of use. One of the ways that we deal with code compliance issues is to get them compliant with County code. The reason that they – or a way for them to become code-compliant is to get the Comp Plan amendment and rezone.

Ms. Candler: But backing up right – like, say, right now, isn't he an approved nonconforming use? It's approved by the County right now as a nonconforming use? Maybe we've got the – maybe we've got it wrong. Is that right?

Mr. Christensen: Well, I don't know that we would call it approved. I think we would say it's a nonconforming use. We are trying to remedy an existing use which is nonconforming.

Chair Axthelm: What is approved is the tasting.

Mr. Christensen: Yes.

Chair Axthelm: What he's doing right now is not approved.

Mr. Christensen: Yes.

Ms. Candler: So he doesn't have a variance or anything?

Chair Axthelm: It has never been approved by the County.

Ms. Lohman: No.

Chair Axthelm: But regardless whether it's approved or not approved, it's nonconforming.

Ms. Lohman: I want to make sure we're using the right word.

Chair Axthelm: "Nonconforming" is the right word. We just aren't showing that it's not approved.

Mr. Greenwood: I think – are you – see if I characterize this correctly, Annie. When you have a person who has a development on the river on the shoreline, and then we change the zone to where they become a nonconforming use, that's one type of a situation and then we try and remedy that. This is one where you have the zone and then they turn into something within the zone inappropriate. Not necessarily inappropriate for the zone – for the zone that's underneath and so you do need to change it.

Ms. Lohman: Yes, it is inappropriate.

Mr. Greenwood: I mean, not inappropriate for the community, the environment. They've already established –

Ms. Lohman: I didn't want us to be all we have to do is call it a nonconforming use and then you can ask forgiveness.

Chair Axthelm: Should we ask Ryan?

Ms. Candler: So I just want to know if the language is technically correct.

Chair Axthelm: Ryan?

Ms. Lohman: That's what I wanted to know.

Chair Axthelm: Could we ask you on that one?

Ryan Walters: I can't see the language.

Chair Axthelm: Oh.

Mr. Walters: The language in question is? Read it to me.

Chair Axthelm: "While the Planning Commission generally does not support legitimizing nonconforming uses..." It's the nonconforming uses. It is a nonconforming use, whether it's legal or approved.

Mr. Walters: It *is* a nonconforming use. It cannot be an *approved* nonconforming use. There is a thing called a "pre-existing nonconforming use," which is generally considered one that was conforming at some point in the past. The law changed and now it's nonconforming. We also call that a "legally established nonconforming use."

Ms. Lohman: So then we need to just strike "a pre-existing" and just call it –

Mr. Walters: Do you have "pre-existing" there?

Ms. Lohman: No.

Mr. Christensen: I think what they're trying to do in number 5 is actually stated in number 4. By approving this map amendment, you're going to legitimize a pre-existing nonconforming use and do a number of other things as well.

Ms. Del Vecchio: To me, and –

Chair Axthelm: Oh – Hollie.

Ms. Del Vecchio: – recognizing that I have not been involved in any of this, but just from a language perspective, pre-existing nonconforming use, in my understanding, is exactly that –

where you have a change to the *zoning*. It causes something to become – come out of compliance. And is there then nonconforming – and it doesn't sound like that's what happened here. To me it's – I guess my understanding is that you're either it's nonconforming or illegal and this sounds like more along the lines of an illegal use where they've changed what they're allowed to do outside the scope of what the zoning allows –

Ms. Lohman: Mm-hmm.

Ms. Del Vecchio: – as opposed to where the zoning is changed after they've already started conducting their business, so now they become nonconforming by virtue of the zoning change. So I think it is two different things.

Mr. Walters: Yes, and number 4 there I would suggest maybe striking the word “pre-existing.”

Mr. Greenwood: And should we change “nonconforming use” to “illegal”?

Mr. Walters: I would call it nonconforming and leave it at that.

Mr. Greenwood: I would too. I was just checking to see where we were going.

Mr. Walters: The whole phrase “pre-existing nonconforming” is exactly as the new Planning Commissioner, whose name I will not attempt to pronounce, stated. Typically it is a little bit more than the words themselves say. It is that scenario where you are legally established and then the law changed and now you couldn't legally establish again today with the same use in the same place. In the context of the Shoreline Plan, we're calling these things “legally established pre-existing uses,” which I think is maybe a little bit better term – maybe a little bit more informative. Anyway, I think for the point here, delete “pre-existing” and wrap it up.

Ms. Candler: Sounds good.

Chair Axthelm: Thank you.

Ms. Mitchell: Thank you.

Mr. Greenwood: I would support that.

Chair Axthelm: So let's strike “pre-existing.”

Mr. Christensen: In number 4?

Mr. Walters: In number 4.

Ms. Lohman: Both places.

Mr. Christensen: And what's your pleasure with number 5?

Ms. Candler: Leave it.

Chair Axthelm: There's some redundancy in it but I think it gives a statement that we'd like to see passed on.

Mr. Greenwood: Okay, I'd make the motion that we pass the – we vote on the recommendation or accept the Findings of Fact as it pertains to the Birdsvew Brewery Comprehensive Plan Amendment for parcel number PL14-0288.

Ms. Candler: Second.

Chair Axthelm: All right. It's been – the motion, as drafted, as revised, to accept the Findings of Fact. All those in favor of accepting the Findings of Fact as written on the screen.

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

Chair Axthelm: All those opposed?

(silence)

Chair Axthelm: The ayes have it.

Mr. Christensen: Okay, I will –

Ms. Del Vecchio: Mr. Chairman? For the record, I meant to mention this before we voted, but I did not vote. I abstained from that being that I have not been involved in any of the discussions or the public hearing.

Chair Axthelm: Okay. Thank you. So Hollie has abstained.

Mr. Christensen: So I will print that and Dale can sign it and, Josh, you can before the end of the night.

Chair Axthelm: Okay. Thank you. Okay, let's move on to the next item on the agenda, the public hearing. And there is an explanation for that?

Mr. Walters: So moving right along, tonight you have scheduled before you a public hearing on the Capital Facilities Plan. I have a brief overview of what the Capital Facilities Plan is.

First of all, the proposal has four parts. One, there is the Capital Facilities Plan main text itself. That's one document.

Two, there's the Transportation Improvement Program, and Forrest Jones from Public Works is here and he can give you an overview of that, if you would like it. That's incorporated by reference into the Capital Facilities Plan.

As part of this proposal, there are some proposed changes to Skagit County Code chapter 14.30, which have to do with impact fees. As you recall, earlier this year we updated that code to provide for collection of impact fees for the City of Sedro-Woolley, who had requested it. We're making some additional changes now to provide for the ability a) for the County to collect its own impact fees, which we're not proposing to do at this time but the existing code chapter didn't allow for that; and to sync up some changes in state law with our code and to better reflect the existing state law in our code. And I can get into some more detail with what those changes are.

And then to update the impact fee schedule. The notable change there is that the City of Burlington's impact fees are added to that schedule.

So, broadly, why capital facilities planning? Capital facilities are the infrastructure that is needed to serve development. It's an integral part of planning. It supports the Comprehensive Plan Land Use Element. It is part of the Comprehensive Plan. Now this has come up before: The population figures and forecasts that are in here are based on the 2007 Comprehensive Plan, the existing Comprehensive Plan, and the reason that that's that way is because the Comprehensive Plan is required to be internally consistent so it needs to use all the same projections. Now next year when we do the 2016 Update we'll have new projections and then everything will be consistent with that. There will be several significant changes in this next year with the 2016 Update. That said, we do add some additional figures in there to reflect the reality of what the population forecast is versus how many people have actually shown up.

Capital facilities planning ensures that we don't build more development than we can support with infrastructure. It is called sometimes the third promise of GMA, the Growth Management Act. The statutory basis is the Growth Management Act. Planning Goal 12 has to do with public facilities. And it is a required element of our Comprehensive Plan.

The planning period for the Capital Facilities Element and the Capital Facilities Plan is 20 years, which is the same as the rest of the Comp Plan, but then GMA says we want you to go ahead and make a six-year financing plan that implements the 20-year needs analysis.

The required components of a capital facilities plan are basically four:

- An inventory of your existing capital facilities, and there's some required specificity there
- A forecast of the future needs for such capital facilities, including locations and capacities. They break that out separately but I made it all into one bullet because I think that makes sense.
- A six-year plan for financing for those projects, so the ones that you plan to actually do in the next six years go on that list.
- And then there is this other thing, which is a requirement to reassess the Land Use Element if you can't demonstrate that you're going to be able to provide the capital facilities necessary to serve it.

Now what specifically is a capital facility? It's – well, it's a facility that provides these kinds of services: streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer, parks and rec, schools, and other public services. They're sort of a complicated, dual set of definitions that is difficult to tease out of the statute. That's why I've made this bulleted list for you.

Unlike a city, the County doesn't actually provide most of these services, though. So in our Capital Facilities Plan we reach out to the special purpose districts that provide a lot of these services – ask them to give us their capital facilities plans.

More specifically, our definition in our plan is a facility that:

- serves one of those services that we identified in the prior slide

- that exists now or may be needed during the current GMA 20-year planning period – and that planning period ends in 2025; it'll be extended another 10 years when we do our 2016 Update next year
- requires the expenditure of public funds over and above annual maintenance – so we don't include projects that are just maintenance and operations in here
- it needs to cost \$10,000 or more, and that is not set by statute. We could set that number at whatever. It just has been set at 10,000
- it has a life expectancy of 10 years or more

So if a project fits into this list, then it probably should be in the Capital Facilities Plan.

But then from this list we back out our vehicles and equipment that we plan for in a different way through our Equipment Rental and Revolving Fund. We have a dedicated fund and a department, or a division of the department, that manages all those vehicles, plans for them, and charges rental rates to the departments that use the vehicles. So we accommodate that planning through that accounting mechanism.

This document contains almost all of these capital facilities planning requirements in this one document, including the six-year financing plan. The policies for capital facilities, however, are in the main text of the Comprehensive Plan. You don't have that in front of you because that's not proposed to be changed and we generally don't change that. The Bayview Ridge info is in this document. Prior to last year it was in the Bayview Ridge Subarea Plan, but we pulled that out to try to integrate it more into capital facilities, so that got put in there last year and we carry that forward this year; however, the Bayview Ridge capital facilities policies – like the general capital facilities policies – are in the Bayview Ridge Subarea Plan.

For the purpose of transportation we have a Transportation Systems Plan that was adopted in 2001, and then we have these annual, updated, rolling six-year Transportation Improvement Programs. So we don't include that in the main body of the CFP; instead, we incorporate that by reference.

For the 2016 Update, the Transportation Systems Plan will go away because there's not actually a statutory requirement to have a transportation systems plan, nor is it mentioned anywhere. And that'll all just get rolled into the main body of the Comprehensive Plan so it won't be a separate document. It'll just all be in the Comp Plan main text. And then the Transportation Improvement Program will continue to be incorporated by reference. The reason, of course, that we have that separately is because we have separate, independent requirements to have a transportation improvement program. If you didn't plan under GMA, you might still have a transportation improvement program.

The Washington Administrative Code recommends that we update our Capital Facilities Plan – at least the project list six-year financing plan – at least every two years. We have been lately doing it every one year – keeps us in practice, keeps us in shape. There is a special exception in the RCW for integration into the Comp Plan when adopted with the budget. Normally you can't modify the Comprehensive Plan except in your once-per-year limited cycle, but there's an exception to that when you do it with the budget. So earlier this year we amended the Comprehensive Plan to incorporate the City of Sedro-Woolley and its impact fees. We did that with a budget amendment. And the way we have organized this is that we do the CFP with the County budget. All these processes are supposed to feed into each other. You develop a project list. You develop a transportation program. You pick the projects that are going to get financed

in this year, and then you actually allocate money through the budget to make that happen. County budget adoption usually happens end of November up until mid-December.

In the plan, County capital facilities are organized into groups:

- General Government, which basically boils down to office space – fungible office space that you could roll anybody into
- Community Services
- Law and Justice
- Parks, Trails, and Recreation – including Fairgrounds; the Parks Department manages the fairgrounds and it's sort of a Parks function
- Solid Waste
- Stormwater Management, and
- Transportation – and Transportation includes the incorporation by reference of those documents I mentioned earlier, but also things that aren't in those documents like ferry.

And then Bayview Ridge is a separate element in the Capital Facilities Plan because it's our one non-municipal urban growth area that we have to plan for ourselves.

Then there's a whole section on the non-County facilities. We are required to include all this non-County facility planning information. We have no authority over it. We're required to include it because the County is a regional service provider and it helps to show that coordination. It helps to actually maybe achieve the coordination amongst those various service providers. And then the other reason that we incorporate the Cities' and schools' capital facilities plans when we do, it's because we need to in order to assess impact fees for those jurisdictions. And we only assess impact fees in unincorporated areas. We don't do permitting in incorporated areas like inside a city.

So to wrap up, the public hearing is tonight on both the CFP and the TIP. Written comment period ends Thursday at 4:30, per usual. E-mail comments have to be sent to pdscomments@co.skagit.wa.us and it should include a subject line that lets us know what you're talking about. Planning Commission deliberations are scheduled for October 20th and the Board of Commissioners' adoption will happen with the County budget. There's a website. You can get all the documents and more information.

Now do you want to hear about the TIP as well? All right. Your turn, Forrest.

Forrest Jones: All right. Good evening, Board. Forrest Jones, Skagit County Public Works Transportation Program Section Manager. So I'm here to – I want to give you a little presentation about the TIP. I'll try not to take too long. You know last year was our first year coming in front of the Planning Commission so I think there was a lot of things that were misunderstood about things, so I just kind of wanted to maybe go over a lot of this stuff, refresh everybody's memory.

So, basically, what is the Six-Year Transportation Improvement Program? For short, everybody calls it the TIP, so if I refer to it as the TIP I'm referring to the Transportation Improvement Program. It's basically a mid-range tool for planning for state- and federally-funded projects, and it also has regionally significant projects on that. The TIP is used by the State and County and Cities to help schedule and coordinate upcoming future transportation projects and funding needs. So state law requires – RCW 36.81.121 – it requires that the Counties develop a

perpetual advanced six-year plan for coordination of the transportation programs. These programs shall be consistent with the Comp Plan.

The program typically includes new construction or improvement. It's not maintenance activities. These types of projects are road projects, trail projects, non-motorized bridge projects, ferry projects. State law – as Ryan indicated – state law requires that the TIP be adopted by December, the end of December, but has to be adopted before the County budget.

So what the TIP is not: The TIP is not a budget. It's used to help plan the budget. It helps coordinate with the federal and state agencies. It gives them an idea – a lot of the money we get on the TIP is grant money, so it kind of helps them know how much money they need to have in the bank, so to speak. So if we get a grant and we have secured funding, the feds and the state can look at that and say, Hey, they're going to be coming after this grant money so we need to have this much in the bank.

So the 2016-2021 TIP being considered for adoption will have a total of 42 projects. Four of the – we're going to have four new projects. The new projects we have are the Fruitdale/Kalloch Road Arterial Improvements. Basically this is in conjunction with the City of Sedro-Woolley and the Port of Skagit County. They're trying to get a new business park up at Northern State. You guys have probably heard of that. So basically we're looking at improving a portion of Fruitdale Road that will connect to Highway 9. So make arterial improvements, which basically means we'd be widening the road – you know, maybe adding sidewalks and other facilities.

One of the other projects is the Guemes Ferry Parking Lot Improvements, and that's basically on the Guemes Island. Currently the parking lot on Guemes Island is a gravel parking lot. It's kind of a two-tiered parking lot. So what we want to do is grade that out a little bit, pave it, improve the drainage out there.

So another project that we're adding is the Illabot Creek Alluvial Fan Restoration. This project will add two bridges to the Rockport Cascade Road. It's a fish habitat project. It'll improve the habitat, open up fish passage. And this project is going to be funded by the Salmon Recovery Board, so we'll be working in partnership with the Skagit River System Cooperative to get these bridges built. We don't have a construction date on that yet.

Another project we're adding is the Upper Finney Creek Bridge. This is going on the TIP because we want to seek grant funding. Getting back to why we put things on the TIP, a lot of the grant funding – if you're seeking grant funding you have to have it on your Six-Year TIP to qualify for that grant funding. So in this case we are looking for grant funding on the Upper Finney Creek Bridge. Currently the bridge is below current standards for low capacity. There's a lot of DNR land up there. They want to go up and log it. They can't get – if they log it and load their logging trucks, they can't get back across the bridge because it's over capacity so we want to strengthen that bridge, make it able to use it for the logging trucks.

We have 38 projects that will remain or be carried over from last year's TIP. Some of those projects are the Burlington Northern Overpass. Currently we're at 60% design on that. I think we're moving towards construction, if everything goes as planned, in kind of late 2016, 2017.

So another project we have coming up is – that's being carried over – is the Bow Hill Road Reconstruction Project. That project is fully funded with grant funding from the STP federal

funds and state Rural Arterial Preservation funds. So we're hoping to go to construction on that in 2016.

Another bridge project is the Hard Creek Bridge. That's being constructed in 2016. We got a federal lands grant for that. FHWA is Federal Highway Administration is running that project, but it's on our road. So it's kind of going up – if you go out Marblemount, it's up on the Cascade River Road so it's about 12 mile marks. It's been damaged by landslides over the last couple years.

Another project, the Francis Road project, Section 1 – that's from SR 9 to De'Bay Isle Road. If you've been out that way, you know the new part that we've already did. We're going to connect those two. And if you haven't already heard, Francis Road/SR 9 intersection – the state was granted funding to improve that intersection. So we're kind of hoping to coordinate those two and maybe do the projects at the same time. Depends on if we can work everything out.

So other notables: We did get grant funding for the Samish River Deck Rehab Repair, Friday Creek Deck Rehab, and Lower Finney Creek Deck Rehab on those three bridges. So basically we received federal grant funding to – we're going to basically replace the decks on them.

Removed from the TIP: There're going to be eight projects that are being removed. One of them is the Cascade Trail Projects. Basically we're removing these – one of the projects was in the Town of Concrete and they voiced concern that they did not want the trail paved. Another one was to pave from Fruitdale – I think Fruitdale Road into Hamilton. The Parks Director, he voiced concern that they had other improvements or maintenance issues that they'd rather focus on at this time so they're going to push that out. So we removed that from the TIP.

Another project removed from the TIP is the Fir Island Overlay. This project is removed now but it was reincorporated into the – they call it the Hot Mix Asphalt, HMA. So we added that into that program so we removed that verbiage from the TIP.

The Francis Road/SR 9 intersection: We talked about that. We removed that from our TIP because the state, that's one of their projects that they're going to be concentrating on now.

We also removed a ferry breakwater section replacement. That project has been funded and the funding has been obligated. So on the TIP, again, once you obligate your funding it comes off of the TIP. So we will be going to construction on that project the end of this year, early 2016.

So on the ferry, we've also removed the Ferry Engine Replacement. We delayed this because we're seeking funding for a boat replacement by 2021, so it's not really feasible to – you don't want to put a brand new engine in it then get rid of the old boat with a new one. So the Ferry Manager wanted to kick that out.

Another project is the Guemes Headframe Tower. This is also a ferry project. It's at the landing. Basically they wanted – the Ferry Manager decided to remove this from their 14-Year Capital Improvement Plan. It's still on the horizon. She's just going to kick it out a little bit, so it's no longer within that six-year requirement of the TIP.

And the last one removed from the TIP this year is the La Conner-Whitney Road Overlay, and that's because we completed the project.

So here's a map. It's kind of hard to read. I've got a big one way back here and I have some handouts out there too, if anybody wants to get a real closer look at it. It just kind of gives you a general idea of where all the projects that are on the TIP that are being looked at.

I know there was quite a few questions last year on how do we determine what projects are included on the TIP. Typically we – there's quite a few reports and requirements that we go through so I just kind of wanted to do a quick overview of some of the reports we look at to determine and help us determine what gets on the TIP.

One of these is a Concurrency Assessment. So basically the Concurrency Assessment, that's basically what that means is, Is the County meeting Level of Service as defined in the Comp Plan? So we have a count program where we go out and count all the roads. We model the roads. We try to determine whether or not they meet concurrency. So concurrency level for a road segment within the County's Level of Service C – A being the best; F being the worst, so kind of like when you're back in high school. So the Comp Plan defines Level of Service for the County as for segments, C. In some cases it can go to D, and it has to have a few requirements that meet that, and that's it can go to D if the ADT (note from transcriptionist: ADT = Average Daily Traffic) is 7000 or better, or if it's a Freights and Goods designation.

So another one we do is the Priority Array. I know there's a little – there were some issues last year with the Priority Array. I think it was thought that we didn't have one, but we do have a Priority Array. A Priority Array is a WAC requirement. The code, Washington code 136-14-020. Basically the Priority Array, it looks at – we have a database and the database we keep traffic counts, collision, geometry, other things. The report takes into consideration all this and we kick this out every two years. So basically it gives us a list. It gives us a rating of segments to look at. We don't necessarily follow the Priority Array from start to finish, so it's going to give you your number one project or number one segment to look at. It doesn't give you a project. It just kind of says, Okay, there might be some issues with this road segment. Maybe you guys need to look at it. So we'll go and look at that, and you have to take into consideration it looks at collisions per million vehicle miles travelled. So if you – say you're on Cascade River Road and you've got 50 vehicles a day going on it. Well, if there's one crash that's going to spike that up so there's things you've just kind of have to give and take on it. But we do look at it. It helps us kind of determine where to look and give us ideas for projects.

So the other one is the Bridge Report. So the County does an annual Bridge Report. I happen to be the bridge inspector for the County also so myself and my co-inspector, we go out every year. It's federal law that we have to inspect our bridges. If the bridge is 20 feet or longer federal law requires that we inspect it every – at *least* every two years. So basically we have 108 bridges, I believe, so we try to split those up. We inspect half one year and the other half the next year and keep going. So basically what the Bridge Report is it's kind of a written resume of the findings of the bridge inspection. We use this report also to help determine what projects to put on the TIP – what our needs are bridge-wise.

So then we also have the Fourteen-Year Capital Ferry Improvement Plan. I discussed that a little bit on some of the Guemes things, but the Ferry Manager, she puts this out every year. She has projects and capital facility improvements that she wants to do and if they fall within that TIP parameter we will put it in the TIP.

Other stuff we look at – we look at the parks. We get with Parks. They have their Capital Facilities Plan. We meet and talk with the Director and see what his needs are and what his

plans are, and if there's a non-motorized plan or a non-motorized project we'll try to get that into the TIP also.

We have citizens. Citizens call. We take comments. We looked at crash and safeties. We looked at grants. Like I said, grants – a lot of grants, they just don't go out and say, Hey, we have 10-million dollars. Come apply for a project. Grants are more specific. They say, We have a safety grant or, We have a bridge grant. We have a non-motorized grant. So basically we go after those grants. And, like I said, the requirement for a lot of these grants is they have to be on the TIP.

So here is a – I call it the 'data sheet' or 'information sheet.' But basically here's a – this is what the TIP – when I'm filling out the TIP I'm filling out all this information. And I had a public meeting last week and one of the comments was, Hey, could you have a key to this so we know what a lot of this stuff means? And I thought that was a great idea, so I tried to put this together hoping it's not *more* confusing. But basically if you look at this – like Funding Source. If you're looking at that sheet and you're looking at the funding source or funding status – excuse me – typically you'll see an S or a P there. The S means it's secured funding, so we have the funding secured, be it through a grant, local funds, whatever. If there's a P there, that's proposed so that basically means we don't have the funding for that. We're seeking funding for it. And you'll see the code, or you'll see the – you'll see along the top you see Federal Funds, State Funds, Local Funds, and basically that's where you put the amount of funding that you have or you're seeking. You'll see on the Phases – you see a heading called Phases. There's one under Expenditure Schedule. You'll see Phases PE, RW, CN, and basically those stand for Plans and Engineering; RW stands for Right-of-Way; CN stands for Construction. Those are the three main ones we typically use.

Then you'll see across the bottom too, where it says 1st, 2nd, 3rd, 4th, 5th and 6th. So those refer to the year, so the first would be the first year, 2016; second, 2017; third, so on and so on. And basically that's when we're planning we'd like to use that money, when we're going to spend that money, or hopefully have the money to spend.

That's kind of a quick – there's a couple of other ones up here. Environmental Type – that's just a number coding system, or a – I'm sorry – an improvement type. That's a number coding system and there's like fifty of those so I don't want to list all those. Typically your description's going to tell you what type of project it is anyway.

So I just – kind of a schedule that I'm trying to follow here. August 17th I released a preliminary release of the TIP to SCOG, or the Skagit Council of Governments or the – this is for inclusion on the regional Six-Year TIP. And that goes onto the state TIP. So I had to have that to them by August 17th. I released a draft copy to the Planning Commission on September 1st, I believe, and October 1st I held a public meeting. A lot of these good people were here. So I took some comments from there. Obviously tonight's October 6th. We're having a public hearing. Comment period ends October 8th. Then we'll do – I'll do a work – after we get all the comment periods, I'll do a work session with the Board – and that's to be determined – and then we'll adopt it typically sometime in December.

So I did get a few comments on the 1st. It's hard to read those but I'll kind of go over them. Basically from a Mr. Jenson – he would like to see – and these are just summaries so they're not word-for-word so if someone wants to correct me after I get done here they're more than

welcome to. But Mr. Jenson would like to see bicycle-friendly roadways. He would like wide lanes and clean shoulders and would like to see bicycle lanes built into future plans.

Mr. Good. Mr. Good would like to see more public comment meetings and/or hearings in the county so citizens have a chance to give input or voice concerns, if needed, on projects within the county. This includes state, county, and city projects.

Mrs. Good would like to see – would like to make sure that when intersection projects are being built that include roundabouts that the consideration is made for truckers using these intersections. She feels that some of the roundabouts within the community are not truck-friendly. The tires on these vehicles can cost up to \$1000 in some cases to replace.

Mrs. Ehlers. She would like the County to work with the State DOT to review improvements at the intersection of SR 20 and Best Road. When the train goes through, there's a backup of cars almost to Young Road. She believes a right turn lane would remedy some of these backup issues. And Mrs. Ehlers also is concerned with the State DOT projects on SR 20 and intersection improvements at Sharpe's Corner and Gibraltar Road. She believes the proposed improvements would not allow for a break in the traffic flow to allow motorists to pull out of the intersection at Campbell Lake Road and SR 20.

And that's pretty much it. If anybody has any questions, please feel free to ask them.

Chair Axthelm: Any questions?

Ms. Candler: I think that the public hearing should be next.

Mr. Greenwood: I think so, too. We could get into long – I don't want to get deliberations confused with public comments.

Chair Axthelm: Yeah. Okay. Thank you. So we'll open it to public comment.

Randy Good: This is comments on the Six-Year TIP. My name is Randy Good, 35482 State Route 20, Sedro-Woolley. Dave, could I get you to put on the overhead? Or is it already on? No, it's not. There. Okay, thanks.

First off –

Mr. Greenwood: Randy? Just – I want to interrupt you just to let you know that I want to keep track of the time so ___ a few minutes, okay?

Mr. Good: Okay.

Mr. Greenwood: I haven't started that yet so you're just getting warmed up.

Mr. Good: First we want to thank Dan Berentson for reinstating the public meeting held October 1st. That was here at the County, as Forrest mentioned. And we addressed that this is for the County TIP process, actually giving the public an opportunity to address questions and concerns. We hope that this continues. This will also allow the public to bring new needed projects forward. These public meetings are essential to meet federal and state regulations of – quote – “early and continuous public participation” – end quote – a state and federal

requirement to get grant funding for projects, projects that – and Forrest mentioned a little bit about the public meeting, but points that we addressed at the public meeting included:

One, a need of an advisory committee consisting of representatives from *all* transportation users – that's schools, truckers, agriculture, forestry, private commuters, and others – to provide technical advice to County and City engineers on transportation needs.

Points that we made to make improvements to roundabouts: The Conway roundabout from Pioneer Highway to Fir Island is too narrow, too sharp of bends for truck trailers and farm equipment, curbs are too high – all causing huge financial damages to tires costing from 700 to actually \$1200 per dollar, plus a service call on top of that. And here's a picture of coming from Stanwood on the Pioneer Highway into the roundabout. And then when a trucker goes to head out to Fir Island you'll see the tire skid marks on the inside of the high curbs there.

Then there's the roundabout in Sedro-Woolley in front of Les Schwab that's too narrow for farm equipment. The curbs there are too high. These are just thoughts on maybe some improvements that they really need to consider next time they make roundabouts. The roundabout in Anacortes at 32nd and R is too small. Now truck and trailers have to use Commercial Avenue to get down to, like, Trident Foods. These roundabout problems could have been averted had engineers used the technical advice from the trucking, farming, and other transportation users. A needed project brought up the other night was automatic warning lights to alert drivers when stoplights will be turning red, as they do in Canada – especially needed at SR 20 – on SR 20 – from Anacortes to Burlington where you see all the skid marks before the stop lights. Thank you.

Chair Axthelm: Thank you, Randy.

Carol Ehlers: I have two maps here – one for each of you. Carol Ehlers, west Fidalgo Island. I didn't come to the Planning Commission in September. I spent hours and hours at the numerous transportation meetings that were held in response to public requests and to the state and federal law which requires public participation. And I hope at some point the Transit Board will explain to you how *they* relate to the transit, and the Skagit Council of Governments will explain how *they* relate and what their projects are, because there's more organizations doing planning that's necessary that ought to be better coordinated, particularly in the public understanding.

But what I must say, as a result of this last month is that when there is this public input it works, and there's nothing more gratifying than knowing that if you've spent time on something somebody's paid attention. There's some major errors on the SCOG map that there's no need to go into because it was taken care of. And when you look at this Six-Year Transportation Plan, you realize that some of the things that are there from Guemes Island are only there because the Guemes Plan was done and demonstrated that it *had* to be, that transportation things *had* to be corrected, particularly once it was admitted that the southeast corner of Guemes Island is one of the highest fire hazard areas in the county and, therefore, the roads leading to it had to be functional. Before that, the County used to argue that it wasn't necessary for those roads to be functional in the wintertime. So it's an example of how planning works. Unfortunately it hasn't worked yet on Fidalgo Island. And the meeting that was held last week was, for me, the most demoralizing planning meeting I have ever been at.

State Route 20 from Burlington to Commercial Avenue in Anacortes – and you have – I’m showing you this here so that you connect with the Six-Year TIP map – all of that is four-lane, extremely limited access. When you get onto Fidalgo Island – this is not an official map because there *is* no official map of Fidalgo Island that includes all of the private roads as well as the public roads, so I’ve highlighted the main roads for you. Blue is the four-lane State Route 20 going into Anacortes, green is two-lane collector road. Legally it’s way beyond that, but in actuality it’s a collector road for the main intersections marked in orange and dozens of private roads and public roads and driveways, which go sometimes almost straight uphill. It’s a hazard in the making and it’s there. The geography’s what it is. The geology and the topography is what it is. There’s a limit just to what you could do with it. So as I see it, the County needs to have a policy in which they interface with the state government to be sure that the intersections are safe. For example –

Chair Axthelm: Carol?

Ms. Ehlers: Hmm?

Chair Axthelm: You need to sum it up. You’re at three minutes.

Ms. Ehlers: So in other words, you can’t really present anything. Boy, that’s an impressive example of public participation. You’re not *supposed* to present here. You’re just supposed to say, I like it or I don’t. This is important. Campbell Lake – when this road collapses, all of Anacortes has to come down onto Campbell Lake Road and use that connection. There were two men killed going around the corner too fast in the ‘80s, so since the –

Chair Axthelm: Carol?

Ms. Ehlers: – criteria is two killings, they fixed the highway to make it nice and fast for people going south. They go south at 60 miles an hour and we are expected – if there is no gap – we are expected to cross truck traffic as well as vehicular traffic going 60 miles an hour.

Chair Axthelm: Thank you, Carol.

Ms. Ehlers: That’s unacceptable.

Chair Axthelm: Carol, your comments are important and we do appreciate them. I know that the timing is not always there, but you can submit written comments which we do read.

Ms. Ehlers: Until I get that damn computer set up, I can’t. And until I get rid of the scar that’s developing on my cheek and the other things I have to do, I can’t. I’ve been trying to do my part with what I know to contribute to the way things work. I do it much better orally than I do in writing.

Chair Axthelm: Thank you, Carol.

Ms. Bynum: And that is an example of accommodation, which you have the authority to overrule your three-minute rule, if you wish, and think of other ways that you might want to allow people to participate. I know we take a lot of time, but sometimes you have to accommodate.

Ellen Bynum, Friends of Skagit County. I have not finished going through all of the TIP, but one thing that came up that Forrest said that I think is really important is the County has this obligation to ensure concurrency for transportation planning and that's concurrency with the Comprehensive Plan. So just, you know, one thing that came up that I think probably ought to be looked at – and I don't know; you may have done this – but Guemes Island has its own plan, right, and it's been – have we adopted it into – we've adopted it into the Plan.

Mr. Walters: I suggest you not wait for my answer.

Ms. Bynum: Oh, okay.

Mr. Walters: Yeah, use your three minutes wisely.

Ms. Bynum: All right, well, all I'm going to say is that, Have you – Is the paving of the parking lot in Guemes ferry or any other things on the island actually in compliance with Ryan's, you know, stormwater management sustainable paving, especially on an island, and I think they were pretty good at writing a big section on that in their plan. So if we've adopted the plan then it is part of that and then it has to be concurrent. If it's not, it will eventually be adopted. So that's all I wanted to say, and I'll turn in a written comment. Thanks.

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

(silence)

Chair Axthelm: Okay. The comment period is still open until – is it still open?

Mr. Walters: Yes, until Thursday at 4:30.

Chair Axthelm: Thursday 4:30, so if you have additional comments you'd like to make, you can submit them. So we still close the –

Mr. Walters: Close the public hearing.

Chair Axthelm: Close the public hearing. (gavel) We close the public hearing and open it up to Commissioner questions.

Mr. Greenwood: Where do you want to start? How do you want to do it?

Chair Axthelm: I'd say especially related to – for the TIP. That's probably a good way to start since he's here tonight.

Mr. Greenwood: Well, I have some questions for Forrest. I made some copies of just page – the first five pages of the Priority Array for each of you. And then since the last time I think I was instructed that it takes too long for staff to put together a spreadsheet of their TIP projects, so I put something together for you as well to look at, which summarizes the TIP projects from last year and this year, and then I've sorted them by local costs. And that's the last of my handouts.

But thank you for the presentation – I don't want to get into a long discussion but – of identifying the prioritization of your projects and how they go into the Capital Facilities Plan and the TIP. And –

Ms. Candler: Excuse me. I'm sorry. Can you pass me a one more of those for Dale? He wanted to look at our handouts.

Mr. Greenwood: Which one?

Ms. Candler: The last one.

Mr. Greenwood: Oh, okay. The last one.

Ms. Candler: I had extras of everything else.

Mr. Greenwood: So basically I took an excerpt from the Priority Array. Let's start there. And you'll acknowledge that in the opening statements there in the Introduction you talk about the need for priority programming – on page 1 – and you cite the WACs that pertain to it. You also identified – it says, "Finally" – in the second paragraph – "the resulting Priority Array...shall be consulted together with the bridge priorities by the legislative authority and county engineer during the preparation of the proposed six year program."

I know we've characterized it as not a budget but as a planning tool. I think that's accurate but I think all tools in budget planning are open to evaluation and I think we should not take this process too lightly. And, therefore, that's why I've put these together to – if you continue with the Priority Array on the last page, it shows the top ranked projects. Their rating goes from a low of 4 in a total rating to a high of 47. And I've marked three of the items on that page which have a lot of segments on them. But basically the TIP covers only three of those highest ranked projects. So there must be other factors contributing to our evaluation, as you've clearly defined. If you look at the one that's sorted by presentation order – the spreadsheet that I gave you – just for clarification, I identified six projects that are new. Actually I had four and then you identified two more. So the HMA Overlay Project is a new one that wasn't in last year's. Also the Francis Road Segment Section 3 shows up as new. Is that correct, Forrest? Or do you just recall?

Mr. Jones: I believe Francis Road was on here last year.

Mr. Greenwood: I think you had a Section 1 and a Section 4, is what I came up with, and not a Section 3.

Mr. Jones: Yeah, I'll have to check that. I thought it was on there, but I may be mistaken.

Mr. Greenwood: Okay. And I've characterized them by the start year and I've highlighted that in blue just so you could see that there's essentially no positive or negative effect to that. But then I've highlighted, using different color schemes, whether it's a positive or a negative effect on the overall funding scheme. So if it's a higher cost project than we thought it was going to be, that's an increase. Like example one would be the Bow Hill Road project. The overall project is now at \$3 million instead of \$2,373,000, so it has an increase in cost to the local community. So that tends to change your priorities as to when they get done and maybe why they might get pushed off into the future.

And the other spreadsheet just shows them sorted by local costs. So it looks like there's a large number of projects that don't have a cost to the local community which have both federal and state funding to those, and I imagine those would be the easiest ones to support, if you will.

Mr. Jones: Mm-hmm.

Mr. Greenwood: But it also – by looking at the past cost proposals and looking at the new ones, it allows us to see: Are we forecasting more for the local community to absorb in the next six years or less? And I didn't see where our revised Capital Facilities Plan tracks that very well. So it looks like your local costs numbers stay pretty similar. You've got \$25 million to the local costs both in the previous funding proposal and this one. So would you say that that 25 million or 26 million is a number that you kind of hold yourself to? Because you said it's not a budgeting tool, but something is constraining.

Mr. Jones: Yeah. Yeah, I mean, it's a sum that's out there. It's, you know, 25 million. Is that something we're going to come up with from a local standpoint in the next six years? You know, it gives us a planning tool of what we need to go after, you know. Like I said, a lot of that's proposed funding. So if we're going after grant funding, if we can find that grant funding, typically you've got anywhere from a 20% to 13% match so – I guess I'm not sure what you're looking at. Is it a constraint – budget constraint – for the Public Works or for the County as a whole?

Mr. Greenwood: Is it an artifact of just planning or is it something that we hold ourselves to? Are there projects on this priority list other than the three that we've scheduled for the next six years that could perhaps be done without additional local funding but might be constrained because we've set ourselves at a – we've already put enough into it?

Mr. Jones: Yeah. Yeah. You know, I wouldn't say that the planning money within the TIP is not a constraint to the County. So it's, like I said, it's a planning sum. This is what we feel it's going to take to do these projects, if they get funded. If we find grant funding that local comes down. If we don't, maybe the local goes up. But, yeah, it just kind of gives an idea of how to plan our budget.

Mr. Greenwood: Okay, I just see many of the projects in the Priority Array are some of the ones that the public has identified as being serious problems, and they tend to float to the surface because of their collision rating.

Mr. Jones: Yeah. You know, and like I said, a lot of times the collision rating, you know, you just – it's hard to go from number 1 and go down. There's just too many factors. Like I said, this is a tool to help us identify projects.

Mr. Greenwood: But it has the heaviest weight, correct?

Mr. Jones: Yeah.

Mr. Greenwood: In the Priority Array – which the County Commissioners adopt and approve the Priority Array. Okay, that's all I wanted to get boiled down to at this point on the TIP. I just wanted to make sure we're using all the tools we have and using the coordinated reports that have been identified and been crafted so that we just don't go after grant funding but go after needs and priorities.

Mr. Jones: Yeah, exactly. And that's – I mean, we try to use that. On all those reports that I mentioned we try to look at all those and come up with projects that are feasible we can do. Safety – obviously safety is a big concern.

Mr. Greenwood: Right. I've been to a few public meetings where the project being proposed is, say, a \$10 million project and because we get significant grant funding we go ahead and do it, where it obligates the local community or the County to hundreds of thousands of dollars. And in those cases it's fish over people.

Mr. Jones: Yeah. I mean, there's a fine line there. That's kind of – that's the way we try to *supplement* the budget. If you can do a \$10 million project for – you know, and only put in \$500,000 worth of local funds, you're getting the most bang for your buck there. We're not going to do a – hopefully we're not going to do a project that we're just taking the grant money just because it's there. We're going to go after the grant money because there's a need for that project.

Mr. Greenwood: Right.

Chair Axthelm: Are there any of those that you want specifically addressed before we –

Mr. Greenwood: No, I just – I think that we've talked about having a way to compare, and I like the fact that you put together a capital facilities plan. In the staff report it says that the draft with track changes will be on the website and it wasn't. Actually we were given that track changes version and just the draft version was put up, so I'd like to see that on the website so that the public can see the track changes as well. And I still think we can work on presenting the TIP in a way that is a little easier for the public to review and comment on. I don't want to spend half-a-day myself entering the data if I don't have to. And it's – you know, when you look at one sheet after another –

Mr. Jones: Yeah, it's hard on the ___! I've been working on it since August, so it's quite a process.

Chair Axthelm: Any more questions?

Mr. Jones: Yeah, I understand your spreadsheet and I do have a template of a spreadsheet I've been working on so hopefully in the future I can get all that. Instead of going from something like this, have a simpler Excel spreadsheet.

Chair Axthelm: Okay. Amy? Annie?

Mr. Jones: I will better summarize it.

Mr. Greenwood: Okay.

Chair Axthelm: Okay. All right. Thank you. Okay, and then as far as the Capital Facility Plan, any questions from the Commissioners?

Mr. Greenwood: I do.

Chair Axthelm: Okay. Go ahead.

Mr. Greenwood: Sorry about that. One I already mentioned was the Department will provide a track changes version of the new Plan on the website for easy comparison to last year's plan. That's on page 2 of the staff report under Plan Update. So do you think we can be in compliance with that and provide that to folks? I know it wasn't easy to do because the links were broken.

Mr. Walters: Yes. We can provide that on the website. No one has asked for it, including no Planning Commissioners. But, yes, we can make that happen.

Mr. Greenwood: Okay. Under – in the staff report under Recommendation, we have the inclusion – the second paragraph says “Inclusion of a capital facilities project in the CFP (or...TIP) does not authorize the project to be constructed.” But I want to just note that it is tied to impact fees and we're trying to address impact fees. And so if it's not in – it's not approved under the Capital Facilities Plan, the impact fees don't get to be applied. Correct?

Mr. Walters: Yes, so it's the – sort of the inverse of that. Listing a project in the Plan doesn't authorize the construction of the project, but if a project isn't listed in the Plan you cannot spend impact fee dollars on it.

Mr. Greenwood: Okay. That makes sense. Also “It is not” – the last statement in that same paragraph – “It is not the Planning Commission's role to inquire into the virtues of particular projects.” I know we can get into the – if we didn't do that sort of thing I don't think you would have had the public participation, which got some of the projects that they were quite in opposition to off of the TIP, and the – basically there were a couple trail projects that we had some problems with. So they are planning. I don't think you're just looking for a yes or no response from us, so if it comes down to particular projects I'd like to continue to bring those up in regard to their priorities and their adequacy.

Mr. Walters: So if that was a question, I think that you can make recommendations with respect to particular projects. And maybe your more general task is to make sure that your – that the CFP, the TIP are accomplishing those general goals of planning for the infrastructure necessary to serve development. So I don't think that – that doesn't mean you can't make recommendations with particular projects. What you can't do – because you're not equipped to do it, you don't have time, and this isn't your role – is investigate every one of these projects. So I suggest that if you want to make recommendations with respect to particular projects, you make those at high levels. Do you understand the subtlety that I'm –

Mr. Greenwood: Yeah, I see the difference. We could – there's 40-some projects and we don't want to get into the 40-some projects on the TIP. I understand that, but at the same time if we can't how do we address the adequacy of the planning tool if we don't look at the whole thing? Otherwise it'd just say, Did they plan or did they not? And we could say, Yes, they planned.

Mr. Walters: Right. There's a distinction between those. So as an example, you shouldn't get into a project and say, Well, this project is replacing plumbing at this building and we don't think that's the right kind of plumbing, or that kind of thing. It should be at a higher level. We think – for instance, at the level at which you're talking about safety of intersections. Maybe you're saying, We think that intersection safety should be prioritized over trail projects, or something like that. You should be making higher level decisions than down in the weeds-type decisions.

And it's probably for you to figure out where that threshold is. But I do want to encourage you to be making the higher level decisions.

Mr. Greenwood: Right and that's what I wanted to get in – try to get to with Forrest's – how they're prioritizing. And last year I think we made a change from saying there is no prioritization and now I think we're acknowledging one and perhaps using one, even though I think they did have priorities to begin with.

Okay, there was also in the Capital Facilities Plan a reference to a school at Bayview Ridge. I think it might be something left over.

Mr. Walters: Yes. I think it was Commissioner Mitchell –

Mr. Greenwood: Pertaining to Burlington?

Mr. Walters: – identified a couple of issues in the Bayview Ridge section, some vestigial elements. Yeah.

Mr. Greenwood: Okay. And that was the one that I caught, was that they're still planning on putting an elementary school up there.

Mr. Walters: As far as we know, they are not. They were at the time that we were talking about doing significant residential development at Bayview Ridge.

Mr. Greenwood: All right. That was the only other outlier that I saw.

Chair Axthelm: Okay. Tammy, did you have a comment?

Ms. Candler: Yes, Chairman. A point of personal business – I need to go grab one of these off the back table. Does anybody else need one?

(some mostly unintelligible comments from several Commissioners)

Chair Axthelm: Okay. And we probably should put some copies of these things aside for Kevin. Annie and Keith, any of the handouts that you have left, let's set aside for Kevin so he has that information. Did you each have your own handouts?

Ms. Lohman: Oh, yeah.

Chair Axthelm: Thank you. So any other comments from the Commissioners?

Mr. Greenwood: Thank you for figuring out which part of my comment was a question because a couple times people come up with questions and where's the question in that?

Chair Axthelm: Okay. Do I need a motion to close the public hearing?

Mr. Greenwood: I guess we've already closed it.

Chair Axthelm: Okay. So if there's no more comments, we'll move on to the next portion, our next item on the agenda: the Conservation and Development Incentives Program Work Session.

Mr. Pernula: That would be Kirk.

Chair Axthelm: Ryan, do I need to state closing the public hearing, or is that understood?

Mr. Walters: I thought you already did.

Chair Axthelm: Well, the public comment period but whether for our portion. No?

So, Ryan, did we get any written comments for the public hearing?

Mr. Walters: For the public hearing we have just these two maps.

Chair Axthelm: Okay, there's just those. Okay.

Kirk Johnson: This is either very slow or not working.

Chair Axthelm: If any of the public, if you did have written comments tonight that you wanted to submit, there's a box over here. We didn't place it by the back door.

Mr. Johnson: All right. Good evening, Commissioners – including our newest Commissioner. Welcome to the Skagit County planning process. So we are talking about the Conservation and Development Incentives Program again. We got into a bit of an overview the last time. What's changed since then is the proposal has been released for public review and comment and there is a public hearing scheduled for November 2nd before you, with the public comment period closing on – that's a Monday – on, I think, the 5th, Thursday the 5th. And we'll talk about that toward the end here.

So I'm going to do probably about a 15-minute overview with PowerPoint slides, and I think I'd like to go through that and ask you to hold your questions. You have the slides there, so if you have a question on a particular slide you can note it there and then we can spend the rest of the evening going back and discussing those particular issues.

So first I want to talk about why we're looking at this proposal at this time. So as you know, we're going through the 2016 Update process and we're looking at projected population growth in Skagit County. And the OFM has projected that the median, the most likely scenario, is for 35,000 more people moving to Skagit County over the next 20 years, and that's the number that the County and the Cities – the elected officials – have approved on a preliminary basis and it very recently reaffirmed for our planning purposes. And as it says in the staff report, that's about as many people as currently live in the city of Mount Vernon. So I've lived in Skagit County for about 20 years and I've worked here for 20 years and I feel I can confidently say that residents of Skagit County as a whole want to – cherish and want to protect our rural character; the rural quality of life; our natural resource industries, specifically farming and forestry; open space areas. A lot of people talk about coming down into the Skagit Valley on I-5 past Starbird and just seeing the wide expanse of open land, which is becoming increasingly rare as you travel up and down Interstate 5.

So with the CDI, Conservation and Development Incentives, Program, projected growth can help to conserve the resource economy and the rural landscape that existing residents love and cherish and that many new residents are drawn here because of.

So I mentioned agricultural and forest lands. Those are our two biggest resource sectors kind of land base. I'm not talking about fishing. So we have pretty protective zoning when it comes to our Ag-NRL lands. One residence is allowed per 40 acres. That's a very large parcel size for ag lands in western Washington. We also have a Farmland Legacy Program, which is known in the planning and farmland conservation world as a purchase of development rights program. It's taxpayer-funded. Some of that is a local property tax and some of that comes from state and federal dollars, which are tax-generated. And it purchases development rights from willing landowners who own land in Ag-NRL who are willing to put their land under a permanent conservation easement. So it purchases those development rights and retires them. It's a very successful program. It's looked at throughout the region and the country as one of the most successful purchase of development rights programs, and it's conserved between 9500 and 10,000 acres in the last 20 years, which is a really great record of accomplishment. But if you look at that rate of conservation over those 20 years, it would take us more than 100 years to conserve the remainder – about, I think, 57,000 acres of Ag-NRL land that are in that designation and are actively farmed.

The local funds of Farmland Legacy are pretty steady, but the federal funds have been in sharp decline in recent years and they're coming with more strings attached – so more strings in terms of the restrictions on the easements that are put in place. And those easements and those restrictions are not always that popular with Ag-NRL landowners and some of them, I believe, have refused to sign easements that are purchased with federal money because they don't like the terms of the easements.

So forest land is also important in the county. In Secondary Forest, which is our smaller forest land designation, the code allows residential development at one unit per 20 acres. If any of you have read the TDR report that we did about a year ago, it references some research and studies that have been done that show that once you get to parcel sizes below about 40 acres, the practice of commercial forestry becomes more difficult because of nuisance complaints and other issues that just make it harder to manage for forestry. There is no existing easement purchase program for forest land like there is with the Farmland Legacy Program. There are few conservation resources. There was a letter from the Skagit Land Trust, which was represented on the Advisory Committee that we worked with, who said they particularly support making this program accessible to forest landowners and they are aware of several and I am aware of several small, private forest landowners – not companies but family owners who have said they would definitely be interested in considering using the program if it were implemented.

So just as a very high level of what the program does before we get into some more of the details: So as – kind of looking at the lower left-hand corner of the screen, you see what looks like maybe some skyscrapers and a city, which we don't have here, but then also some residential development which could be – it could be urban residential, it could be a CaRD cluster development. But basically as land has additional development potential created on it or added to it through actions that a government might take – a City or a County – like increasing the development potential through a rezone, comprehensive plan change, and an upzone, that land typically increases in value. The development potential of the land increases. And you can imagine if you took a parcel that where you had one residence that could be built on 20 acres, like our Secondary Forest land, and then that shifted into a Rural Reserve zone, you could have

two residences on that 20 acres, one on each of the 10s. If that 10 acres of Rural Reserve land were rezoned into Rural Intermediate, you could build four residences on the 10 acres, each 2½-acre lots. If that Rural Intermediate land were moved into a Rural Village, certain Rural Villages with the proper infrastructure, that 10 acres of land could yield 10 development lots for 10 houses. And if that land were added to an urban growth area and were allowed to develop at urban densities, the 10 acres that at one point allowed one residence per 10 acres now can build 40 houses per 10 acres. So you've had about a 40-fold increase in the development potential on the property. You've also had a very significant increase in the value of the property.

What this program does is it seeks to capture a portion of that increase in value resulting from decisions made by a County or a City to increase the development potential and channeled that into conservation of farm or forest land, or open space land in rural Skagit County. In some ways, as this image shows, it can be viewed as an infusion of cash into the rural economy, into the hands of rural landowners who might use it to purchase additional resource land. They might use it to purchase additional equipment for their farming or forestry operation.

So that's what this program basically does. It seeks to conserve natural resource land and rural land in the rural part of the county through contributions from development that are happening in cities or urban growth areas or certain selected parts of rural Skagit County – specifically we're talking about Rural Villages and Rural Intermediate, which are considered under the Growth Management Act Limited Areas of More Intensive Rural Development. They're already characterized by that more intensive development.

So basically under the program, natural resource landowners can sell their residential development rights to conserve the natural resources or open space of the land, and they retain ownership of that land. What they're selling is the ability to put a residence on it. And landowners who want to do additional development on certain – on land in certain areas where it's allowed can purchase development credits either from the County or from a private seller, which would be the resource land owner, to increase development in these specified areas. And the goal is for no net increase in development, but the goal is to move some of that development potential from your resource lands or your open space lands where you don't necessarily want it and where those landowners are saying, I place a higher priority on keeping my land in farming or forestry or keeping it in open space than I do in putting an allowed residence on it. So if I can get compensated for the value of that development right, I am willing to sell it and put a conservation easement on my property.

So the areas under the proposal where landowners can make that choice are called Conservation Priority Areas. They're the Ag-NRL lands. Those are our prime farmlands. Industrial Forest that's within a fire district. If it's outside of a fire district it can't build a residence and so we're saying under this program it doesn't have a development right to sell. Secondary Forest, which is those 20-acre forestland parcels. Rural Resource – and I don't know the exact split, but Rural Resources can be characterized by agricultural soils or forest soils or a combination of the two. There are some very high quality resource soils, farm soils on Rural Resource. Some members of the audience have talked about the need to conserve those lands to help supplement the Ag-NRL land base for farming. And also land in Rural Reserve if it's enrolled in or it meets the eligibility criteria for the current use tax program which, basically, it's being used for farming, for forestry, or is being maintained in an open space state. So those are the areas where landowners can opt in to conserve their land.

The Development Priority Areas, where you can develop more after buying credits under the proposal: So any piece of land that goes through a Comprehensive Plan Amendment and rezone where the development potential is increased – like we kind of talked about that progression. You could, you know, go from one per 10 in Rural Reserve to four per 10 in Rural Intermediate – we had an example of that a few years ago – or, you know, other progressions would be identified as Development Priority Areas. And this is a key point and one of the Commissioners states it very bluntly. He says we shouldn't be purchasing development rights from Ag-NRL land with public tax dollars and retiring those at the same time that we're making zoning decisions that are creating development rights on the other side of the equation without obtaining some form of public benefit in addition to the additional residential development, and that public benefit would be resources that can help achieve conservation of our resource – our farm, our forest, and our open space lands.

So additions to urban growth areas – and we'll look at and walk through an example of this in a minute. Areas designated by a City or a Town. So currently the City of Burlington has zones where residential development is allowed. Some of these are residential zones. Some of these are mixed-use zones where you can have commercial and residential together. And if you want to do development over 14 units per acre – which for most cities here would be considered quite a high density – but if you want to go beyond that, you can purchase development credits. They just had an apartment building do that back in the spring. They purchased, I think, 20 or 22 credits, generated revenue, and they have given those funds to the Farmland Legacy Program for the purchase of agricultural land immediately surrounding the city. So there's an example of a City partnering with the County to use development credits as a way to conserve land outside of its urban growth area.

So we're also talking about certain infill opportunities in the Rural Intermediate and Rural Village Residential zones, and certain cluster developments, which in our code are called CaRDs, where a density bonus can be obtained on a lot that would otherwise be too small for such a bonus. I just want to mention that this was an idea that Matt Mahaffie had. He participated in one of our focus group meetings as a part of this process and he said, You know, back when the economy was hot – and I don't remember the example, but, you know, We had a parcel that was 9.8 acres and we needed .2 of an acre to get that second CaRD lot and we couldn't do it. Well, this would have allowed the purchase of a development credit and the creation of that second lot – and, again, we'll go through an example that shows how that would work. And he said, you know, From my perspective, having those two one-acre lots clustered on that Rural Reserve property on a road is a more beneficial outcome than having one of those development rights on a 20-acre forestland and maybe that's taking that out of future production and it might have a long road – gravel road – up to the residence. So that was his rationale there.

So this is – I'm going to thank Ryan for some of the graphics here – existing code. So this is what can be done on 10 acres of Rural Reserve under the existing code. So a landowner can put one residence on that. They have one development right with no designated open space. That's standard development. They can also do a cluster development – again, that we call a CaRD. So that's a road there –

(laughter)

Mr. Johnson: Stop! – where they can do two development rights. So there's a bonus density for clustering the lots on one-acre parcels with the remainder of the property in open space. So I mentioned the example of the nine-and-a-half-, or let's say nine-acre undeveloped lot in Rural

Reserve. Currently they can do the one residence with no clustering and no designated open space. That's their option.

Under this program – and right now the way it's proposed it's basically from seven acres up to 9.9. If you think that ought to be, you know, just 9 and above that's a recommendation you could make. If you thought it ought to be less, smaller than that, you could make that recommendation.

But if you're less than 10 and with the purchase of a development credit you can do the two clustered one-acre lots on the road. And your options for purchasing the development credit are you can go to the County and there will be a fee schedule, and it will say if you're doing one of these Rural Reserve CaRDs where you don't quite have the acreage, the cost of that credit is x. Or you can also look to purchase – basically retire a development right from a resource land and obtain a development credit that way so that you can do your two lots on the property. So without Conservation and Development Incentives Program, you've got the one development right, no designated open space. With the program, you've got the two development rights clustered near a road with the open space and you've permanently conserved natural resource land.

So that's one example. Another one is the urban growth, so land added to an urban growth area. So you've got a – let's say it's 10 acres. So in order to do that, as with any Comprehensive Plan Amendment, you would need to – well, basically the City would need to propose it, probably in conjunction with interested landowners. The County would consider it. And if it were approved – so it has to meet the designation criteria, there has to be a showing of need, the City has to show that it can provide services – it potentially can get that urban growth area zoning and designation as a development priority area under this program.

So what they can do at – the owner can do at that point is the same development potential that they had before it was added into the urban growth area. If they want to go to the urban density, which is four units per acre – so let's say again from one per 10 to four per one or 40 per 10 – they would need to purchase development credits, again according to a fee schedule or going to a resource or rural landowner that was interested in selling the development right, and purchase the credits that they would need to then be able to develop that property at the urban density.

So some of the benefits of the program: It provides options to resource and rural landowners, and I've talked to several who are interested in this. One is – I think he owns Rural Reserve land but he manages it for forestry. I think it's about 160 acres, and if I'm recalling the details correctly, it's in a trust and he and his brother control the trust. And his brother wants to move south to Los Angeles or Las Vegas and he doesn't, and his brother wants to sell his half of the land, which could go to 80 acres, four separate owners in 20-acre lots, may or may not be used for forestry. With this program the one brother could – well, the two brothers could sell all of the development rights or they could retain some of them and sell the remainder. The one brother that wants to stay could purchase the other brother's share of the remaining land as resource value and he could keep it in forestry forever basically and pass it down to his children, if that was his goal, and the other brother could move to a warmer climate.

So it would help to conserve working lands and open space. And I hope during the public hearing that some of those folks come in and will say that to you like they said it to me.

It offers an incentive to concentrate development in areas best suited for growth.

It helps coordinate conservation and development with Cities and Towns, like that example of Burlington. I mean, cities are where we want the higher density, multifamily development in particular to go, and Burlington wants a nice green, working, agricultural buffer around the city limits. As its kind of permanent status it's in the floodplain, and so the City doesn't have a lot of interest in further expansion. And it will help the County and participating Cities implement the Growth Management Act and their comprehensive plans.

I think this is the final slide. So the Conservation Priority Areas are protected.

The County would hold the permanent conservation easement. I've heard people in the past say, Well, the County won't hold the easement and the easement won't be permanent. Well, we wrote the code and that's what it says so that's pretty reliable.

It'll complement the Farmland Legacy. It can do so in two different ways. One way is that those farmlands in Rural Reserve and Rural Resource are not eligible for development rights to be purchased through the Farmland Legacy Program. It only applies to Ag-NRL. And so this could be a source of conservation revenue or support for those two lands, or purchase of development rights programs typically gravitate to the most properties that are most threatened for development or that are the highest value properties, and so they're typically buying expensive land. A market program might be able to provide an option for an Ag-NRL landowner that doesn't have that prime land that the Farmland Legacy Program has but still owns Ag-NRL land, still wants to sell the development right and conserve the land. And so it might provide another option for Ag-NRL landowners.

It fills a gap in production of forestland. It supports the natural resource-based economy, which provides jobs, which provides revenues and taxes to the County.

And it engages the development market to support conservation.

So as I mentioned, the public hearing is scheduled for November 2nd, which is a Monday. The comment deadline is November 5th at 4:30. Here are the places where people can send comments and the project website.

And I just want to say one more thing. I heard – I was kind of getting ready for the presentation so I wasn't listening, but I heard that there was a comment at the beginning that there are few, if any, successful TDR programs, which this is similar to a TDR program – kind of the same concept – that it worked anywhere. So this report, which has been out for a year-plus, it has a table at the back, and I think all of you have a copy of the report except our newest member and we'll make sure that you get one. So it's the Top 25 Transfer of Development Rights Programs By Acreage Conserved, and it goes from a low of 2200 acres to a high of 141,000 acres. The high is King County, which has the most successful TDR program in the country in terms of acreage conserved. My understanding is about I think it's 90 or 100,000 of those acres were conserved with private development right purchases. They have a TDR bank, which we're not talking about here, where the County has capitalized it with some public funds that does purchases, but my understanding is about 90 or 100,000 of those acres are conserved with private purchases. Now King County has Seattle as one of its major receiving areas and Seattle has skyscrapers and a lot of development so that's not a great analogy for Skagit County. But I've highlighted that there are five counties here that are all smaller than Skagit County that have acreage conserved from 2200 to 6100 acres, and then there's a couple small cities or

towns kind of the size of Mount Vernon or smaller. I've spent some time with this book. It has numerous case studies. It talks about programs that have worked. It talks about programs that haven't worked. It identifies some of the key components of programs that have worked and, you know, why some programs don't work. So I just believe it's incorrect to say that there are few, if any, programs in the country that have worked. You know, people's definitions of "have worked" can differ and some people may think that a program that has worked in Blue Earth County, Minnesota, Well, that's not a good program for us. But that doesn't mean it's not a good program for Blue Earth County, Minnesota. So I just wanted to clarify that from my perspective and having spent some time learning about this planning tool.

So that's all I have to present at this point.

Chair Axthelm: Thank you. Any questions?

Ms. Candler: I have a question. Could you give me an idea of what you mean when you say – or how are you quantifying programs working? Define "working," I guess.

Mr. Johnson: Well, the figure or the metric – the measure used here is acres conserved, and typically acres conserved – like when Farmland Legacy says, We've conserved 9500 or 10,000 acres, what that means is that development rights have been retired off of that many acres of agricultural land. So probably you could divide that 10,000 acres by 40 and figure out roughly the number of development rights that have been retired. But so success is conservation of the land that you're trying to conserve, and the way that you're going to have success is if there are incentives provided through the program so that there are people – developers, landowners – in your development priority areas that are purchasing credits that are resulting in that conservation. Because since it's market-funded, if you don't have people buying the development rights or the development credits you don't have any resources that are achieving the conservation.

Ms. Candler: So that kind of equates to number of people using the program – is that fair to say? – is your measure of how – whether the program's working?

Mr. Johnson: Well, I guess there are – you know, like I said, there are case studies here where they talk about different things that programs have achieved, but the common measure, I think, of a conservation program is how many acres of land it's conserved and the common definition is retiring a residential development right.

Ms. Candler: Well, it seems like we would want to look at some other things like, Okay, what does the land look like now? Were the citizens happy with the results of their transactions, and that kind of thing.

Mr. Johnson: Yeah, and that's – you know, there are case studies that talk about that sort of thing here, and I'm also – I'm not saying that any one of these 25 programs or, you know, the 40 talked about here is a perfect fit for Skagit County. We've spent three-plus years, I think, on this proposal trying to make it fit the particular goals, objectives of Skagit County, trying to be sensitive to the Farmland Legacy Program, which is a very successful program. Nobody wants to see that changed. I don't think this program would harm Farmland Legacy. I think it could be very helpful, particularly for conservation of those other ag lands in Ag-NRL that aren't eligible for Farmland Legacy. So, yeah, just as a quick reference, here's 25 programs. If you'd like to know more, you can borrow the book or come in and read it or we can send you some excerpts.

Ms. Candler: Okay, and I have another question. I have a concern shared by Ms. Bynum. How do you see the program being managed in terms of funding? I do have – I'm going to be honest – I have serious concerns of whether this survives a cost-benefit analysis, and I'm wondering – when I read – this came on the agenda, I think, one other time, at least one other time that I recall since I've been on the Commission – where I read through all the comments and I looked at the report you're referencing, and I didn't see positive reports or positive comments from members of the public. I saw a lot of negative comments and what I saw as far as positive comments were a couple of letters from some guys who were being paid to be consultants on the project. So I guess my – sorry, I'll wrap up and make a question. My question is: How do you see the implementation of this program? Do you see that being done in-house or is that going to be something we have to pay somebody else to do?

Mr. Johnson: Well, so I heard two questions. One was there are no positive comments. So we worked with a committee. I think it had maybe 14 people. At the end of the process 11 of those were willing to say, I think the County *should* move forward with a program like we've discussed, or I think the County *shouldn't* move forward with a program like we've discussed –

Ms. Candler: Just to clarify, I read the – the Advisory Committee was different. I apologize. That did come out majority wanted to move forward. But I was looking at the comments that came in that were available on the website, so separately. Sorry.

Mr. Johnson: Yeah. Well, I can go back and look at the website. I believe there're – I mean, I don't know if there were an equal number of comments or more comments supportive, but I believe there are supportive comments from – and as I said, you know, I'm hoping that people I've talked to that said, Yeah, I – Jim Owens, who is a small forest landowner who was the Chair of the Washington Small Forest – Keith, you would know the name of the group. It's referenced in here – Forest Landowners. He said he talked with seven or eight other members and the majority said, Yeah, that sounds really good, sounds interesting, something I might use. Nobody said, Oh, that sounds like a terrible idea. So there's a small cadre of people in this county and most of them are in this room and they really don't like this program, and I don't think that's a representative sample of a broader number of people in the county.

So the Skagit Land Trust is very supportive. They have 1500 members. Most of them live in Skagit County. The City of Burlington is supportive. Bruce Lisser, who is a land surveyor in Mount Vernon who has used a TDR program in Mount Vernon, is supportive. Joe Woodmansee, who's a developer in Mount Vernon who's used a TDR program in Mount Vernon, is supportive. Skagitonians to Preserve Farmland, their Board of Directors has adopted a resolution that says that they want to see a TDR program adopted in Skagit County by 2018, I think. And as I said, you know, there are other small forest landowners who have also expressed support to me.

In terms of management, basically – I mean, that was one of the discussions of the Advisory Committee. You've got a program. It's probably going to start small and there's no reason to have a whole lot of staff for a program that isn't seeing a lot of transactions conducted. And we talked about some examples. Basically, Mount Vernon and Burlington both said, Our staff involvement on our programs is minimal. If somebody comes in and does a project and wants to utilize TDR credits, then that's addressed through the handling of that project. I guess neither one of those – I don't know how Mount Vernon handled long-term oversight of the easement on the land that was conserved in the city. So with our Farmland Legacy Program the County has a

contractor, because one of the requirements when you hold an easement is to do monitoring and enforcement, if necessary. So it has a contractor and he goes around to the different properties on some kind of regular schedule and makes sure that they're not building residences on the property. So if there were no transactions in the early days of a program, there would be no need to monitor easements. So I really – I mean, part of this is really if the Board of County Commissioners chooses to adopt the program, then we would have discussions with them as part of the regular budgeting process about how they wanted to staff it. My anticipation would be that it would be added to duties of existing planning and administrative staff until there was a need for there to be more staff. And if there was a need for there to be more staff because there were transactions that were happening, that could be viewed as a program success.

Mr. Walters: I think I could add a little bit to that in terms of the cost-benefit analysis. There is before the County Commissioners for the 2015 Comprehensive Plan Amendment docket a proposal to create a non-municipal UGA of 10,000 acres north of Burlington. Now that proposal has not survived review by the GMA Steering Committee so that's not going to be happening. But suppose it did. That would be a *tremendous* upzone from rural zoning to UGA zoning.

Ms. Candler: North of Burlington?

Mr. Walters: Don't worry too much about the details of the proposal. You can look it up. It's not actually going to happen at this point but, you know, it could in the future. It could 10 years out, 20 years out. The point is that it's an actual proposal and there are other proposals every year for much smaller scale – one-parcel upzones, et cetera – so there are lots of opportunities for upzones and in some cases really significant ones. There was also a proposal to add 60 acres at Bayview Ridge back into the UGA. That one also didn't survive the GMA Steering Committee review. But in each of those examples, if there were a program like this that required there to be purchase of development credits either one of those ways that you can get development credits, tremendous revenue would come into the County or into the hands of rural landowners in exchange for retiring their development rights on natural resource lands.

So that would make the program pencil really quickly. But also if no one participated, as Kirk pointed out, the cost would be essentially zero so it pencils that way too.

Mr. Johnson: If you don't have the program on the books and that proposal comes in and goes through the process, you can't say, Oh, well, we kind of wish we had adopted a program five years ago that would apply to you, but since we didn't you're through the gate. So, you know, we plan on a 20-year basis and we're looking at development capacity in the urban areas on a 20-year basis, and one of the challenges right now is there's a lot of capacity out there. A lot of our urban growth areas are oversized. And so the Cities have already kind of designated urban and there's not a – unless you go above the base four per acre, there's really not a way – unless you're kind of going back retroactively – to implement TDR. But if we have something in place for the next time – like Sedro-Woolley's looking at a 27 or maybe significantly larger urban growth area expansion through the 2016 Update. If a program is existing on the books, it could apply to that. If it's not, it's water under the bridge.

Mr. Walters: And I'm sorry. I think I said 10,000 *acres*. I meant 10,000 *people*, 1200 acres.

Mr. Johnson: Yeah.

Ms. Candler: Thank you.

Ms. Del Vecchio: That would be a large area!

Mr. Walters: Still large, just not quite as crazy.

Ms. Candler: It's still very unknown at this time whether or not the Cities are going to participate. I mean, I think your answer the last time I asked that question was that if it exists they will come but – and I understand that position.

Mr. Johnson: Well, if it doesn't exist, they have nothing to dock with. Yeah.

Chair Axthelm: So by a show of hands, who – which Commissioners – or how many comments do you have? Or who has comments? So everybody has comments. Okay, so I don't want to have all the comments just be answered by one person and not get down to the end of the line. So –

Ms. Candler: Yes, I'm ready to move on. Sorry.

Chair Axthelm: Let's just cover just one question or comment and then we can come back to you. So that way everybody has an opportunity to go through them. Does that sound good?

(sounds of assent from some Commissioners)

Chair Axthelm: Okay. Kathy, your turn.

Ms. Mitchell: I sent questions to Kirk a while back. I just sent you a copy of that so you have that now.

Mr. Johnson: Yeah, I'm about halfway drafting responses to those. I should have those done by the end of the week or early next week at the latest.

Ms. Mitchell: Thank you. That'll be helpful. I've followed the TDR stuff since the very first meeting that you had way back when and I heard a lot of the same kinds of questions come up again and again. And that comes back to cost analysis kind of thing – justification for the need – because our county resources really are valuable – time input, everything else – manpower. And I still haven't seen anything that really hits home that says, This is needed, mostly because of the Cities around saying, Nah, we really don't have receiving areas. Yet if we spend the time and resources to put this sucker on the books, it sets there for wherever it's going to be, things are going to keep changing. And so it really comes back down to I would like to see more about the justification for the need for doing this. And it's – I understand the altruism aspect. I understand the conservation aspect. But I don't understand why the County wants to get into that business for this at this time when when we've got a lot of other crucial things to tend to.

Mr. Johnson: Well, you know, the County Commissioners will make the ultimate decision on this.

Ms. Mitchell: Yeah.

Mr. Johnson: They approved the initiation of the project. They approved the submittal of a grant proposal. They approved the creation of an advisory committee. They essentially authorized staff to work with that advisory committee. The advisory committee – all members were welcome to come present to the Commissioners. I think five did. It was a pretty good cross-section. I think the slight majority of those who presented were supportive of the County moving forward and the others were not supportive. There were other members of the public who spoke at that. After that, the Commissioners said yes. You know, we wanted to say from the start that accepting state grant funds doesn't obligate the County to move forward with the program, so we very deliberately said, Okay, Commissioners. You've heard from staff and the committee, from members of the public: Do you want to move forward? They said, Yes, we want to move forward.

Ms. Mitchell: Was that the same bank of Commissioners that we have now?

Mr. Johnson: One different. Commissioner Dillon was on the Commission. There was public comment on the 2014 docket. There were comments for and against putting this on the docket. They said, Put it on the docket; move it forward. They want to see a proposal. Will they adopt a proposal? I don't know for sure. They're the ones who are ultimately responsible for the County budget. They oversee the Planning Department. You know, we'll talk with them about what this would cost in terms of staff resources and what the benefits would be. Commissioner Dahlstedt has said very, very clearly that he wants a way when there's an increase in development potential on a piece of property to retain some of that and channel it into conservation of resource land. So, you know, we are working under the direction of the County Commissioners. They've said they want to see a proposal. We've done our very best to develop a proposal, having worked with the committee, having listened to the people who said move forward, having listened to the people who said don't move forward. The Commissioners told us to move forward. We've drafted the proposal. We've tried to make it compliant with the Comprehensive Plan, with the Growth Management Act. We've reached out to Cities. This is the best proposal that we can come forward with. You get your chance to look at it. You get to hear from the public. You make your recommendation. And it moves on to the Commissioners and they can say yes or no. That's – you know? There're several sections here – and I will outline them and send them to you – that talk about the rationale – not necessarily the fiscal analysis but the rationale: Is more conservation needed? What are our conservation tools for the existing resource lands that we have? Do the residents of Skagit County value conservation? So there's a lot of that that's already discussed.

Ms. Mitchell: Well, I do appreciate the fact about having the rationale and the input there, but just to emphasize the fact that there's a lot of folks that are fiscally responsible, meaning they think that way first. And so that's a large component of what can and can't be done, should/shouldn't be done – that kind of thing – and I think that's why so many people wanted to see inventories and justification for cost analysis – those kinds of things for this time, et cetera and so forth. Just please understand that a lot of folks are going to keep asking those questions because that's a very important part in the mentality on how people justify moving forward. For instance, if we were to do something at home, it had x, y, z budget – everybody's budget, it can only do so much.

Chair Axthelm: Okay, Keith?

Mr. Greenwood: Okay. If you look at the – I want to look at the code. The draft 9/9/2015, page 5 under 14.22.050 Conservation Priority Areas, Eligibility to Sell Development Rights. I'll just

make it real brief because they're right next to each other, but item 2(d) and (e): (d) has a range of tract size to be at least 5 to 20 acres, and (e) says it "must be owned by a private individual or entity, and may not be owned by a municipal corporation, special purpose district, or other public entity." If it's a conservation area, a Priority Conservation Area that we've already established through this program, and it has a development right, why would we care whether it's any particular size or who it's owned by?

Mr. Johnson: As to the size, there are transaction times and costs that go along with a transaction under the program and if you're spending as much time on a five-acre parcel and you're getting 5 acres of conservation as you are on a 100-acre parcel and getting 100 acres of conservation, then there might be a point at which it's not worth the time and effort for the conservation on the five acres so you might want a minimum size. Or you might want to say in a certain resource land, I mean, is it worth conserving five acres of – if there were a five-acre Secondary Forest parcel. I'm not sure. When we look at designating property, for Ag-NRL it's look at all parcels in the county that have prime ag soils and that are in the 100-year floodplain, and then that are five acres or greater. So at least for that process it was determined that five acres was a viable minimum size for looking at those lands for inclusion or exclusion. I think when you get to forest lands it might be more like 20 or 40 acres or blocks of 160 acres. So it's just a question of, Do you want transactions that are dealing in very small acreages, given that there will be some transaction time and costs associated with that?

Mr. Greenwood: But based on the preservation value? Is that what you're –

Mr. Johnson: Yeah, I guess the – yeah, not the bang for the buck, but the – although also the bang for the development right because if it has a development right that's what you're purchasing, so that's going to be what the value is. And so if you're getting five acres of conservation with that purchase of the development right or 50 acres or 100 acres, you're probably, from a conservation perspective, doing better with a 50- or 100-acre purchase. So it's just, you know, just kind of saying – and I didn't and we really didn't get to this with the committee – didn't resolve what that minimum acreage should be and should it be different for farm land or forest land or Rural Reserve.

There's a page in the report that kind of says, Well, it could be this and it could be that and here're some reasons why. But that's one area where we wanted to get some input.

Mr. Greenwood: Okay. Yeah, and I won't – I just think there might be some – if there's an option because we're so busy, we could say it's 200 acres; I don't have time for that five-acre one. So we might be able to rank them in some fashion depending upon funds available, right? That's a big part of it.

Mr. Johnson: Yeah, yeah, so for where the County sold development credits, generated revenues, and then maybe put out a call for interested parties that wanted to sell development rights, then it would be very logical for your selection criteria to value larger parcels over smaller parcels.

Mr. Greenwood: Okay, so you can skip my other one and go on to somebody else's.

Mr. Johnson: I mean, just the quick answer on that was most programs are looking at purchasing development rights from private properties. King County will also purchase them from DNR. We've kind of thought about that. That would be a little awkward.

Chair Axthelm: For the sake of time, I know lots of us others, or lots of us have questions and we want to get answered. So we're going to have more opportunity after this. But I think we can probably write into him and get some of those answered.

Ms. Mitchell: That's true, but it's also helpful understanding who asks what and why.

Chair Axthelm: Yeah. True. Okay, go ahead, Hollie.

Ms. Del Vecchio: Can I have permission to tag onto that one just slightly and then ask a separate question? As long as we're here, and I'm assuming that we're going to get another opportunity to get into the details of this, assuming it's moving forward, or sounds like it's moving forward. But as long as we're here, given the example you gave earlier of the trust, the property that was owned by the brothers in trust, I would argue that this would not allow them to participate. So if they're – I would just – there's a few places in here where you might want to modify the language –

Mr. Johnson: Oh, okay. So what specific –

Ms. Del Vecchio: So the private individual, I would say if they're owning that property as a private individual but in a trust, you could spend a lot of time arguing over whether that applies.

Mr. Johnson: Okay.

Ms. Del Vecchio: So I would just clarify that it can be owned by a trust, as long as it benefits a private individual.

Mr. Johnson: Okay.

Ms. Del Vecchio: Okay, getting away from the nitty-gritty....I did – I know I'm just jumping into this at the last minute – I did spend a good chunk of time over the weekend looking through the handbooks and all the online resources for what makes these things work and not work. And my general comment is that I really – I like the concept, but they are very challenging to actually make successful. And so I think paying attention to really what – and it sounds like you have been looking at this but, for instance, King County, if we're going to look at them as something that's worked, you know, there's things that are incorporated in there that I don't think are here. Just things that make it easy, like the bank and the online exchange where people can actually post, Here's what I have; here's what I'm looking for.

Mr. Johnson: Mm-hmm.

Ms. Del Vecchio: I just think to make it really easy. I think they – you know, as far as generating demand, I think, for receiving areas, obviously that's going to be the biggest hurdle for making this actually a productive program. And I know some of it can be absorbed in the County but we are going to depend on Cities to be absorbing a good chunk of that. And so I know that they have a joint advisory committee that involves the County and the Cities that everybody's kind of on the same page and they actually – the receiving areas actually get funding. And I don't know – I didn't look at numbers, but actually resources to help accommodate some of that growth. It just – if you're trying to push growth onto somebody else, it seems like there has to be something that they are going to receive in exchange for that other than just, you know, being

able to comply with GMA requirements. So that's one on that side. I'm really taking a close look at are there ways that we can make the process easier, that we can really encourage Cities to participate with us. And then on the landowner's side, the thing that I just keep coming back to is I want – I need numbers. I need to know, like, what kind of – what values are really – are we really talking about? Are there – you know, how does the tax consequences – if you've got a longtime landowner who's looking to sell off some of their development rights, they're paying taxes on that, and how does that compare if they were to donate it? So I don't feel like I'm able to communicate that very well, so that would be something that would be really helpful to me just to articulate to landowners, Here's what the actual benefit of participating in this program would be – and help us understand what – you know, if there – if or when there is going to be a benefit. And that's all. So no question. That's just comments.

Mr. Johnson: Can I respond to some of your comments?

Ms. Del Vecchio: Yes.

Mr. Johnson: Okay. Challenging to make successful: yes. I've heard a lot of criticisms about TDR that I don't find warranted or substantiated, but they're challenging to do. Yes, I would agree with that. I've said that all along.

Make it easy: So we don't have a bank. The Commissioners have said, We really don't want to put public money into this. But by – that was one of the recommendations of Heartland, which we worked with. They did the economic analysis. They said to really make this the most easy, you should have a private market option but you should also have the public option where the developer can go to the counter, look at the price – maybe they just want one lot or one development credit – and say, Back it out and do their pro forma. That works for me. I want to buy it from you. So we think that will make it easier. The staff report does talk about having that kind of exchange. That seems to be a low cost way to make the program more useful for people that's really not going to – you know, someone e-mails in and says, I want to be on the exchange. I think I have four development rights that I'm interested in selling and I'm willing to start talking at, you know, \$25,000 per right. So that's a great idea.

Resources to the Cities: One of the questions that's come up is, Well, you're giving away – County, you're giving away your property tax base by allowing these development rights to be transferred. The first thing I'd say about that is Farmland Legacy extinguishes the development rights so they go poof, and I'm not sure I've heard anyone mention that about Farmland Legacy. I think it's a great program. But if it's relevant for this – you know, if a question relevant for this it's relevant for that. When residential development happens in the cities the County gets some share of the property tax revenue and the Cities get some share of the property tax revenue. There's a long kind of planning literature, which you're probably familiar with, that says resource land uses tend to generate more revenue than they cost in services, and that residential land uses – unless they're very high-end, or unless they're very much kind of infill on existing infrastructure – tend to cost more in terms of services than they provide in tax revenue. And my understanding is King County provided amenity funds to the Cities because they looked at the long term fiscal impacts of development in their rural area and said, Boy, it would be a lot cheaper – it would be a lot more sustainable for the County if that happened in the Cities where they have the infrastructure, they have more financing capabilities than we have. So, you know, it's worth x amount to us to try to encourage Cities to accept the development rights. We don't have those resources, but we did – we provided about \$90,000 of grant funds to the City of Burlington through a project called Envision Skagit and through the TDR grant that funded two

very successful planning processes that their Planning Director, their Chamber of Commerce Director, and their citizens are very positive about, and that have really helped to shape their 2016 Comprehensive Plan Update, which is looking at expanding the area where development credits or density credits can be purchased to do multifamily housing, which addressed their workforce housing need because they have low-wage retail workers with nowhere to live in the city and so they think they need more multifamily, and it should also bring more vitality to the downtown. And we've provided \$40,000 to the City of Anacortes to also use in their 2016 Comp Plan Update and also look at, as they look at infill and redevelopment in the downtown and the areas around it, are there some opportunities where through upzones that there could be a TDR component that they could implement. So and, yeah, when it gets to the taxowners or individual landowners I – it sounds like a great area to spend some more time on. But I really appreciate your comments.

Chair Axthelm: Annie?

Mr. Walters: Also the exchange being on the County website – that whole concept is included in the draft code in 14.22.100. It doesn't necessarily have to be in code but we went ahead and put it in there in the section on Administration.

Ms. Del Vecchio: Okay, I completely overlooked that. I apologize.

Mr. Walters: The Administration section is some excellent reading.

(laughter)

Mr. Walters: The other question about participation from the Cities: When the Cities want to expand their urban growth area – and there's not a lot of demand for that right now, with maybe the exception of Sedro-Woolley – but when the Cities want to expand their urban growth areas, the County has to approve that expansion and the County could, through interlocal agreement with the Cities, require participation in the CDI Program. So you get the upzone that is the UGA but you'd have to buy development credits in order to develop at UGA densities when you're in the UGA. Or if you get annexed before development, then the City would require the purchase of the development credit to participate. So there is opportunity even without involving the Cities within their city limits. The Cities might want to participate within their UGAs. So there's an opportunity there for the Cities to willingly participate. There's also an opportunity for the County to require that participation as a condition of the UGA expansion.

Chair Axthelm: Annie?

Ms. Lohman: I have more questions on that but I want to jump to something else. You were talking earlier, Kirk, about – in your slide show you had an example if you had Rural Reserve. And you showed the scenario of how you could upzone it using a CaRD and what it would be without the program. And then you were talking about if you had a seven- to nine-acre piece and what you could do with or without the CDI Program and what you could do now and what you could do with a CaRD – so basically three different scenarios.

But my question is, okay, you've got somebody in Rural Reserve that the zoning is 10, and now you've made it seven. Okay, what if I have twelve acres? Do you see where – I started coming up with – how does the County address that, because you already punted back and you gave that seven-acre person a density bonus, if you will, that you're not going to give the guy that has

actually a larger parcel, but he still doesn't have enough to make two of the original standard lot sizes under the original Rural Reserve zoning, and he doesn't have five to get the CaRD. I don't want to open a Pandora's Box with the program but I was trying to walk through it, and how in the heck did you come up with the seven to nine rationale?

Mr. Johnson: Well, it started with Matt Mahaffie – and, again, I don't know the acreage but he said, Well, we were just, you know –

Ms. Lohman: I mean, I can understand when you're, like, within because, you know, maybe something – a road.

Mr. Johnson: Yeah.

Ms. Lohman: Because like mine, my own place, I'm on a corner with two county roads and they took some property, so actually I don't have my 40 anymore. So if I never had the historic farmstead, would I be precluded? And I understand trying to come up with fixing those scenarios but what if it isn't that sort of scenario?

Mr. Johnson: Yeah, so there are, I mean, provisions in the code of what you can and can't count, so I think it's to the centerline of the road counts as part of the acreage. Correct me if I'm wrong, Ryan – or if I sound wrong.

Mr. Walters: Sounds about right. I'm not sure on that.

Mr. Johnson: So, yeah, I don't know about the situation where you're slightly above. I mean, I don't think you'd want to say, Well, if you're – you could, but if you need 15 acres to get the next increment, I mean, I suppose you could have some corollary to that. But we didn't want to get into a situation where seven acres suddenly becomes the parcel size that you need, and let's say you've got 70 acres and you've got seven development rights or seven CaRD opportunities. Now suddenly you've got 10 seven-acre parcels, each of which you can do this on. We don't want – we didn't want to go there. We wanted to keep it very precise. And maybe the way you get at that is upping the acreage. Maybe it's nine or above. I mean, that's really discretionary. We kind of – as a planning staff, what would be the lowest you would want to consider going, thinking that if there was concern about that it could be –

Ms. Lohman: I just thought it was odd how you came up with seven or nine, seven to nine. What was the discussion where you came up with seven to nine?

Mr. Walters: And it's actually seven to 10, just whole numbers seven to nine. But it's anything above seven up to 10.

Ms. Lohman: But less than 10.

Mr. Walters: Right.

Mr. Johnson: Yeah.

Mr. Walters: And only up to two dwelling units. That's a limitation _____.

Ms. Lohman: But do you see where I'm going here with it? You're actually punishing that guy that has 12.

Mr. Walters: Well, it's not a punishment.

Ms. Lohman: But it looks funny.

Mr. Walters: It's just he doesn't get the benefit of the opportunity that someone with seven would achieve.

Mr. Johnson: Although if the guy who has 12 is next to someone who has eight, he can sell two of those acres and do a boundary line adjustment and so, you know, he –

Ms. Lohman: But what if he doesn't want to sell?

Mr. Johnson: Well, you are welcome to suggest something that would address – I mean, one of the Commissioners – Commissioner Dahlstedt – wanted to use this for all sorts of inequities in the rural zoning – the people in ag land in the Ag-NRL designations that are really residential development at quarter-acre lots. And, you know, one person has a half-acre lot and she doesn't have 40 acres so she can't put a residence on it. I mean, there are all sorts of things you could try to address with this but then you might have so many loopholes you could drive a bus through it. So, again, I think it was: What's a limited application? What's less than 10 that would be acceptable? I think we started at nine. Well, would you – you know, would you do eight? I mean, really, if you're going to do it you need a number somewhere and so –

Ms. Lohman: I guess my question – and this sort of leads into that – is, If we want to limit residential development in the rural area, why don't we just eliminate CaRDs? Some of this seems like a rather tortuous exercise, and it would only take just having a discussion about CaRDs, and we really don't have any discussion about it. I don't recall us having a real discussion about it.

Mr. Johnson: So there were a number of what were called "trailing issues" coming out of the 2005 Comprehensive Plan Update. One of them was look at CaRDs. Look at 10 years of history. Are they doing what they're supposed to be doing? The Planning Commission identified that as a trailing issue. I think we advocated to the County Commissioners that it be put on the Department's work program. I know Sharon Dillon was a big supporter of that. It never got the second vote that would do that. There's now a Comprehensive Plan Amendment that's in to take a look at CaRDs. If the Commissioners decide to add that to the 2016 Update or to a later **27** update then we would have that opportunity. I mean some people have said, Yeah, why do we have the CaRD density bonuses? Gary can kind of talk about the history of how it was: Well, certain development rights were taken away but this was a way to give them back. But to try to limit their impact, some people have said make the CaRD density bonuses, you know, an incentive that you can purchase through purchasing a development credit and do it that way. That's an option. I didn't have direction from the County Commissioners to make the existing density bonus subject to development credit purchase, but if somebody – one of you or some member of the audience or the public – wanted to suggest that they could certainly suggest that.

But we are not trying to take anything away through this. That was sort of the baseline. And so making existing CaRD density bonuses subject to development credit purchases, some people

would see that as taking something away. But if you think that's logical then that's, you know, within the realm of a recommendation the Planning Commission could make.

Ms. Hughes: I'm going to jump to a whole different thought process here, so –

Mr. Johnson: Okay.

Ms. Hughes: Think out of the box. These programs are great programs for our generation. You have the public, who feels very good that we're going to maintain open space forever. We have a generation walking away with monies. Some of those generations – now this present generation, if you're talking about the farm program – they're using it for two different reasons, either selling – receiving a lot of money to be able to do what they want to do with, or receiving a lot of money to keep their farm operating because they need to do something now. But we're not talking about what is going to happen to the next generation. So we have all this wonderful open space for the next generation. I have seen agriculture change dramatically in this county in the last 25 years. Dramatically. We need high cost crops to keep going. We have one high income crop that seems to be holding us stable as far as our agriculture base. That crop needs other crops for rotation. We have young farmers wanting to take over their parents' farm and they're going, What am I going to grow? How am I going to find the funds to do this? We have the family who's been able to sell their development rights, get good money for it, and then a young farmer comes in and says, What am I going to do with it?

So are we in Skagit County, now that we've been doing this for 20-plus years, going to start doing – we've talked about cost analysis. I'd like to see a financial and an economic analysis on these programs and what we're leaving to our future generations, because we're putting a lot of money into something we haven't really discussed what we're preserving. 25 years ago the bumper sticker came out: "It's not farming without farmers." But, truly, if the next generation cannot farm in Skagit County what kind of investment are we making? And I think that the numbers are there. I think the numbers just need to be pulled together and they need to be comprehensive and they need to be across the board, not just yes. The Farmland Legacy can tell us how many we preserved, how much money has been spent, how much money has come in. But I think that we can look at other areas and say, What's going on with farming in these areas that this has worked, and is it going to work in ours? I think we need to have a good discussion on that before we go forward. So it's not really a question, but it's an observation.

Mr. Johnson: Okay.

Ms. Hughes: Thank you.

Mr. Johnson: It sounds like something that might be a recommendation that you would ask other Planning Commissioners to consider when it comes to that time.

Ms. Hughes: Okay.

Chair Axthelm: No, I think everybody said pretty much, and I could say a few things too but I think –

Ms. Hughes: You know what? I think you need to say. Yeah, I do. You come to the last and I think we need to give you your time.

Chair Axthelm: Okay. Well, the biggest thing with the TDR program that I have an issue with is if you're sending it to an upzone, why – I understand trying to preserve farmland. That's great. I think that needs to happen in some areas. But taking that and sending it to an area that has a specific zoning, to me, if you have good planning – good City planning, good zoning – that you've designated that land the appropriate density. And when you take a transfer of development rights and you transfer it to land and you allow it at a higher density than what it's zoned, I think that's wrong. Because it shouldn't – it shouldn't – if it should get a higher zoning, then give it a higher zoning. If it should get a higher density, then give it a higher density. But what seems to be happening is it's somebody that has money, has the ability to purchase it that's getting that right instead of the common person. And so, I mean, that's not really a question. It's more a comment to me because I think that that's something to consider. I mean, are we catering to the rich? You know, are we giving people the option that really shouldn't have it? I mean, I feel sorry for the people next to them that have their land at a certain density and somebody next to him is able to have a higher – a lot higher density than what was planned in the first place.

Mr. Walters: I might be able to speak to that one. In cities, absent any kind of program like this, it is very common for there to be no minimum density. They establish frequently a maximum density because people are usually most concerned about that. But they don't establish a minimum. Under a program like this where you would allow some kind of purchase to achieve a density bonus, you would establish a base density and a maximum density. So there would still be a maximum density adopted by a legislative act by the City or – I mean, in this case I think you're talking about a City. So they would be making a choice as to what the maximum density is. And the range that they select has to be within that area that they feel comfortable. So they might feel comfortable at up to eight units per acre, especially with some kind of development standard associated with it, but they'd also be just fine with four. And then in some cities one unit per acre might be an acceptable density because they might not have a minimum density. For instance, the City of Anacortes doesn't have a minimum density. You can build a really big house. There's no maximum structure size and you don't have to build a certain number of units. Now that might not actually be legal under GMA. For instance, when we were doing Bayview Ridge we were talking about doing four to six units per acre because we really need to do four to six units per acre for a non-municipal UGA like that. But at Bayview Ridge we were talking about setting that range. We were willing to accept four units per acre. We were also willing to accept six units per acre. That was established in the Bayview Ridge Subarea Plan many years before we actually got to the point where we were going to implement it through the PUD ordinance.

So I wouldn't characterize it quite as the same way as you did because it's a choice. It's a choice for a specified range, and frequently there's no lower value.

Chair Axthelm: Well, you're saying there's a range but that's standard in the zone, is you have a range. So if your TDR – not –

Mr. Walters: Yes. Yes.

Chair Axthelm: If your transfer of development right allows you to go over that maximum range, that's the issue that I have.

Mr. Walters: So it would not.

Chair Axthelm: If it wouldn't then it's within the zoning. Then why do you need the transfer of development rights? Because if you –

Ms. Lohman: Well, if you use a Rural Village scenario instead of the city.

Chair Axthelm: Because what you're saying is a certain zoning you can do four to six units per acre. Well, you have to pay extra to do six units per acre versus four? If it's zoned four to six then they should be allowed four to six. And that four to six range is based on – I mean, you take a lot of land and some lots lay out better with four units per acre and some six.

Mr. Walters: And you can allow a range of zero to four or four to six. A jurisdiction could allow that range with no requirement to purchase any credits to achieve anything in that range.

Chair Axthelm: Yeah, which is currently.

Mr. Walters: Right – usually the case. Or they could require the purchase of credits to achieve some portion of that range. And the reason that they would do that is because that they would be getting revenue or getting something else that they want. For example, sometimes a jurisdiction might say you have four units by right, four units without any purchase required, but to get to six units you have to buy a credit, pay a fee – do something like that – in order to do something else that the jurisdiction needs. For instance, Burlington – as Kirk mentioned – Burlington already has a structure kind of in place where they charge a fee for extra units within a range that they allow and they use that fee to send to us. Now that's sort of in the absence of any structure but it's the same concept. The jurisdiction has to consciously decide that they want to do this, so it's not that you get to – no developer gets to buy above the law. It's within the set range that the jurisdiction chooses.

Chair Axthelm: Yeah, and that's – that's why do it, because it's already allowed?

Mr. Johnson: So Mount Vernon wants to see higher density, multiple-story development in its downtown, and it doesn't want to apply TDR there because it wants that to be as attractive as possible to developers. Now if 10 or 15 years from now Mount Vernon was the hot place, like Redmond or some of the other places down south, and, you know, they might make a different decision. Burlington has made a different decision. They've said you can go to 14 – that's our base zoning. You can go higher than that with a purchase of development credits. The landowner/the developer is not going to do it unless it puts money in their pocket. They're not going to do it if it's a loss. So what this is is an incentive. It's called "incentive zoning." For doing something of interest to the County or the City you get additional development potential. And if you do the cost-benefit analysis, you know, from your business perspective and can make the profit that you need to make on a development project and there's still money in your pocket after that, you're willing to pay that. You're paying something but you're getting something more, and you're helping the City build to this higher level that it's wanting and willing to accept with the purchase of the credits. I don't know how common it is, but it's fairly common in cities. It's done for conservation. It's done for affordable housing. I think it's just sort of a realization that as the development potential on a piece of property goes up, the value of that property goes up significantly and here's a way to retain a portion of that value increase for a public purpose.

Mr. Walters: And affordable housing might be the most simple example. So the hypothetical is you can do four units per acre, but if you do affordable housing you can do eight units per acre. A City would frequently say something like that. They want affordable housing. They can't

require you to do affordable housing, or at least to do *all* affordable housing. They need to have some incentive to make that work. So they'd say, You get four units by right, but if you do eight – or whatever the magic number is – or if you do affordable housing you can have eight – which means the developer makes slightly less money because they're doing *affordable* housing instead of high-end housing, but they make more money overall because they're allowed to do eight, so that there *is* sufficient incentive to get them to actually do it.

Chair Axthelm: All right. Thank you.

Mr. Greenwood: What do you want to do with the agenda?

Chair Axthelm: So I'm sure we have more comments and questions. Let's make sure we write those in to the Planning Department.

Ms. Mitchell: I've got a request on that too. It'd really be helpful to know who wrote the question and – because that helps with the frame of reference for areas that we might not be familiar with. So I'd like to know and see what the other questions are and how they were phrased and what the answers are, too. I think it helps for understanding the context, please.

Chair Axthelm: I think we did that before where you sent any of the questions that came in, then we sent them out to the Commissioners and some of the answers. That works well. If we choose to follow that format because, I mean, we can always ask the questions later as well.

Mr. Johnson: Yeah, if you indicate who's sending the question in then we can indicate who asked the question and, you know, put the question in the language it was sent in.

Chair Axthelm: Great. Okay, thank you. So the next item on the agenda: the Department Update.

Ms. Lohman: Mr. Chairman? Before we leave, Kirk, are we going to have another work session with us? Because I mean we haven't gotten to all the packet materials yet with you.

Mr. Johnson: Dale would know the schedule better than I, but I don't think there's available time and basically, I mean, that's what – that's an opportunity after the public hearing and during deliberations is to really get into more depth on the details. I mean, we've done a number of briefings on this in advance and, yeah, so that's not currently scheduled and I don't know if the schedule would allow for it.

Ms. Lohman: Okay.

Mr. Pernula: I was going to go over the schedule in just a couple minutes. Ready?

Mr. Johnson: Thank you.

Ms. Lohman: Thank you. Thank you, Kirk.

Mr. Pernula: Okay, this is going to be a very busy month, maybe month-and-a-half. I'll go over some of the things that are happening.

First of all is Thursday night we're going to have another one of those community meetings. This time it will be held in Concrete at the Concrete High School Commons. There'll be a similar format to that that we had on South Fidalgo, but that will be held Thursday evening, once again at about 5:30 till 8. Then next Tuesday, October 13th, we're going to have a scoping meeting on the Shell Oil unloading facility. That will be held here in Mount Vernon at the Cottontree Inn at the Convention Center there from 4 to 8 p.m. And I can go over that – what's in it – if you want to know what it's all about. Then the following day, which is next Wednesday, a week from tomorrow on October 14th, there will be another scoping meeting on the Shell EIS at the Anacortes Middle School. And then the following Monday, on October 19, we'll have the final one which may be the largest of those. It'll be at the Lynnwood Convention Center. Then on Tuesday, October 20th, the Planning Commission will have its next meeting. So far we have a couple of items already on the agenda. We have the deliberation on the Capital Facilities Plan, including the TIP. We have Gary making another presentation on the Rural Forestry Initiative. And perhaps, if there's time after that, we could talk a little bit about the CDI Program again. Then on Tuesday, October 27th, we have another Comprehensive Plan Update meeting, this time at the Edison Elementary School. Then your November meeting will be on November 2nd. Remember that's a Monday, not a Tuesday. So the November 2nd meeting will be on a Monday, and that will be the public hearing on this project, on the CSI – CDI. And November 10th we have another community meeting at the Edison Elementary School.

That's what I've got, so we've got a pretty jam-packed agenda for the next month to month-and-a-half.

Chair Axthelm: All right.

Ms. Lohman: There's two at Edison? There's two of those meetings at Edison?

Mr. Pernula: Excuse me – did I say it twice?

Chair Axthelm and Ms. Mitchell: Yeah.

Mr. Pernula: Okay, it's November 10th.

Chair Axthelm: Is Edison?

Mr. Pernula: Is Edison, yes.

Chair Axthelm: Okay, which is the previous one?

Mr. Pernula: Wait a second. I better check on that.

Ms. Hughes: Which is Big Lake?

Mr. Pernula: Excuse me – yes, one of those is Big Lake.

Mr. Greenwood: Big Lake is October 27th, Tuesday. Concrete's the 8th. And –

Mr. Pernula: Edison's November 10th. That's it.

Chair Axthelm: Good. So we will have another opportunity for your questions – possibly.

Mr. Pernula: Possibly. If you want to really scrutinize it some more, we'd have to have a special meeting, I believe, before the November 2nd hearing.

Chair Axthelm: I think if we can get some of those comments in and if we get those answered then maybe that will reduce those amount of comments that come through.

Mr. Pernula: That would be the best way to do it.

Chair Axthelm: Okay, because I would like to see it again. That would be good. Okay. Any comments or any announcements from the Commission?

(silence)

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

Ms. Lohman: Motion to adjourn.

Ms. Hughes: Second.

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