

**Skagit County Planning Commission
Deliberations: 2016-2021 CFP and TIP
Work Session: CDI Program (continued)
October 20, 2015**

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

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

Public Remarks

Commenters: **Roger Mitchell
Carol Ehlers
Ellen Bynum, Friends of Skagit County**

Chair Josh Axthelm: (gavel) Welcome to our Planning Commission meeting. Today is October the 20th and we call this meeting to order. Do we have any changes to the agenda by the Planning Commission?

(silence)

Chair Axthelm: Okay, seeing none we'll move on to the first item on the agenda, the Public Remarks. So if the public would like to have a comment?

Roger Mitchell: Good evening, Planning Commissioners, fellow citizens, and staff. First of all my personal welcome to Commissioner Del Vecchio. Thank you for serving the citizens of Skagit County. We're glad you're here. I'm particularly pleased that now every Planning Commissioner is a critical thinker, unwilling to just tacitly accept what you're given or told. Each of you can and should challenge everything brought before you as you exercise your fiduciary responsibility to the citizens of our county, and I thank you for doing that. The TDR proposal is one where your critical thinking skills will be put to the test. The TDR programs have been rejected twice in Skagit County. When programs fail, they're often repackaged with a new name. TDRs are now CDIs. As the old adage says, you can put lipstick on a pig but it's still a pig. Please use your critical thinking skills to dig deep and carefully examine everything you are given and everything you are told. Ask critical questions and demand full, complete and accurate answers. Don't be taken in by half-truths, and question no representations. Please be suspicious.

For example, ask if TDRs are private transactions, why is the government involved? Ask how TDRs can be a free market if government controls who can participate and what the transaction

rate is. Why are actual property appraisals not being used? Ask: Why is the alleged market study devoid of actual market data? Is it because, in fact, there is no market? Ask why there's no legitimate cost-benefit analysis. Are there too many costs and too few benefits?

TDRs are purportedly a conservation program. That's an insult to rural property owners, suggesting they don't conserve their own land. Why wouldn't they? It's their biggest asset. There's never been an identified need for TDRs. Ask why we should add them to the mythical toolbox when there are plenty of other proven tools to use. Ask if the external consultant who helped develop the TDR proposal will now become the managers of that program if it's implemented. Is that a conflict of interest? Why do we need external managers in the first place? Or is it really just a jobs program?

Ask if the enabling TDR grant required certain deliverables, i.e., are there predetermined outcomes that preclude an actual decision as to whether citizens want a TDR program. Ask what are the actual benefits to the citizens of Skagit County.

In summary, again, please ask critical thinking questions and demand complete, full, and accurate answers. Thank you.

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

Carol Ehlers: Yes. Carol Ehlers, west Fidalgo Island. I didn't know what Roger was going to say but I agree with it, particularly since there's a big deal in that document about 'suitable.' Goodness knows what 'suitable' is. There's no definition. But what I noticed was that the largest amount of Rural Intermediate acreage in the county, some of it's up at Cape Horn and in the floodway. After what the County's doing to those folks, I doubt if that should be considered 'suitable' for higher density. Fidalgo Island has an enormous amount of it. That leads to the other question: Since the County doesn't intend to plan for Fidalgo Island and told us on the 22nd of September that any planning we had to do, you may understand why in the next couple of months I'm going to be proposing some, since we can't risk too many things being decided without information.

But today I have something entirely different. It's Flood Week, and I have given you – is this the right way? – okay, I have given you a map that is from the Skagit County Comprehensive Solid Waste Management Plan Update and Draft Environmental Impact Statement – all 500-plus pages of it. It's one of the best sources of actual factual information about the physical geography of Skagit County. It's dated November 1992. I'm sorry no one has ever seen the Final EIS. The Commissioner – District 1 Commissioner and District 2, who were elected in November of '92, did not like big documents. So this is it. If you can get your hands on it, it's well worth the time to spend looking.

This is the rainfall map. According to this, Fidalgo Island gets 20 inches a year and it works its way further east to – what is it? – 120 inches, 130 inches. It's worth spending some time to look at, think about, especially in view of the Department of Ecology saying there isn't enough water. Now this is not the only map showing this. There's a more recent one that I don't have. And I have seen it, but it didn't come in a government document. And I was taught a long time ago that if you're going to argue with the government you have to use a government document. So here is this government document in this case. But if you know anything about the rainfall, you know that it's about 26 inches, 25, 26 inches out on Fidalgo Island now. Well, that could be – if you look at that data, you'll say, Oh, the rainfall's increasing, and you make all kinds of conclusions from it.

Chair Axthelm: Carol, your time's – if you could sum it up.

Ms. Ehlers: However – this is important. January 1913 is a description of the number of inches. 29, 32, 24, 38.8. The point I'm making is that just because you see a rainfall map that says one thing and it is another now – much higher – does not mean that it was not much higher before. You have to be careful how you look at your data.

Chair Axthelm: Thank you.

Ms. Ehlers: It is, after all, Flood Awareness Week and that's one of the biggest problems you have to deal with in most of the county, but not on the islands.

Ellen Bynum: Good evening, Commissioners. Ellen Bynum, Friends of Skagit County, 110 North First, Mount Vernon. I want to continue the discussion about the CDI Program. I've been looking at the code as it's written and the policies as it's been developed, and I do think that it's not ready for prime time. I've been looking at other places that have implemented TDRs and many of them put a lot more specified definitions into the code – more details. For instance – and this is the state law in Oregon. The state law in Oregon requires that if you're going to use a TDR it has to be 10 miles outside of a UGA. So there's some attempt to make it be more rural. Now 10 miles outside of a UGA in Skagit would probably put it in the middle of a forest if you were using it, and that's for the receiving area. So we need to put some definitions on where we want the receiving areas. And I went back and read the initial work plan for the grant that Kirk applied for and got, and one of the things that was required of the grant, which I don't know if it's been done, is a consultation with the Cities to determine whether they're interested in being receiving areas. And I don't know if Kirk has done that or if that's a formal document or if that's going to be done, you know, after code is passed. I would prefer to have that be done before the code and policies are passed. I just feel like there's not as much definition that needs to be there – not as much detail. Because, after all, if we're going to do this we don't actually know it's going to work.

I would also urge you to consider possibly implementing a portion of this as a pilot in one zone and one receiving area. Because I don't think we know what will happen with it and I think it would be good to test it and maybe put a time limit on it – say, five years or something like that. That's been done in other places and it's not impossible to do.

The other thing I wanted to say is that I sent you by e-mail a number of documents about LAMIRDs because a couple people have been discussing, you know, What's a LAMIRD and how does it work? And so I went back and got some of the documents about LAMIRDs. And I don't quite see – I don't know where we're going to put increased density in Skagit County, given the GMA and given our Comp Plan. I mean, obviously Kirk has thought about it and you have some ideas about that, but I also feel that having the Planning Department Director be the person who decides where those density areas are going to be is not really that good, because people who live in an area want to know what their area's going to look like. And the GMA certainly does say that they have – you know, the County has the requirement to create areas that are predictable, that don't interfere with rural character, that support what's going on, and don't create urban sprawl. So I guess my summation of my comments – and I'll put most of this in writing to you with the resources that I used to get the information – is to really think hard about whether we need to pass this now or whether it needs a bit more work. And I don't know how that would happen, given that the grant has a termination date, but I feel it's important

enough if we're going to do this program that it be done in a way that doesn't jeopardize the rural character of Skagit County. Thank you.

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

(silence)

Chair Axthelm: Okay. Seeing none, we'll move on to the next item on the agenda: the Deliberations for the 2016-2021 Capital Facilities Plan and Transportation Improvement Program and Related Code Amendments.

Ryan Walters: You had a public hearing on this at your most recent meeting. This update of the Capital Facilities Plan happens about every year. Earlier this year we did update it out of our usual once per year sequence to just incorporate the impact fee for the City of Sedro-Woolley. This year we are resuming our normal once per year schedule where we update all the inventory and everything else all at once. The changes that you have in front of you are the Capital Facilities Plan Update. That's the main text of the Capital Facilities Plan – the landscape document. Impact Fee Schedule, and that Impact Fee Schedule differs from the one you adopted earlier this year by the addition of the City of Burlington to collect their impact fees inside their UGA. And Amendments to Skagit County Code with respect to impact fees, because we did a very quick update earlier this year in order to accommodate the City of Sedro-Woolley's impact fees, and with more time for a closer review made some additional changes to bring our impact fee code in line with state law, and also address a new state law that requires that we have an impact fee deferral system or that we offer an impact fee deferral system for single-family dwellings. So those changes are in your proposed changes to the impact fee code.

Subsequent to the comment period opening, we got a comment letter from an attorney who represents Burlington and Mount Vernon School Districts. I also chatted with her on the phone. She had a number of – she's a Seattle attorney who works with a whole bunch of school districts throughout the state, especially related to impact fee issues, and she had some suggestions related to our impact fee code chapter. We took those suggestions and edited the code chapter and attached those edits to the Supplemental Staff Report that you got with your packet, and we recommend that you recommend to the Board that we adopt those edits to the Supplemental Staff Report instead of the original staff proposal for the code chapter.

Your task tonight is to make a recommendation. You have a draft recorded motion in front of you. That recorded motion includes all the normal Findings of Fact from your previous annual recorded motions on this topic and one draft recommendation, and that draft recommendation is to use the Supplemental Staff Report code chapter as your recommendation instead of the original released code chapter edits. You're free to ignore that recommendation, delete it, or make other recommendations. We'll have the recorded motion up on the screen so we can edit it. And I now no longer have to go to the podium to do that editing. I can do it right here.

So do you have questions about these three components of the proposal, to start off with?

Annie Lohman: Excuse me – a personal privilege. Not everybody got the draft recorded motion.

Mr. Walters: We have a couple other copies.

Chair Axthelm: Do you want a minute to read over it? Would you like a minute to read over it?

Ms. Lohman: Can I ask Ryan a question?

Chair Axthelm: Yeah.

Ms. Lohman: You said Mount Vernon and Burlington. I thought Sedro-Woolley also had a letter from their attorney, as well.

Mr. Walters: Sedro-Woolley also had a letter but it, I don't think, suggested any code changes. Oh, except for –

Ms. Lohman: Limiting the deferral.

Mr. Walters: – a limit, yes, of 20, which was also addressed by the Burlington and Mount Vernon –

Ms. Lohman: I saw that they copied – handled the same issue. They talked about the same issue.

Mr. Walters: Yeah.

Ms. Lohman: Okay.

Mr. Walters: Yeah.

Ms. Lohman: I just wanted to make sure that –

Mr. Walters: Earlier this year all three of those school districts had sent us a letter asking us to address this new deferral requirement in state law and suggesting that we include the 20 deferral limit that is authorized by state law, and we simply forgot to include that. So we added it to the code amendment revision that's in your Supplemental Staff Report.

Chair Axthelm: Amy, we can start on your end down there, if you'd like. Are we ready or a few more minutes?

Amy Hughes: Ready.

Chair Axthelm: Ready? Okay. Do you want to start down there and see if there's anything?

Ms. Hughes: I'll pass.

Ms. Lohman: I'll pass too.

Hollie Del Vecchio: I don't have any questions.

Kevin Meenaghan: In the Capital Facilities Plan Update for this year, I'm curious if – so this is the third time that I've looked at it since I've been on the Planning Commission. And did we actually do anything with any of the items that are in there from last year? I know this is really a planning document for – that the staff – that the County staff uses and the Commissioners use it. Did we actually do anything or budget any of the things we put in last year's to this year?

Mr. Walters: Yes. I will make my best attempt to answer that question. I don't know that we have yet come up with a one-to-one relationship between projects that are in the Plan and projects that make it into the budget. I think that is a goal to have the County articulate during the budget process that if you didn't get your project into the Capital Facilities Plan you're not going to get budgeted for, and also vice-versa. If you put your project in the Plan for 2015 we will budget for it for 2015 or for the next year. So I don't think we are quite there yet but I do think we are progressing on that front, and some departments are doing better than others. For example, I think the drainage utility projects that are budgeted for the next year actually do get – that are in the Plan for the next year – actually do get budgeted for and done. And I wasn't really involved in preparation of the document so I don't know exactly how that was reflected, but I thought that those were to be reflected in the Plan so you could see what has happened in the prior year, and ~~a strikethrough version~~, so you should be able to refer to that to see how those are processed.

Mr. Meenaghan: Okay.

Mr. Walters: Does that get at what you were asking?

Mr. Meenaghan: Yeah. And one of the things I remember very vividly from last year was that just because it's in the Capital Facilities Plan doesn't mean it's actually going to happen.

Mr. Walters: Correct.

Mr. Meenaghan: It still has to go through the budget process. So I was just curious if any of those things we talked about last year actually did make it into the budget and we're actually putting money towards making some of these things happen.

Mr. Walters: Oh, well, and probably many of them.

Mr. Meenaghan: Okay.

Mr. Walters: We talked extensively last year about some of the facilities – the Facilities Management's department projects. For instance, replacement of the Administration Building roof, and I definitely know that happened because I walked by the roofers for a couple, several, many weeks while they were replacing the roof. I think they also completed the boiler replacement project that they talked about. And several of those projects are projects when they're in the Plan but they never move into inventory because the inventory is the building. So the boiler replacement is a project but we don't inventory the boilers themselves. The inventory item is just the building.

Mr. Meenaghan: Okay.

Mr. Walters: But, yes, yes. There is not a 100% correlation between the Plan and the budget, but definitely it is being used.

Mr. Meenaghan: Those were great examples because that what I was looking for.

Mr. Walters: Yeah.

Mr. Meenaghan: Okay. It was my only comment/question.

Chair Axthelm: Kathy?

Kathy Mitchell: Pass.

Tammy Candler: I'll pass, but I – just to answer Kevin's question – I think Forrest Jones spoke to that a little bit. Didn't he say that one thing's coming off of this Plan because it was actually completed during the time or something? I remember at least one item meeting that criteria.

Mr. Meenaghan: Oh, good. Okay.

Ms. Candler: I think.

Chair Axthelm: Okay. So we have a draft – a motion in front of us.

Mr. Walters: So if we could switch the video to the draft motion.... We'll bring it up on your screens as well.

Chair Axthelm: Okay. So discussion on the Finding of Fact, or a motion?

Mr. Walters: I did find one set of dates in the Findings of Fact that I hadn't updated when I printed that for you. Number 5, I think it was, still said 2015. But I updated that to 2016 in the version on your screen there.

Ms. Candler: I have a question. Can I jump ahead to whichever one I want?

Chair Axthelm: Well, actually we probably should motion this first.

Ms. Lohman: What?

Ms. Candler: For discussion.

(several Commissioners speaking together and inaudibly)

Chair Axthelm: Go ahead.

Ms. Candler: I can't remember.

Chair Axthelm: That's fine. Either way it's going to come to the same conclusion so that's just fine.

Ms. Candler: Ryan, do we normally put our – I'm looking at number 10 – the role of the Planning Commission in our Findings? Is that typically how we've been doing our Findings?

Mr. Walters: That was in the draft from not the first quarter of this year but last year. That was in the adopted recorded motion. I just copied it and pasted.

Ms. Candler: I can't remember what that was about. Thank you. I'm just trying to remember that discussion.

Chair Axthelm: Okay. Perhaps the best way to start on it is just the key issues, or the key issues for the Planning Commission. So does the proposal effectively meet the statutory

requirements for capital facilities planning? Any issue with that? No? Okay. And does the proposal effectively plan for future County growth? Oh, I'm sorry. I'm looking at the Supplemental Staff Report, not the recorded motion.

And then: Should the Planning Commission incorporate the school district recommendations in the proposed amendments? So those are three key issues that they brought up in that. Okay. So do the Findings of Fact meet that?

Ms. Candler: I think so. Can I start? I think so. I don't have any issue with it.

Chair Axthelm: Kathy?

Ms. Mitchell: I'm okay with that.

Chair Axthelm: Okay.

Ms. Lohman: I really like it. Last year when we reviewed it, it was kind of in a new format and we really did go over it. And I thought that when I saw the redlined version I thought we had a better document this year because of maybe what we did last year – just asking a lot of really hard questions. And maybe it seemed like we were – appeared thick on some of the questions where maybe staff thought it was an obvious answer, but when you're not, you know, immersed in the subject and you're asking from the outside, sometimes it takes going around the block multiple times before we get it. But I didn't feel that way when I reviewed it this time. It just seemed like it felt smoother, and so I didn't see anything that leaped off the page to me. It felt a little more complete, if you will.

Ms. Hughes: No comment.

Chair Axthelm: That's why I'm kind of a little worried, because it's all quiet! It's like, okay, this is going too fast!

Ms. Lohman: But I looked for some of the things that we saw last year, and because of maybe last year it was an education year for a lot of us, too. And I think that's where number 10 came from because we were – I think we felt criticized for being so thorough.

Ms. Candler: Yeah, I think you're right. I can't remember that but...

Chair Axthelm: Okay, so do we have a – if there's no other discussion –

Ms. Candler: Should we move on to the Recommendation itself?

Chair Axthelm: Yeah, okay.

Mr. Meenaghan: Ryan, so that I can make a motion, can you tell me the date on the last draft with the changes in it that I can refer to in a motion?

Mr. Walters: The code changes draft was from October 13th.

Mr. Meenaghan: Okay, perfect.

Ms. Candler: The question is: Do we want any discussion on the Recommendation itself? Right? Because we've done the Findings of Fact and we're moving on it?

Mr. Meenaghan: What we did last time is we made a motion, we seconded, then we had discussion to change anything in here. So if that's what you would like to do this time, I'm happy to – I can make it progress that way.

Chair Axthelm: Either way as long as – because if we don't have any issues with any of the questions in here we motion either way.

Mr. Meenaghan: So I will move then –

Chair Axthelm: You guys are the ones that make the motion.

Mr. Meenaghan: I move that we recommend acceptance to the Board of County Commissioners that they approve the Capital Facilities Plan as proposed in the Supplemental Staff Report of October 13th to include the impact fee code changes.

Ms. Candler: I'll second the motion.

Chair Axthelm: Okay, it's been seconded. So all those – no. Discussion on the motion. And it's basically the same thing as written here.

Ms. Mitchell: I'm fine with the way it is.

Ms. Candler: Me too.

(Several Commissioners make sounds of assent.)

Ms. Lohman: I didn't see anything.

Chair Axthelm: Nope, I didn't see anything that stands out.

Mr. Meenaghan: Yeah, I'm good with all of it.

Chair Axthelm: Okay. So we have a motion and it's been seconded.

Mr. Meenaghan: Are we saying that we're all good with the Findings of Fact that are here as well?

Chair Axthelm: We can go through those, if that makes it easy. I'm fine with everything.

Mr. Meenaghan: Good. I don't think we need to go through them all.

Chair Axthelm: If we're okay with them. I don't see anything that stands out – same thing. Okay. So call a vote. I'm not the one that does it – somebody else.

Ms. Mitchell: Call the vote, please.

Chair Axthelm: Okay. So the motion's been made and it's been seconded, so all those in favor of the motion or the recommendation that the Planning Commission recommends the Board of

County Commissioners approve the proposal with the following changes: Incorporate the impact fee code changes included in the Supplemental Staff Report (of) October 13, 2015. All those in favor, say “aye.”

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

Chair Axthelm: All those opposed?

(silence)

Chair Axthelm: The ayes have it. Motion carries unanimous. Okay, so with that, we can move on to the next item on the agenda, the Conservation and Development Incentives Program Work Session, continued.

Dale Pernula: I'll initiate it but I think we've got to get Kirk in here to cover it in more depth. He's the one who's handling the project. At the last Planning Commission meeting, we initiated a discussion of the Conservation and Development Incentives Program to prepare and answer questions that you would have prior to the November 2nd public hearing. We didn't get through the entire thing and you suggested that we put it on a later Planning Commission meeting – this one – if there was time. We thought we had another item on the agenda. It turned out that it wasn't ready so it appears as though we're going to have plenty of time to talk about it tonight. So you have some materials that were provided by Kirk and I'll have him here in just a second. We also had a number of questions that were asked by two different Planning Commission members. Some of those were transmitted to you earlier and we have some other questions that can be answered as well.

Kirk Johnson: These are responses to questions that Commissioner Lohman submitted on Friday and these'll go on the website as an addendum or addition to the memo that was already posted responding to questions from Commissioner Mitchell.

Ms. Lohman: I didn't expect you to have them this fast. I'm very impressed.

Mr. Johnson: We try to be responsive. So I did a presentation last – well, last time; I guess it wasn't last week – and we got into some initial questions. I didn't have anything further planned to present so we can do whatever you want to do.

Chair Axthelm: Well, you had a list of questions last time.

Ms. Mitchell: Mm-hmm – still do.

Chair Axthelm: You can continue that. Tammy?

Ms. Candler: I'm just reading over Annie's questions. Sorry_____.

Chair Axthelm: I'll give you a couple minutes here then and let you have a little extra time.

Ms. Mitchell: Yeah, I'd like to be able to read Annie's a little bit, too.

(silence while the Commissioners read the questions)

Mr. Johnson: Actually if you're done reading, I have – are you not done reading?

Ms. Mitchell: Not quite. Just another minute please.

Ms. Candler: I do have one question right now maybe, based on Annie's questions.

Chair Axthelm: Any of those questions that you have on those two lists, if you have anything that you want to see discussed a little further. So we'll go ahead and start. Tammy's going to start on this side.

Ms. Candler: I have a question about this newest document you handed out to us that – basically Commissioner Lohman's questions. On number 2, the pricing? I'm looking at that correlated to the 14.22.020, it looks like. Is it the intention that the County is going – it says "When the County used revenues from the sale of developed credits to purchase and extinguish development rights..." Is there a requirement somewhere – if there is I didn't see it – that those monies all go to that purpose, or where is that addressed?

Mr. Johnson: I believe there is language in the code that says that those funds must be used for the purchase of development rights. I haven't read the code document in a while so I can't tell you exactly where that is.

Ms. Candler: Okay. I'm going to keep looking at that, if we want to move on for now.

Ms. Mitchell: I've got several questions, but the first one – and then we can go down the line and come back, if you'd like. The biggest question I have right now –

Mr. Johnson: Ryan says 100(3).

Ms. Candler: Thank you. Thank you, Ryan. That answers my question. Go ahead.

Ms. Mitchell: Okay. Thank you. Pertaining to the questions that Commissioner Lohman asked, one of the things that jumps at me is under number 7. The staff response is: "Based on recent conversations with the City representatives..." That's really a key question for me. I'd like to know today what each of the Cities' responses are to what is being proposed now, because what was discussed last year before with the TDRs is inherently different than it is now. So what do the different Cities say specifically now – each of them?

Mr. Johnson: So my understanding is that some of the City folks will be coming to your hearing and will tell you what they say. I'm a little uncomfortable saying – you know, trying to say exactly what the Cities are saying because I don't speak for the Cities.

Ms. Mitchell: But you do have a sense of yay or nay or questionable or whatever.

Mr. Johnson: Yeah. Anacortes is looking at implementing a program and they are comfortable with the proposed change that we have here that says that application of the program to municipal urban growth areas would be by agreement between the County and the City. They're fine with that.

We talked with Sedro-Woolley and we talked about that. I think generally that the Cities that we have talked to have said that the one code reference where it looked like it was a requirement for the County to approve a UGA expansion proposal for the City to agree to implement

basically the CDI Program within its city limits, they were uncomfortable with that just because it wasn't a cooperative – didn't suggest a cooperative arrangement. The policies do suggest a cooperative arrangement and we're interested in clarifying the one word "will" – changing that to "may" just to be very clear that that's where Cities and the County both agree that the program would apply to the urban growth area – that that would be the case.

Ms. Mitchell: Okay, so if I understand correctly at this point, Anacortes is basically saying yeah – yay for the language that you're proposing right now. What about Mount Vernon?

Mr. Johnson: I haven't talked to Mount Vernon directly. Mount Vernon – I mean, this kind of goes back to a comment that Ellen Bynum made: "Have we talked to the Cities?" Each of the Cities was invited to sit on the Advisory Committee that we worked with for two years. Three Cities were participants in that project directly. They were Mount Vernon, Burlington, and La Conner, each through their Planning Directors. Mount Vernon has said that it is really focused on commercial development and doesn't want to take on additional residential development than what it's been allocated, and we had an annexation issue with them where they – I mean, they basically fought it tooth and nail. So Mount Vernon – at least the previous Planning Director – said, We're not interested in participating with the County at this point.

Ms. Mitchell: And that's their stance, as you understand it, for right now?

Ms. Johnson: I really don't know. I mean, I've discussed the proposal as it's developed with the different City Planning Directors probably four or five times through the planners group that gets together on a monthly basis and talks issues over. Sometimes it's hard to get people's specific attention until there's a specific proposal that's out for public review and comment, so that's where we are now. Burlington has had a program. They have both a TDR program and what they call the Agricultural Heritage Density Credit Program on the books, both for a number of years. The Credit Program has experienced some transactions. I think I put in the comments here that an apartment project was approved in the spring with the purchase of 20 or 22 credits, which generated about, I think, \$44,000 that will go or has gone to the Farmland Legacy Program to purchase development rights around – from Ag-NRL – around the city limits. Significant expansion of that was in an earlier draft – or potential expansion of that – through expanding the area where credits could be purchased was in an earlier draft of the City's draft environmental impact statement. But my understanding now is that – and maybe it's with the current City Planning Director looking at retirement – that they're reevaluating the scope of the program. It's in the early stages of the process and we'll see where that goes, and there may be comments from the City of Burlington directly at your public hearing.

Ms. Mitchell: Okay, so but that's what *they're* doing, but what do they say about the CDI Program as it's proposed today?

Mr. Johnson: They were also not comfortable with the code language that said that a UGA expansion wouldn't be approved unless there was an interlocal agreement between the County and the City. We've stated to them and here that that was a drafting error. It's not consistent with the policies, and the policies represent the intent of the program that where the City is in agreement with the County and they both enter into an interlocal agreement, then that would be the case, or whatever they agreed to through the interlocal agreement would be the case.

Ms. Mitchell: Okay. So just to clarify, because that was a whole lot of information, the sense I have from what you said at this point is that Anacortes is showing some interest but the other three big Cities are not.

Mr. Johnson: La Conner has been very interested but they have minimal capacity for accepting new development, so I wouldn't say they're not interested but they're not actively participating at this point.

Ms. Mitchell: So timing is not good.

Mr. Johnson: Yeah. I mean, basically the idea here is – well, one of the Commissioners in particular has said, You know, I want a system where if we grant upzones in the rural area we have a way to generate some revenue from that transaction that we can use to conserve natural resource lands, because right now we're using public tax dollars to purchase development rights from Ag-NRL lands and then we're turning around through Comp Plan amendments or other actions and granting additional development potential in the rural area, and there should be a way to kind of balance that out. And we have moved forward – I mean, the County Commissioners are interested in looking at how this can apply in the county, and so it can apply to rural upzones and we've looked at some of these other options – the infill on LAMIRDs and the CaRDs, and those ideas in concept form were discussed with them. I think the County Commissioners don't want to – I mean, they are the Commissioners for the county and they're interested in knowing how can this program apply in the county. They were interested – very interested – in potential application to urban growth area expansion, so that's how – in part – how we came to those policies in the proposal. And so the idea here is to establish a framework, have it apply to those things in the county that it can apply to – and that could include new or expansions of county – so non-municipal – urban growth areas. And then if there are Cities either now or five years from now or ten years from now or 15 years from now who are interested in joining into the program, there is something to join to, rather than a City saying, Wow, we'd really – like Burlington, at least five years ago or so when the City Council adopted the Density Credit Program – we'd really like to find a way to conserve resource lands immediately surrounding our limits but the County doesn't have anything to do that. Here would be something that they could partner with the County on.

Ms. Mitchell: Okay. Well, I've got one piece and then I'll finish up so you guys can follow for whatever you need. For my thinking – and I imagine the others might be helpful, too – to me it still feels like it's a critical piece is missing for us to be able to weigh and sift and understand for us to make recommendations, and that's for being able to see in writing or hear on videotape or something for what each of the City representatives are saying for where they may go, because it sounds like this is such a big deal for receiving areas and participation for this actually to work. For me that is a huge piece that's still missing for clarification, and I think we'll need that.

Mr. Johnson: Well, I can put a message out to the various Planning Directors and say our Planning Commission would really like to hear what you're thinking about this program. I can't make them respond to that.

Ms. Mitchell: No, I understand that. Thank you.

Chair Axthelm: Kevin?

Mr. Meenaghan: One of the comments that Roger had was about a consultant being part of the process. Did we use a consultant as we developed this in the last couple years?

Mr. Johnson: Yeah, we've worked with two consultants. One is Forterra.

Mr. Meenaghan: Oh, great.

Mr. Johnson: They, until about two years ago, were known as the Cascade Land Conservancy. And the other is Heartland. They are – they specialize in kind of real estate economics, and they did the market analysis. There's absolutely no proposal or suggestion that either of the consultants or any consultants would run the program. I don't know where that idea has come from. It's not a part of the proposal.

Mr. Meenaghan: Okay. When you mentioned those two names I went, Oh, yeah, that's right. I remember that. I think there's – you know, they're getting a lot of questions from us about this because, frankly, I think we're fearful of it. I think we have a lot of fear that if we don't do a lot of homework and answer a lot of questions and get lots of input that the second and third order effects of this that we're not realizing right now – you know, we need to do our best to protect them, and so we're trying to get past that fear part of this. And so to Ellen's comment about the pilot program, I started going, Huh, I'm kind of intrigued by that. So I know I'm kind of putting you on the spot with that, but do you have any gut feel on how we might be able to do something like that or whether there, you know, there would be any thought from the Commissioners to do something like that?

Mr. Johnson: I guess I'd say what I said in the response is that's an idea that we haven't actively considered but the Planning Commission would be welcome to recommend that. I have a hard time putting words or thoughts in the Commissioners' minds. You know, if they think it's a good idea they might go with it, and if they don't they won't.

Mr. Meenaghan: Okay, that's fair.

Ms. Del Vecchio: All righty. So I think I actually got most of my questions answered from talking with Kirk directly. I do – actually one that I did not bring up that I'm still a little uneasy about is the 7- to 10-acre – just because it still wasn't clear to me after our meeting last – or at the last hearing what – where that really came from or the basis, and it seemed like maybe we just start at ten, but I just don't know enough about it. So that's the one thing that I just have a little bit of a hesitation over. I was thinking as far kind of in the lines of the pilot program. I don't know if it – regardless of whether it's called a pilot program or not, it seems like a formal monitoring – you know, not just saying, Okay, yeah, we're going to monitor, but really thinking through, All right, how do we – if we roll this program out – how do we ensure that it is actually working the way that we want it to? And just have a check-in system so if nobody's using the program, we can look in and see, all right, why is that? Is it because the Cities aren't working with us? Is it because the zoning regulations – you know, our zoning isn't really compatible with it? Just to see why people aren't using it, or if it's not having the intended effects again trying to figure out why that is. But I think a lot of those questions aren't going to – we aren't going to have answers to those unless we actually roll it out and see what kind of a response there is.

So anyway, I guess I'm just chiming in that yes, whether it's a pilot program or not, some kind of formal monitoring would be helpful. And I don't know if that requires an actual committee or just a regular check-in so it gets back on somebody's agenda every once in a while. But that was my main thought and I think it's – I don't see the harm in rolling the program out as it is. It seems like there's a lot of potential benefit for – especially for properties that don't qualify for the Legacy Program, which I believe is a good chunk of District 3. But I would want to see some check-ins, some checks in place.

Ms. Lohman: Well, when I wrote that question I didn't know that Ellen was going to mention it in public remarks just like boom-boom. But the reason why I thought about it was I'm immersed in agriculture and the U.S.D.A. is always doing pilot programs all over the place, so I'm not unfamiliar with them. So you have, a bit, basically templates all around where they use a pilot program not to say no necessarily, but maybe to test it out because I think a lot of us are having trouble with the administration side of the program more than we are having angst over the willing seller/willing buyer scenarios. It's how-are-you-going-to-run-the-front-office part that is giving us a problem. And then a lot of the unintended stuff that maybe it looks smooth on paper but when you put the boots on and go walk it it isn't going to work or it's going to change the dynamic of an area too much. You know, those kind of things. Well, if you do it on a full meal deal it's pretty hard to kind of pull your horns back in. And so I've been thinking about this a lot, on maybe, Can we scale it down to have a meaningful pilot? Because you can't – you don't want to do it to the point where the pilot doesn't really test out all the things that you really need to test. And that was part of it. And I haven't even thought of all the ins and outs on how you would scope – you know, write a pilot program. I don't – you know, how to scale it down to be a meaningful pilot, is what I'm saying.

But I do have another question and that had to do with – I didn't understand what Matt was talking about when he thought the program could work for a CaRD that just wasn't quite big enough to do a full-blown CaRD. And I – maybe I'm – maybe our thoughts were passing each other. So can you explain what I'm not understanding?

Mr. Johnson: Yeah, I don't know if it would help to put the graphics back up from two weeks ago, but it could be – so if you're ten acres in Rural Reserve then you can put one residence on that – it looks like Ryan's going to go put those up – or you have the option of doing a CaRD, which is two 1-acre lots clustered near the road. So, I mean, Matt didn't tell me, Well, we had this – you know, I was working on this one CaRD and we had 9.8 acres and.... What he did say is, I would have been happy to pay – buy a development credit – to be able to put that second lot on, because we're doing the infrastructure, providing the services, and it just would have made sense from his perspective to do the two 1-acre lots clustered rather than – and then to help to retire a residential lot from a willing seller. He specifically mentioned forestland, you know, where you might have – he specifically said – a long, gravel road going up to the house, and you could have a 1-, 2-, 3-acre parcel that had been developed. And so in his mind it would be a fair tradeoff where you have the more concentrated cluster development in one place and you're helping to retire a development right from – I mean, our resource lands are truly resource lands. If you look in the Comprehensive Plan and the code, it says the primary purpose is for long-term commercial management of forestry or agriculture. And they, of course, allow a residence on them, you know, which could be the person who's doing the resource management or it could be somebody who just chooses to live on a forested parcel or an ag parcel.

But, yeah, we didn't talk together about whether it was 9.8 or 9.5 or 9.1. I mean, we sat around as a staff and said, What would be the minimum you would absolutely want to contemplate this on? And, I think, you know, we said, Well, let's propose 7 and see where the discussion goes. So, you know, it could be a 9-acre threshold. It could be – and then your idea about, Well, shouldn't the same thing apply to a 4½-acre parcel that's a part of a 10 that would normally get a density bonus through CaRD, but their – you know, whatever that margin is – if it's 10% or 5% there short, shouldn't that also be allowed? And I think that's a good suggestion that bears looking into and the Planning Commission could certainly make that recommendation.

I think what you were saying in your comments was, Well, if they're only basically buying up by ½ an acre, then why do they have to buy a full development credit? Can't they buy, you know, 1/20th of a development credit? And basically the credit price on the fee schedule, which is where somebody went to the County to purchase the credit, is based on the estimated value of that 1-acre lot in Rural Reserve clustered adjacent to the road. So, you know, you could say, well, the fee would be \$1000 but that might be significantly undervaluing. And the 14,500 is an estimate of half of the actual value to the landowner or to the developer. I mean, that's how you try to maintain an incentive is that it's not – you know, it's not the full cost to the person who's looking to do the development. So that's about the best I can tell you.

Ms. Lohman: Well, it almost kind of makes you think, when you hear it out loud, in a way you're almost going to slide into actually allowing more than you really want. You want to allow a little bit more but keep it boxed in a little bit. Well, maybe this is why a pilot is a good idea because maybe rather than trying to address some of those equity issues we're really not. We're just kind of making it go like a mold, you know, how it kind of can grow. Slowly and before you know it it's, Oh, darn, now we're at Rural Intermediate when we're supposed to be Rural Reserve kind of density just because it just kind of flows out by adding just a little bit more if you can buy it.

Mr. Johnson: I don't know. I think if you set the limit at 9½ then I'm not sure. Then you're –

Ms. Lohman: You're always going to have somebody that's a little bit short, too, so –

Mr. Johnson: Yeah, no, if you set it at 9 then there's going to be somebody who's at 8.77 and they're, like, Well, why can't I participate and – you know. So if you're going to go down this path at all, a decision has to be made about a threshold.

Ms. Del Vecchio: Can I build on that?

Mr. Johnson: Sure.

Ms. Del Vecchio: Maybe throw on a suggestion? Because my concern, just from a – if that's the rationale – and now that you mention it, I do remember that from last time – sorry – then it seems like the same rationale should be applied at each increment. That, you know, what about the – sort of what we were saying is, What about the person who is just shy of 20 acres or just shy of 40 acres? So if that's the reasoning behind it then maybe it's, you know, plus or minus half-an-acre for any of the increments, and then it's all – or we don't include land that's been taken away for easements or, you know, excepting the easements, property which I can't imagine taking up the 3 acres out of a 10-acre parcel of land. But anyway, just some way so that it's consistent for each of the increments rather than seeming to favor folks that are just below 10 acres. That would make me a lot more comfortable with it.

Mr. Johnson: Yeah, that's another way to do it. What this doesn't do and the Department doesn't think it should do, is to say – and maybe I said this last time – if you have 70 acres of Rural Reserve – and so you would have seven standard development rights, so one per each 10 – this doesn't mean that you can now say, Well, I have ten 7-acre lots and now I get ten development rights or 14 CaRD lots. It's basically a one-time whatever that increment is of a landowner's assembly of land that's a little bit short and, sure, you could do it plus or minus a half-acre. It could be used in that one instance. So in a way, you know, it's intended to be very targeted and focused and one time. And, again, the 7 acres was just – was a starting point for consideration.

Chair Axthelm: Annie? ____?

Ms. Hughes: You're done, Annie?

Ms. Lohman: Yeah.

Ms. Hughes: Can we talk receiving areas a little bit?

Mr. Johnson: Sure.

Ms. Hughes: What would you like to share with that? Is there a definition we can come up with with receiving areas? How's this going to be determined?

Mr. Johnson: Well, so under the proposal they're not called receiving areas. They're called Development Priority Areas. The reason – I mean, it's kind of funny because Ellen Bynum was one of the people who said, You need to find a new name for this. And so we really tried to find a name that explained what it was – a conservation and development incentives program. I mean, the fiction of a transfer of development rights program is that you're actually transferring a specific development right. Maybe in certain instances where a development right from your resource land is worth exactly the same as a development right in your receiving area, then I guess you can actually transfer that one development right. But we find in a lot of instances – I mean, if you were talking about a city receiving area, an additional unit of development might be worth \$10,000 and an Ag-NRL – development right from Ag-NRL might be worth \$100,000. And so you're not going to have any market transactions unless there's an exchange rate. So essentially if somebody's using this program – and maybe I've gotten a little lost on the question – and purchasing a development right from someone in a Conservation Priority Area, which in TDR language is a sending area, they are paying to retire that development right – for that landowner and the County to put a permanent conservation easement on it, just like with the Farmland Legacy Program. And then what they're receiving in return is a number of development credits that they can use in the area where they want to – in the Development Priority Area. So the certain – Ryan, I thought you were going to put the list of Priority Areas up on – oh, I guess – is that the CaRD? Okay, it's kind of a strain on my eyes. So those places where development credits may be used to increase the level of development over what would otherwise be allowed. So basically it's a pretty limited number of places. It's this – we call it “small lot CaRD” situation; rural infill within Rural Intermediate and Rural Village, again crafted in a pretty restrictive manner; a Comprehensive Plan map amendment that could include an urban growth area expansion – and the way that's written that could be either a County urban growth area expansion or a municipal, but the municipal would be subject to the City agreeing that that should apply to their UGA – that increases the maximum allowable number of residential lots or dwellings. So if you have a Comp Plan amendment that goes from – as we did a couple years ago – from Rural Reserve to Rural Intermediate and it was 10 acres, they had one development right in Rural Reserve and in Rural Intermediate they had four standard development rights, and so they could use those additional three – you know, the difference between the old development potential and the new development potential – with the purchase of development credits.

And then the policies in the code also say that if a City wants to partner with the County that it can create Development Priority Areas within its city limits and it can establish what the incentives are and would probably do its own research – market research – on the pricing of those credits or pricing for the TDR exchange rate, the private market transaction exchange rate. So that's kind of an overview. Did that get at some of your questions?

Ms. Hughes: So just to clarify for me, all of the Development Priority Areas would be put into a map amendment? It would be – just go through a process?

Mr. Johnson: They would all go through a process. The Comprehensive Plan map amendment – the proposal – would come before the Planning Commission and would go out for public review and comment just like they currently do.

Mr. Walters: Kirk?

Mr. Johnson: Yeah?

Mr. Walters: If I could interrupt for a second – I think I have a different understanding of your question than Kirk does. The Development Priority Areas are designated in the code proposal, so they are an application for a CaRD development, an application for a rural infill development, or the Comp Plan map or UGA expansion. That doesn't mean they are mapped because they aren't mapped. A CaRD could happen anywhere CaRDs are already allowed. But there also is no discretionary process where the Administrative Official decides where they go. They are specified in the code. Does that help clarify?

Ms. Lohman: Well, you wouldn't be changing the underlying zoning, so what would be then that amendment that you would do? You wouldn't, would you? Is that what –

Mr. Walters: Okay, so if you are eligible for a CaRD and you are applying for a CaRD with somewhat less than the required acreage, then you would have to use a development credit to achieve the development potential you were trying to do. We call that a Development Priority Area. Same with the rural infill requirement – if you're trying to accomplish something with slightly less acreage than you're supposed to have, we call that a Development Priority Area. We require you to purchase a development credit in order to make that happen. Anytime you do a rezone – rezones are possible now. Rezones are legislative. Rezones are discretionary to some extent. Those would get designated as Development Priority Areas at the time that the rezone occurs.

Now to expand on that a little bit more, the reasons these areas are not called receiving areas, and the reason the program isn't called TDR is because it's not just TDR. It's a combination of a TDR and a PDR program. PDR is purchase of development rights; TDR is transfer of development rights. A lot of the mechanisms of those programs are the same and there are just a couple of differences, so we combined them into one program and did away with the distinction that is mostly irrelevant. The only distinction between the two is where you get the development credit. And if you look at this slide – well, the slide that I had up before – there are only two options for where you get the development credit: You buy it from the County or you find an extinguished – a development right someplace else. So since that is the only distinction between the two programs, we didn't write two chapters, two sections of code, one for each program. We wrote one and just addressed the distinction between the two. "Receiving areas" is a TDR term. We're using one term for both programs – Development Priority – which also, at least in my view, emphasizes what that area is doing: getting more development. And then "sending areas," we don't use that term because it's more than just a TDR program. Instead we use the term "Conservation Priority Areas." Why? Because it emphasizes what that area is doing: getting more conservation.

Does that help at all?

Mr. Meenaghan: That was very helpful.

Chair Axthelm: So along that note – are you done? Are you finished?

Ms. Hughes: No, I was just going to ask Kirk if he had anything to add to it.

Mr. Johnson: No. How could I improve on Ryan?

(laughter)

Ms. Hughes: Well, in case you were on a different tangent that you think needs to be clarified.

Mr. Johnson: No, I think – that's – yeah, he's done a good job.

Mr. Walters: I was just playing off some of the public comments we heard earlier and it sounded like there was some kind of discretionary process for designating the receiving area/the Development Priority Area, but I want to make clear there isn't, that that is specified in the code.

Chair Axthelm: So with a zoning amendment, or you want to change some zoning –

Mr. Walters: A rezone.

Chair Axthelm: A rezone or if the County decides they want to change a certain area or encourage growth in a certain area, they change the zoning through a process of voting and hearings and such. Would the overlay follow that same procedure? So wherever they want these areas to have higher densities?

Mr. Walters: Right. As the code is written, when the rezone happens it gets that designation as a Development Priority Area.

Chair Axthelm: Okay, so you have a large area that you want to have that Development Priority go to – a sending area? Receiving area? I got the two mixed up.

Mr. Walters: Development Priority Area.

Chair Axthelm: Development Priority Area. The Development Priority Area, in order to get called the Development Priority Area does it go through – like in the county, specifically – does it go through a rezone to get that Development Priority Area?

Mr. Walters: Yes. Basically it harmonizes the concept of rezone and Development Priority Area. If you are getting a rezone for the purpose of residential development, you are getting a Development Priority Area. It would be a one-to-one relationship.

Chair Axthelm: Yep, but it seems like that you've got this large area that you are – a designated area that you want to have that – to be a Development Priority Area, so it goes through the hearings, it's already designated Development Priority Area, right? So you –

Mr. Walters: Yes. If it goes through the hearings to be rezoned for more development, then it would be a Development Priority Area.

Chair Axthelm: But you're talking rezone on a parcel, a designated parcel.

Mr. Walters: Yes.

Chair Axthelm: What I'm talking about is when the County does it and does this overlay and says, I want this area to be the Development Priority Area, those parcels don't have a rezone until the landowner wants it? Is that what you're saying?

Mr. Walters: It may not be _____.

Mr. Johnson: If I understand the question, I think the only place where that would be contemplated would be like if the County had a non-municipal urban growth area that had residential development, which it doesn't currently. And let's say the capacity was being used up and there was a need to expand that area to accommodate new growth over the next ten years or whatever. I think that would be the only circumstance where the County might look at a larger area and identify that as a Development Priority Area. I just don't see it going out and picking a spot in rural land and saying, This is now a Development Priority Area.

I guess the other place where that could happen is if – and it would probably come from a community planning process, not directly from the County but like the Alger Subarea Plan. I think the Alger Rural Village was expanded by about three or four parcels along a road that met the criteria for logical outer boundaries that's required to be met for Limited Areas of More Intensive Rural Development. But typically it's going to be individual landowners who are requesting a Comp Plan amendment or wanting to do an infill development or the CaRD. Those two instances wouldn't require a Comprehensive Plan amendment, but they would require a land division process.

Mr. Walters: So there are no Development Priority Areas other than this list that's in the code. If you wanted to add more of them, you would add them to the list which would mean a legislative process to amend the code, or using the elements of the list. For instance, one of the elements of the list is a rezone so you could accomplish the rezone and you would have a Development Priority Area. But there's no creation of any kind of Development Priority Area overlay outside of this list of these four things.

Ms. Lohman: Mr. Chairman?

Chair Axthelm: Yeah?

Ms. Lohman: How do you then – maybe I'm a little thick here – how do you avoid creating islands then?

Mr. Walters: Islands of?

Ms. Lohman: Zoning islands.

Mr. Walters: Okay, so the rezones that currently occur are the only types of rezones that would occur and become Development Priority Areas now. So we would not be enabling you to do a rezone any more easily than you can today. The rezones have to be consistent with the designation criteria. They are legislative processes – Comp Plan amendments, map amendments. So that doesn't happen any easier than it did before under this proposal. It's a constraint on that. It's not an increase in the ease of doing that. And it all sort of boils down to

what Kirk said before – that the Commissioners – County Commissioners – apparently don't want to be buying development rights with taxpayer money through the Farmland Legacy Program on one hand and giving them away through rezones with the other.

Ms. Lohman: Yes, but what you're not saying is on the Farmland Legacy Program those rights are *extinguished*. They're not – there isn't a right floating anywhere. It's an extinguishment program.

Mr. Walters: Yes. That's a useful distinction; however, the balancing that Commissioner Dahlstedt has talked about still makes sense. You're buying development rights with this hand and giving them away with another.

Ms. Lohman: I don't think you can make that leap. I would not make that leap.

Mr. Walters: It's not our leap. It's –

Chair Axthelm: The reason I was saying it was with city planning you would plan your community and your city planners and your planning department plan out your community using what the community wants. So there would be areas that would be potential areas for growth. For instance, urban growth areas – okay? – where, in theory – I say "in theory" because I know it stands otherwise – is that urban growth areas would be the areas that the Cities would want to develop and the densities would increase in those areas as you go. So what seems odd to me is you're telling me that somebody goes in for a rezone and then they can get – even though it says, Okay, we're going to rezone it but we want additional onto that and we're going to pay additional to get more development rights on that property. I just – that creates an island. That creates an area where you have development beyond what was desired. And I think when you have zoning, zoning specifically, you specify a certain density of that land. And when you're taking that density and you're allowing them to increase that density at one particular property and another one may not decide to do that, I don't think that's good planning. It needs to be consistent and that, to me, breeds inconsistency.

Mr. Walters: I think the premise of the question there – that it's always consistent – is not correct. Not that it's not necessarily desirable, like maybe you would *desire* that, but that is very infrequently actually the result, including inside cities that do not have TDR programs or PDR programs or anything like that. They just don't set an absolute density. They set a maximum density.

Chair Axthelm: Yeah.

Mr. Walters: So you get development at four units per acre and you get development at six or eight units per acre. And no one's capturing the value between those. There's no disincentive or incentive to accomplish anything between those except what the developer thinks that he can achieve in terms of a sales price. But it's not a consistent density anyway.

Chair Axthelm: But there's still a range.

Mr. Walters: Oh, yes. There's a range.

Chair Axthelm: So when you're allowed four to six units per acre – whatever the range is – part of the reasoning for that range is because you have – a land may be a skinny piece of land or it may be a big, wide, square piece of land, and the density of that development depends on the

amount of roads that you have in there, the amount of open space that you have in it. And so that's affected by that so you have to have a range, because just having an absolute number doesn't work.

Mr. Walters: And your minimum lot size. Yes, but you're usually not setting the range, I guess is my point.

Chair Axthelm: Yeah.

Mr. Walters: A range is a result but they're usually just setting a maximum density. There's also a minimum lot size usually. But there is not homogenous development as a result. It's not the same density throughout the zones ____.

Ms. Del Vecchio: I feel like we're kind of talking past each other here, or maybe I'm totally missing the conversation. But I think we're saying that even with the development right there would still be a cap. So if you went through the amendment process then the zoning would – you'd have a certain amount that you could build up to with development rights and a certain amount that you could build up to without them. Is that – so there's still a cap as you go through the rezoning process. You're still setting a cap. It's not just once you get – if you had development rights you can do whatever you want over the –

Chair Axthelm: No, I know. That's not what I'm saying. Yeah. No, I wasn't saying that. I was just saying but it's still over the density that's desired.

Ms. Del Vecchio: But that's what's set during the rezoning process.

Mr. Johnson: Yeah. If it were over the density that was desired or were consistent with the Comprehensive Plan designation criteria, then the County would not grant the rezone and then you couldn't use development credits to go above the zoning of the property. So basically what we're saying is we have a process where a landowner can come in once per year and say, I would like to go from Rural Reserve to Rural Intermediate. And, you know, they pay their \$5,000, they go through the process, there's public comment, there's staff review, there's Planning Commission review. You know, the Department reviews it and says we feel/we recommend that it either does or does not meet the designation criteria. You do that and the Board ultimately makes a decision. So all this is saying is if you go through that process, if the county as a whole makes a decision that the newly sought zone is more appropriate than the old zone, then in order to access the additional development potential that's allowed through the new zone you purchase development credits to do that. So it's not saying you passed go or passed jail or whatever by buying development credits. That's not – it doesn't become a loophole to the process. The process is still the same. The criteria are still the same. And if that's granted, then you purchase the credits to access the additional density that the rezone allows.

Ms. Lohman: In a way you have an additional step.

Mr. Walters: Yes.

Mr. Johnson: Yeah, yeah.

Ms. Mitchell: I've got a question. I'm getting a little bit confused now. Maybe it's because I'm hearing too much but I would like some clarification between the _____. What it sounds like I was

hearing is that when you have an area that would be a receiving area it would have a range for what it could be zoned in to start with, right?

Mr. Walters: No.

Ms. Mitchell: No.

Mr. Walters: But keep going.

Ms. Mitchell: Okay. So let's assume that we've got areas that would be a receiving area and you're asking an urban area to take in more. So they have the ability to decide – whether the County would ever do that or anybody else anyway – to decide what they are going to zone that to be, and they would have a maximum range that they could be allowed by GMA anyway. Is that correct?

Mr. Walters: There's no maximum in an urban area by GMA.

Mr. Johnson: There's lots of maximums in rural areas under GMA and there's a minimum in urban areas that you have to be at least four units per acre to be urban, but there's no maximum within an urban area.

Mr. Walters: Also there aren't any receiving areas – Development Priority Areas – except for the ones on this list until you do a rezone. But when you do a rezone, you're zoning for a particular density.

Ms. Mitchell: But this is just county. This is not city.

Mr. Walters: Right. If a City chooses to do this, then whatever it is they want to do inside their city they would be able to do.

Ms. Mitchell: Okay. So that kind of leads what – that's part of what I needed to know. So this is just county, so let's do move to what the city would be. So we would be asking the City to also do receiving areas, right?

Mr. Walters: Development Priority Areas, but yes.

Ms. Mitchell: Thank you.

Mr. Walters: Yes. And they wouldn't have to. They don't *have* to participate in the program at all.

Ms. Mitchell: But if they did –

Mr. Walters: Yes.

Ms. Mitchell: If they did I still don't understand the logic or the request because they could always do their own zoning anyway, so they would have the ultimate decision on whether they do a lot of infill or not.

Mr. Walters: Yes.

Ms. Mitchell: And I just still cannot get past understanding why the heck they would say – artificially they would take some zoning down in one sense to upzone in another.

Mr. Walters: So I understand that that may be a difficult concept; however, I think it's important to note that Burlington has already done that, because Burlington has already said – and Kirk knows the numbers – that you get in a certain area of Burlington 14 units per acre – whatever it is – by right, and then if you do more than that per acre – and this is in some kind of multifamily development – then you have to pay for a development credit for each one that you do above that base-by-right level. And when you pay for that development credit, they send it to the County, which they have already done for the projects that have utilized this, and the County will buy up development rights through the Farmland Legacy Program – that's the mechanism we've been using right now – in a ring of farmland around Burlington. And they specified the area that they wanted the Farmland Legacy Program to buy up development rights because they want a ring of farmland around Burlington.

Ms. Mitchell: Right, but that was then and this is now. But this is a different program so wouldn't they have the autonomy to decide – whether it was Burlington, Sedro-Woolley or anybody else – anyway without messing with the County at all?

Mr. Walters: They would; however, Burlington didn't do that because Burlington doesn't have a program to buy development rights and most Cities don't. The only City that – well, no Cities do. Anacortes kind of has something like that but not really.

Ms. Mitchell: But – I think what I'm stumbling up to is – but they wouldn't need to anyway. They could do infill however they chose to anyway, couldn't they?

Mr. Walters: Oh, yeah.

Mr. Johnson: The reason it might make sense for a City to participate with the County in a TDR program or a CDI program is if they have an area outside of the city limits that they don't have land use jurisdiction over that they would like to see conservation on. And so there are – you know, I suppose they could sell development credits and give the revenues to a land trust and say – you know, have an agreement with the land trust – we would like you to conserve these areas. But they also could partner with the County, since the County has a land use jurisdiction, not only over the area outside of the city limits but also for the urban growth area. So a potential area where conservation could be achieved would be within an urban growth area in an area that the City wanted to conserve as open space as it grew. I mean, there are examples elsewhere where Cities, it is in their interest to partner with counties to do this, and there are plenty of other instances where they don't. And there are instances where Cities have incentive zoning programs and you can do more development if you provide affordable housing or you can do more development if you improve the streetscape or you can do more development like Mount Vernon and you're conserving ag land within the city limits. And then there are some Cities that have partnered with the County because they're – some have partnered with the County because their water comes from a forested watershed and they have no connection with that forested watershed, but the County has a program to purchase development rights from that watershed. So whether they choose to participate or not is really – depends on what the City's interests are, whether they're in conservation – and if the interests are in conservation whether it's within the city limits, immediately surrounding the city, or even somewhere farther away.

Ms. Mitchell: Let's put it this way. If I was working in the city I might have one mind, an attitude for what needed to be developed or not developed, and if I worked for the County or lived in the county there'd be a different one. So even when I read through the thing about the possibility for a City to be able to identify an area that they'd like to see conserved so that they could approach the County to do this, that gives me pause as well, so I'm thinking the shoe's on the other foot. Why would the County want the City coming in and telling them what to do or asking them what to do when it really isn't their purview? And so what I'm saying is they could play devil's advocate either way. And I have a problem a little bit with understanding how the ___ of that's going to work out or pan out because the Cities certainly have different needs than the County does. I'm bringing this up because I see where there's conflicts of interest or potential conflicts of interest – and then understanding why somebody would want to do that and then propose that.

Ms. Candler: Well, I kind of have a follow-up to that. I'm not sure if you're saying the same thing as I'm wondering or not. But it seems like I'm having a really hard time wrapping my mind around what this looks like and I think that part of that is because there seems to be some of these really predominant inconsistencies like, for example: Burlington. If they want this open space around their city – which I don't blame them; it's very nice – but isn't that the UGA? I mean, why wouldn't that be the UGA? And it's really hard for me to understand what this looks like because of those things.

Mr. Johnson: So the urban – well –

Ms. Candler: Do you see what I mean? Take Sedro-Woolley, for an example. Last time we talked about this Ryan mentioned that we could sort of force the Cities to participate in this program by using the UGA. But (a), we don't really want to do that probably because the UGA is like a long-term growth reserve sort of, in a way, or more long-term.

Mr. Johnson: No, it is. It is.

Ms. Candler: So I'm having a lot of these weird little inconsistencies, like this right here _____. This is not something that I would have thought of – this 9-acre parcel – as a Development Priority Area because it's almost a 10-acre parcel. So I think the problem that I'm having is that this concept is not even – I'm not getting like – I think I need – you know, people say sometimes, like, What do you got to do? Draw me a map? I think I literally need somebody to draw me a picture of this because I'm not – this is not what would have come to my mind as a receiving area or a Development Priority Area or whatever you want to call it when we started talking about that. Does that make sense?

Mr. Johnson: Yeah. I only wish Matt Mahaffie were still on the Planning Commission because that was where the idea originated and he probably could have explained it to you more clearly than I can.

Ms. Candler: But really what I think I'm just asking – and I think maybe other Commissioners would benefit too – is just sort of a picture of – I mean, as far as the Development Priority Areas – under (a) and (b) it seems like those are kind of non-quantities. A place that is subject to a CaRD right now under those statute numbers. We probably know what those are, don't we, Ryan? Or would we know those? And we would know what is subject to an application for rural infill. I think this other one about the rezoning in 2016, obviously future stuff, we maybe can't. But I feel like we would have a picture in general terms of what the County would approve for a

rezone, like kind of in general. Is there something being developed that would show what this looks like?

Ms. Mitchell: Like an inventory map or –

Mr. Johnson: Well, so the two infill situations are Rural Intermediate and Rural Village Residential. So those are existing. They're called limited areas of more intensive rural development. A lot of thought and effort has gone into designating them. The County, under the Growth Management Act and under its Comprehensive Plan, can do infill within those limited areas and that's what this proposes to allow, is infill within a limited area. So, I mean, we can look at those right now and say they're the areas that are purple or magenta on the Comp Plan map. I guess those are really the only two places where we can say those would allow some very limited infill through this program that we believe is consistent with the Growth Management Act and the Comprehensive Plan. And I think consistent – and I can be corrected – but I think consistent with some of the comments of some of the Planning Commission members, like the Rural Workshop on the Comp Plan. You know, some of these Rural Villages used to be really vibrant places and now they're not anymore. And maybe we need to have opportunities for more stuff going on within the Rural Villages because that's kind of – they are supposed to be the rural hubs. So those are the two where we can look at the map and say, These areas, yes. Now you would have to go through a process and if you're in the floodway or don't have water or – you're not going to get to yes and so you're not going to have the opportunity to purchase credits to put development where it shouldn't go. The Comp Plan map amendments – the rural rezones – those could happen anywhere. It's landowner-initiated so, no, we can't provide you a map of where that could happen.

Ms. Candler: But why would we want to do that? That's going to be that spotty development that Annie was talking about.

Mr. Johnson: Well, it has to go through the – it can happen right now without the purchase of credits.

Ms. Candler: Right. No, I understand that. That's true.

Mr. Johnson: So then you go back to Commissioner Dahlstedt who says we shouldn't purchase development rights with taxpayer funds from Ag-NRL on one hand and then grant additional development rights without some contribution to the conservation. I mean, when we consider those amendments here, I remember specifically we had people saying, Well, this will make development in the floodplain and in the ag land less likely to happen. Well, it doesn't really. It creates more development potential in the county. But if you're actually – if that transaction is helping to conserve land in the floodplain or the ag land, then it truly is doing that. There's a connection, there's a mechanism there. So I think you have to think of the rural upzones as something that is happening now, can happen. They don't happen very often and with this program there would be a contribution to conservation when those happen. Without this program they would happen, and the criteria are still the same. There would be no benefit, no extra points given to the rezone request because it would purchase development credits as something that is added on to an existing process.

And then with the urban growth areas, I only said that there might be an area within an urban growth area that the City wants to conserve as open space or resource land. That's the only reason why an urban growth area would be a Conservation Priority Area. It would be just a small portion of the urban growth area. Because you're right: Urban growth areas are the areas

where the cities are going to grow over the next 20 years. So I think what Ryan and I were saying is if there's an area, you know, outside of that where the County's interests and the City's interests coincide – and at least with Burlington over the last five years, the County's interests and the City's interests have coincided with the conservation of agricultural land – then there can be a partnership. And whether that partnership continues when Burlington amends their Comprehensive Plan for the next 20 years, I don't know. Maybe it won't.

Ms. Candler: The problem that I'm having is maybe something like this being applied to an area that has such huge parcels. It seems to me that that's the problem that I'm having as far as what this looks like in the entire county. I mean, the county's huge. If the cities aren't being the – I forget what we're calling it – Development Priority Area, I don't see where this goes in the county, or where it belongs, other than the Rural Villages. But other than that, you've got – now you've got neighbors who try to move out to a 10-acre parcel who are next to each other, and usually rural people aren't in favor of that. So I'm concerned that you're making a situation that's not desirable to anyone, city or rural, because rural people don't necessarily want to live right next to their neighbor and urban people don't necessarily mind. So it just seems like it's doing some weird stuff.

Mr. Walters: That situation where rural people are living right next to their neighbor is also a situation that occurs right now –

Ms. Candler: That's true, because of the CaRD.

Mr. Walters: – because the CaRD in Rural Reserve is available right now. So this proposal only changes that on the margins, you know. If you have to have ten acres, now it would be seven or eight or nine or whatever number you pick. Or maybe your recommendation is that we not include the Rural Reserve option for Development Priority Areas at all.

Ms. Candler: That might be a good recommendation.

Mr. Walters: I mean, that was Matt Mahaffie's recommendation. Maybe it's not yours. Also with respect to –

Mr. Johnson: I just thought, Wouldn't it be cool to take an idea that came from a Planning Commission member back to the Planning Commission?

Mr. Walters: Evidently not.

(laughter)

Ms. Lohman: But on that same idea, I'm having trouble with the Rural Reserve because you have it on both sides of the equation. And how is it okay when it's on one side and then you are trying to extinguish it on the other?

Ms. Mitchell: Exactly.

Ms. Lohman: And so when is it – because you can opt out of the open space designation at will. Yes, there's a penalty but that's a prerogative of yours.

Mr. Johnson: The tax designation?

Ms. Lohman: Right.

Mr. Johnson: Yeah.

Ms. Lohman: So –

Chair Axthelm: Two different definitions there – you’re talking about open space ___, not open space as in the Open Space Plan or as in – so two different designations.

Ms. Lohman: So what are you using?

Chair Axthelm: For definitions.

Ms. Lohman: What is your context then?

Mr. Johnson: Well, I was just trying to clarify that. I mean, there’s open space through a CaRD. There’s Open Space Taxation where you’re taxed at your current use rather than your highest and best use. I was just trying to clarify. I thought you were talking about the current open space current use tax program when you said that.

Ms. Lohman: No. I was talking about on the ground.

Mr. Johnson: So if you tell me where in the code –

Ms. Lohman: Because you can have Rural Reserve that is open space that maybe in the future they want to have a CaRD. And they’re allowed to do that. But yet in here they’re also the Priority Area – Conservation Priority Area – the same piece of ground. They get almost more options than maybe somebody else.

Mr. Walters: Yes, they’re eligible for both and you may want to recommend that they not be eligible for one or the other.

Ms. Lohman: And then it goes back to then how do you keep it from sprawling?

Chair Axthelm: Okay. Let’s pass it on down. We had lots of comments here. Let’s go down to Kevin. Hollie?

Mr. Meenaghan: I’ve asked mine for now.

Ms. Del Vecchio: I think I’m good for right now. I think I support what was just being discussed of not taking the Rural Reserve out of the ones – the Development Area – or looking at what that would look like. Yeah, you can keep going.

Mr. Meenaghan: Can I jump in?

Chair Axthelm: Yes.

Mr. Meenaghan: I’m going to go back to the pilot program, that test area kind of thing. If we were to actually put this into place, the full-blown program – whatever we were to come up with – and we realized that – I don’t (mean to) say “we.” I mean the Commissioners – we, the county, put this into – this system. If at some point down the road we realized that this was going astray,

how would the Commissioners stop it? Could they put a moratorium? Could they change the code again? They can put an immediate stop to it, right?

Mr. Walters: Yes.

Mr. Meenaghan: At some point.

Mr. Walters: Either of those.

Mr. Meenaghan: Yeah. Okay. Okay.

Mr. Walters: If you're talking about pilot program or limitations like that, there are two lists in this code proposal. There's the list of Development Priority Areas and the list of Conservation Priority Areas. If you're concerned about this program possibly enabling too much development, you could whittle down the list of Development Priority Areas. If you're concerned about this program creating too much conservation of resource land, you could whittle down the list of Conservation Priority Areas. Or you could leave those alone or do any combination of that and prescribe or recommend that the code prescribe that the program expire after a certain time period, which would mean it either would expire or the Board would direct it to come back to you to amend the code to remove the expiration date.

Mr. Johnson: Yeah, I mean just to throw out there, as this process has moved through, you know, there are some people who strongly want Ag-NRL to be eligible as a Conservation Priority Area. There are some people who really don't want it to be. There're some people who really would like to see it focus on farmlands in Rural Reserve and Rural Resource for which there really aren't – well, the Farmland Legacy Program – they aren't eligible for conservation through Farmland Legacy. There are other people, particularly small, kind of private forestland owners – not the medium- or large-sized companies, but just individual families that would really like to conserve their land for their heirs and for perpetuity, but they may not have the financial resources. So all of those. The Advisory Committee, the eight members who recommended moving forward, said, We think that the Conservation Priority Areas ought to be limited to within two miles of urban growth areas and state highways because we're not sure we care that much about conserving Secondary Forestland up above Marblemount. We're not sure it's really going to develop anyway. And so the Commissioners said, Let's not make it complicated. Let's just include all of the lands that the Committee suggested but not put the acreage limits on it. I've heard the Farmland Legacy Program – you know, they had kind of the same dynamics and they decided to keep it wide open when they started because it was hard to get people interested to participate when that was new. So there are lots of – there are lots of tweaks that – you know, you can think of a menu of Development Priority Areas and a menu of Conservation Priority Areas. You can order certain things off the menu and cross other things from the menu. It's kind of what you're here for.

Mr. Meenaghan: Okay. Thanks.

Chair Axthelm: Thank you. Amy? You don't have anything? Okay. Go ahead.

Mr. Greenwood: I want to hear the rest of the discussion. I guess my biggest – I'm going to try and frame this based upon what the Commissioners have stated and what their interest is – the County Commissioners – and I've heard enough discussion on this when it was developing. But I guess my biggest challenge is to look at: What is the role of government in this whole process and what are we trying to achieve when we identify parcel size as a limitation on whether a

development credit is purchasable or can contribute to the program. It kind of gives me a little conflict of – if we don't want development in certain areas and someone has a development right, I'd like to see them compensated for that. So whether it's one acre or 20 acres and it's in a place we don't want development, I think the sprawl effect is one of the things that we're trying to avoid. And so if – it seems like when we get into an opportunity to regulate somebody from being able to exercise development rights we seem satisfied with that, where we just take without compensation, whether it's a shoreline change or whether it's a zoning change – Oops, sorry! You lost your development right. So we're not concerned about that anymore. Or maybe it's forestland and you don't have fire access so we're not concerned about it because the risk isn't high of you developing it. But if you don't want them to develop there, maybe you should allow those development credits to be part of this program as well. I do like the volunteer program that has been going on to date where the community and the conservation-minded entities raise funds and then try and conserve lands or remove development rights from a piece of property with a willing seller. But if we think the County's role is to identify sending and receiving areas and we want to tap into – which is the struggle for me – tap into what we've I think considered a windfall, giving someone development credits in a place where we already want them to develop at a higher density, it's like selling something we don't really have, you know? Governments don't make money and governments don't own anything. They just have power, and if we're selling power and privilege then it starts to be a little confusing for me: What is the role of government in that?

So if the community as a whole, or enough of a consensus, is that the government's role is to regulate this transfer, then this is a way to establish that – some sort of banking system that the County controls. If we think it's right to sell rights and power, then this is, again, a way to do that. But I'm struggling with that a little bit. I like what's been developed so far, but I think it could be broadened to incorporate – if we're going to stretch out and buy and sell credits, I'd like it to incorporate the use of Conservation Priority Areas which would include acreages down to – without a limitation. So if we've got – like I say – if we've got somebody who's next to a shoreline and we don't want them developing there, that's a development credit that we should extinguish or expire, or it should be a high priority area, even though it doesn't contribute to a whole lot of conservation ground.

Also on page 6 of the draft dated 9/9/2015 you have under (g)(ii) – it said “The tract must not be subject to a current six-year moratorium on development applications pursuant to RCW 76.09.060.” Is that the same? Do you have that one? Okay, right here. No, I don't see it there now. So it's under – maybe I have the wrong version of the –

Mr. Walters: It's right here.

Mr. Greenwood: Oh, okay. I've got the older version. Under Conservation –

Mr. Walters: It's highlighted on your screen.

Mr. Greenwood: Oh, you got it? All right. All right. So what I'm looking for is this again demonstrates that because we don't think there's enough risk in something being developed quick enough, we've decided we're going to let it slide. But as soon as somebody goes to develop this property we're going to be upset with it. And it's a little bit – I would take kind of an extreme example here of you've got a Little Mountain and you've got a piece that's in timber production area. We're satisfied as long as nobody harvests in it, but as soon as somebody decides they want to manage it for timber, now we're upset. Well, they probably should have known that when it was zoned that way that the City should have decided, Let's put it to the

people and see if the people want to buy that land, or are we going to let it be managed for timber? So just because it has a moratorium on it, which that parcel will have – the one at Little Mountain. They could harvest it and they can plant it and they can say, We're not going to develop it for six years. Okay, six years later, do you still get what you want? You know, so I think there's enough interest that's – if it's in an area that we're concerned about development in, let's – even ones that have six-year moratorium on, I think we should include.

And then another example was under – in the same section, but under the number of development rights eligible for sale is equal to the number of development rights established by the lot certification process – and I think I mentioned that the lot under (b)(ii), “The lot from which it originates...entirely within a regulatory floodway.” Do you have that one? It's a little further down. Okay. So, again, it's because we've already taken that – someone, whether it's the state or the County, has taken away someone's development right potential so we've decided we're not going to compensate them because someone's already taken it away. And I would like for those people to be compensated. If we've got a development credit somewhere else, let's give it to those people.

Mr. Walters: So that –

Mr. Johnson: Well, I was going to say that came out of the TDR Advisory Committee and some programs will say any land that's in the zone that's identified as a conservation area or a sending area is eligible for sale. There was a realtor on the Advisory Committee and he said, You know, if you can't develop it you don't have squat and I don't think the County or anyone should be buying it. And the majority of the Committee agreed with that. I mean, basically the test was if you can develop it, you have something to sell. And if you can't develop it, it's really not a development right and so it shouldn't be eligible for sale. And that's where we came up with a test that is pretty friendly on that regard. I mean, it doesn't – you don't have to jump through all the hoops and hurdles that you would to actually develop your land to demonstrate that you have everything you need to develop. It just has to be an area that's not clearly precluded from the Comprehensive Plan and the development regulations that, you know, This isn't eligible. So that was a recommendation from the Advisory Committee that found its way into code here, and you could make a different recommendation if you wanted to. This particular member, though, said, you know, if you can't build it, you shouldn't be able to sell it.

Mr. Greenwood: So if you don't have a development right, you don't have a development right to sell.

Mr. Johnson: If you don't have one to build – that was basically the test – if you don't have one to build, you don't have one to sell.

Ms. Del Vecchio: Does that implicate at all the – and if we were to suggest purchasing development rights from such property be a limitation on paying more than fair market value?

Mr. Walters: I think it more addresses what it is you're buying. If there isn't a development right on the property, you could put a conservation easement on it because a conservation easement exists independent of zoning, but how would you value it? How would you – I mean you could get an appraisal for a piece of property without – with knowing that it has no development right. That appraisal would be different if it had a development right, obviously – right? – because then you could put a house on it. But since it has no development right, it would be very low value. You would put a conservation easement on it but you're not going to be building anything on it

anyway. So it complicates matters a little bit but maybe that's something that we could figure out. I understand the concept.

Mr. Greenwood: If it doesn't have a development right, I'm not interested in purchasing something that doesn't exist. That's true. But if it's in a – I don't want it to be just because it's in a floodway.

Ms. Lohman: But you can't develop if you are in a floodway now, can you?

Mr. Walters: That's – yeah, that's the key. You only have a development right because the code says you do and if it's in the floodway and the code says you can't develop in the floodway then you essentially don't have a development right. So there isn't –

Mr. Greenwood: But currently we're in the process of revising our Shoreline Management Program and there will be some folks who are going – maybe I'm making an assumption here that some folks' zoning is going to change and some folks are going to lose their development potential.

Mr. Walters: I don't think anyone will lose their development right through that process. It will change, you know, what it looks like, what the setbacks are – that kind of thing – but no one should lose their development right.

Mr. Greenwood: I think we had some graphical demonstrations from some landowners that showed some of our changes and how they would lose their development potential. And I think some of it had to do with setbacks. If we change some of those setbacks, some people were saying, I can't develop my property anymore.

Ms. Lohman: But it's not because they're in a floodway. It's not because of the way it's written in (ii).

Mr. Greenwood: Okay. Are we talking flood – okay. Maybe we need a – I need to refresh my memory on the difference between a floodplain and a floodway, and the floodway is that narrower zone along the Skagit River and it may or may not be within the 200-foot of the –

Mr. Walters: Right. Yeah, usually the shoreline zone, 200 feet from the ordinary high water mark, is quite a bit bigger than the floodway. The floodway is usually much narrower. The floodway is really where you don't want to be.

Mr. Greenwood: Yeah, I wouldn't think you'd want to be there either.

Mr. Walters: Yeah. And the floodway is generally a regulatory designation imposed by someone other than us.

Mr. Greenwood: Okay. I just want to be careful. When we change code and we lose, through our changes – regulatory changes – we deplete someone's lot, development potential, I'd like to see us compensating people for that.

Mr. Walters: Yes, I understand the concept there. I would say, though, that we, as a general matter are – with the exception, I think, of floodways – are not reducing anyone's development potential in any of these processes down to zero. In the '90s there was a lot of downzoning. People had five-acre – they had the ability to do one house per five acres. They lost that

because there was downzoning to one house per ten. But if they had already subdivided their lot and now it was five acres, they didn't lose their development right. We typically do not allow people – we do not through our regulatory and rezone processes reduce the development potential to zero. If you had a properly subdivided lot, you're still good. But the general rule is that we avoid that kind of thing through the subdivision process, which is why subdivision is so important to get that right so that you're not putting – you're not creating a lot where development would be impossible. We would not allow you to subdivide a piece of property so that there was one lot in the floodway expecting to put a house on there, and it didn't have any land outside the floodway.

Mr. Greenwood: Okay, here's an example, then, I can think of. One would be along – many shorelines are not necessarily along the Skagit River. They're also around lakes and waterways that have – exceed the flow threshold. But the other would be some lots have lost their development potential because of wells and the ability to actually dig a well – a new well – or even exercise a well that was put in after this recent court decision. So you've got people who have certified lots and they don't have the ability to develop because they've lost it due to the ability to tap into a well. So I guess that's a lot of people that potentially could be compensated in a way that would both promote conservation and also reward good people with ___.

Mr. Johnson: So that's not – I mean, really the only two limitations here where you might have a development right because you have ten acres of Rural Reserve but it's in the floodway where you can't use it. Really the only two limits in here are you're in the floodway or – this might be of interest to you – you're in Industrial Forest and you're outside of a fire district where you can't build a residence. So it doesn't say anything about water or well limitations or – because – I mean, that's not something – that's not a County rule that you can look in the Comp Plan and on the map and say that's precluded. So as this is currently drafted, if somebody in that situation wanted to sell a development right they would be eligible to do so. It would be totally their choice to do that or not, like with any of – any situation here of selling a development right and putting a conservation easement on property. It would be entirely –

Mr. Greenwood: Okay. I guess I just don't see the necessity of having the floodway language in there because they either have a development right or they don't have a development right on it. And if it isn't there, then you don't have anything to sell.

Mr. Walters: I think that does make a lot of sense when you consider the introduction to that sentence says it's established through the lot certification process, and the lot certification process is going to look at whether or not you're in the floodway.

Mr. Johnson: I don't believe it does.

Mr. Walters: It doesn't?

Mr. Johnson: I don't think so.

Mr. Walters: Oh, okay. Well, then that's why that's there.

Mr. Johnson: I don't think it looks at floodway and I don't think it looks at outside of a fire district.

Mr. Greenwood: So what you're saying is then a person could go through the lot certification process and be in the floodway or not have a fire – be in a fire district and they could actually say they have a certifiable lot.

Mr. Johnson: It's certified for moving through the development review process, and one of the first things that would probably be identified as you came in for a pre-application meeting was, Oh, well, you're in the floodway and state and federal law preclude development in the floodway, or, You're outside of a fire district and County Code precludes that. So while you're eligible to apply, you're not eligible to build.

Ms. Lohman: So your certificate is worthless then.

Mr. Walters: Well, it indicates you properly divided your lot.

Mr. Johnson: Yeah, yeah.

Mr. Walters: And there have been instances where people have gotten map amendments – floodway map amendments – because the river can move over time. So if you were in the floodway at one point and now you're not and you have a properly divided lot because you got a lot certification, or if you weren't in a fire district but you got them to expand the boundaries of the fire district and now you're in it, then you would have a development right. And you'd already have your lot cert – your lot cert is recorded on your title – so that you're good to go there, so you just need to qualify for those other criteria.

Mr. Greenwood: I guess then what I would suggest that we look at would be just making those areas that we're not interested in or don't – the priority areas. It doesn't go into the priority area if it's one of those that is outside the fire district and maybe it's in an area where you don't think conservation is that important, or high risk.

Ms. Lohman: But isn't that what that said?

Mr. Greenwood: Well, I think that's what the goal of the program is but I think that when we put it down in code then we make it to where it can never happen without change. If you're in a floodway, you're out of the program, whereas the boundaries of the priority areas can be driven by whoever's driving the program, right? Because they're not going to stay the same forever. They can expand or contract.

Mr. Walters: They're the same until it's amended through the legislative code amendment process.

Mr. Greenwood: I thought we hadn't identified the sending and receiving areas yet.

Mr. Johnson: Well, there's –

Mr. Walters: We have.

Ms. Lohman: Yeah.

Mr. Johnson: There's two steps for the Conservation Priority Areas. One is saying these are the zones that are eligible, and then there's another step. If you're a landowner in one of those zones then you can apply to participate, and then that's when you go through the lot certification

process to determine if – basically, I mean, it's to determine if you have a development right or development rights that are salable based on some minimal criteria, not the full critical areas, well access, et cetera. And if you do have a development right that you could actually build according to these certain criteria, then you can – you're eligible to sell it. So there's a two-step process.

Mr. Walters: The reason they're called "areas" and not "zones" is because they're not mapped. They're not points on a map. They're narrative descriptions.

Mr. Greenwood: Okay, so we've identified the sending and receiving areas based upon zoning only.

Mr. Walters: Right.

Mr. Greenwood: So anything that qualifies under that sending zone would qualify for the program.

Ms. Lohman: No.

Chair Axthelm: My turn.

Mr. Greenwood: No. Okay. Go ahead, clarify it for me.

Chair Axthelm: No, I'm not clarifying. It's my turn. My hesitation with the TDR – or not – okay, whatever the new name – my hesitation with the program is that I don't want it to be money-driven. I want it to be – I believe that people vote on something – they vote on zoning, they vote on the Comprehensive Plan – and that those items are important to people. I don't want the zoning – even though it may be only one additional lot or a small amount of density – I don't want that to circumvent what the people vote on. So if it's better for the community – however, on the other hand, some people, it's really hard to get them to change and there's areas that you want to see increased density, city-planning-wise, is a good area to put that. So like you're – or a good area to put that increased density. So you're saying Priority sending – Priority – I'm terrible at terminology – Priority –

Mr. Johnson: Development Priority Area.

Chair Axthelm: Development Priority Area and the Conservation Priority Area. If those areas are decided on as a whole and the community votes on it, I can understand the TDR – or this program that would allow for that increase in development because that's something that's desired. I just would rather – and my concern is is now you've put more money to it and so instead of it just being a thing that's desired, it's something that takes money to do. And I understand conservation needs the funds to purchase the land to conserve it, but, you know, I really wish people – if they want it, they would open their pockets and do it without having to go through this special program and get something from it. You know, if it's better for the community, then pay for it. You know, that's the big – and I hate to bring up the darn trails but, really, if people want the trails, then purchase them. Don't require people to change their property to have that. And the same situation: If we want development or we want an overlay area then let's get it through the proper process so that people vote on it and want it, not something that's pushed. And if you take, like, a transfer of development right and somebody can – you're a neighboring property and all of a sudden your neighbor can develop at a higher density than what his property's approved at, that's where the concern is. But it sounds like

there's a process you've got. It's not just automatic. You have to go through an approval process to get it.

Mr. Johnson: That's true, and what you said prior to that is how you feel and that's – you know – that's how you feel. So I don't have a technical response to that. But, yeah, there's none of these Development Priority Areas in the rural area are just you buy your credits and you can develop – there's a review and approval process for each of them.

Chair Axthelm: Yeah. In that, if there's a review and approval process, I can understand the Conservation Development Program working – is because then it's not just something you can do. And it seemed like before at the last few meetings that it was something you could do if you had more money, and that's why I'm so passionate about it because I don't think the government should be money-driven. I think it should be driven by vote given by the people and not by somebody that has money over somebody else. So I think that misconception has been helping me today to understand what you're asking for here.

Mr. Walters: The one other wrinkle there is that right now we are accomplishing conservation by extracting money from property taxpayers through the Farmland Legacy fund. So this would be in some ways preferable to that in that we wouldn't be requiring everyone to pay into it. Only those that were achieving some additional development potential would be paying into it. And by that I'm not suggesting any changes to the Farmland Legacy Program. I'm just saying that this theory is different from that one. Whereas under Farmland Legacy there's a mandatory tax that everybody in Skagit County pays. Under this program, it's not mandatory unless you want to do additional development.

Chair Axthelm: Yeah, but you wouldn't be able to do that unless it's in one of those priority areas in the first place.

Mr. Walters: Right. And you have control – you, the Planning Commission and Board of County Commissioners have control over where you want that to be allowed.

Chair Axthelm: Or the public does.

Mr. Walters: Right. You should be comfortable about what Development Priority Areas and what range of development within those areas is allowed. That's the thing that we asking you to figure out, is: Is this too much? Is that too much? And which Conservation Priority Area is, too. Do you want that area to be conserved or do you want other areas or more areas to be conserved?

Ms. Candler: Well, I thought your idea too is that, you know, if it's a – not your idea, but your discussion about the difference between purchasing it and a voluntary program. The County doesn't have any control over who volunteers to participate really, so if you want sort of an internal consistency on the larger parcels conserved it seems like purchasing would be a more cohesive way to do that. I mean you still have – you have to have, you know, sellers willing to sell, but it seems like you could kind of more plan out where this is going to actually be conserved.

Mr. Johnson: So if you look at the right place in the report, and I'm sort of valuing the – you know, writing a 100-page report that tries to delve into all this stuff in very great detail because I don't think people read 100-page reports anymore. But it talks about some of the differences between purchase of development rights programs and transfer of development rights

programs. And, yeah, purchase programs typically are more targeted and focused, and they're often going for the most likely to convert or the highest value lands and they're often paying a high price for those development rights. And a transfer program or a market-based program, you can't really, you know, evaluate each and every – well, some jurisdictions can; King County does. They screen properties to determine if they're eligible to participate in a much more rigorous screening than what we're proposing here. But basically, you know, you say, This zone is potentially eligible, and it could be the landowner up in Marblemount if you haven't put limits on it, or it could be someone somewhere else. And so what you tend to find is that the PDR programs are purchasing the highest value, the highest priority – you know, what the jurisdiction considers that to be. And the TDR program is coming in – I mean like the County has kind of decided – I don't think it's a federal funds thing – has decided that Ag-NRL lands are the most important of the ag lands. But you get plenty of people, from Kim Mower who is on the Advisory Committee, to Ellen Bynum to Andrea Xaver, who say, We really need to conserve those farmlands on Rural Reserve and Rural Resource. You know, those are great farm soils. They're better than most jurisdictions have as their prime soils and so this program could apply to those which are not eligible to be conserved through Farmland Legacy. So, you know, many people believe TDR and PDR can be complementary, and that's one of the reasons why, is that PDR programs are usually more targeted and focused, and TDR more you set the boundaries and then people who want to participate can participate.

Chair Axthelm: Kathy?

Ms. Mitchell: Yeah, I'd just like to clarify the request I had with Kirk earlier. I don't think Keith heard this part earlier. I appreciate your checking with the planning directors for other areas of the cities and that kind of thing. But I want to make sure that what I was asking for, we were on the same page. The example was when – I'll use Margaret Fleek, for example. She was with the TDR Committee for a couple years and she's the Planning Director – right? – for the City of Burlington, and she made her ideas and wishes very clear, which is great. But that not necessarily would mean that's what the powers-that-be, if they were to decide to do something, whether that's – the City Council has the decision-making? Is that right?

Mr. Johnson: Right. So the City Council adopted the code that put in place the Ag Heritage Density Credit Program. I think they did that five, six, seven years ago. So that's currently what's on the books in Burlington, as is a TDR program.

Ms. Mitchell: Right.

Mr. Johnson: Let me finish. So my understanding is now the Mayor has different views and so that will be put out for public review and comment through their Comprehensive Plan Update process, and it's discussed very briefly in their environmental impact process. So if that is to change, it will have to be changed by the City Council, who adopted it in the first place. They may choose to dismantle it now. That's kind of what the public process is about.

Ms. Mitchell: Well, sure. The question I just want for clarification: So that would apply to any of the cities, whether it be La Conner, Anacortes, Mount Vernon, Sedro-Woolley. All of them would have – they'd need both the city council and the mayors and that kind of thing. So what I'm just asking for for clarification is the kind of information that I would like to see and perhaps others might. While we were rehashing ___ things, when you contact the planners to understand what their intent is for the powers-that-be that would make the decision, rather than – for instance, if you were working for the County you wouldn't speak for the Board – correct? – unless they specifically told you.

Mr. Johnson: Right. So we've been in contact with planning directors. We've broadened that contact to city administrators where there are city administrators, and this request can go out to the city administrators. I mean, I suppose it could go out to the mayors as well, but the mayors don't set policy for cities. The city councils set policy. The mayors propose policy. The city councils set policies. And I don't think – I mean, I don't know when Burlington or any of the other cities are planning to make a decision on this so, I mean –

Ms. Mitchell: Sure, sure.

Mr. Johnson: – we can ask the ___ and structure and they can come back and phrase their response however they see fit, and we'll make sure it goes at least to the city administrators where cities have them.

Ms. Mitchell: Right, and the point being is whatever happens two years ago versus today, we don't know what's going to happen two years from now. I'm sure different areas can shift ideas on what they're looking for, and all we can monitor is what we have right now for our decision right now. So I think that's what – just to clarify – that's what I'd like to see. Thank you.

Mr. Walters: And in the future if they all wanted to participate now they could back out later and vice-versa.

Ms. Mitchell: But so we know what their intent is?

Mr. Walters: Yeah.

Mr. Greenwood: Yeah, I just see that it *is* clearly defined, the Conservation Priority Areas. I see that now and it's clearer to me. I also, in looking at the report – I appreciate you pointing us back to that, Kirk – in that if you look at the majority recommendation, I think you'll see that this is a pretty good attempt to reflect that recommendation. It doesn't match the minority report but I guess that comes out to what the charge is and what the desire is. If we as individuals or as a group decide we're in the minority, then one of those minority recommendations is not to do it now. But the Commissioners – the County Commissioners have said they want to go with the majority recommendation as far as moving ahead with a combination density credit and TDR program, and not have it be in conflict with Farmland Legacy. So if we achieve those goals, then I guess it comes down to, Do we refine what's been proposed here or do we just not agree with the recommendation of the Commissioners and the recommendation of the Advisory Committee that put it together?

Ms. Lohman: I don't think we're ready to make a decision.

Mr. Johnson: Well, you haven't even – you haven't held the public hearing yet so –

Ms. Lohman: No. My point is, Whoa, whoa, you're way premature!

Ms. Candler: But my thought on that would be, Why do we have to choose? Couldn't we make a recommendation based on what we think and also get into the weeds for people who don't agree with that recommendation?

Ms. Greenwood: Well, because it's already gone out for public notice and it's going to go before the Commissioners. Correct, or no?

Mr. Walters: Yes. If I understand where Commissioner Candler is going, yes, you could make a recommendation to not adopt the program. But in the past when you have done that you've just said, Don't do it! And then the Board usually does it anyway because they initiated the process that spent three years working on this. But they don't have any input from you on, if it is to go forward, what it would look like. So you're free to make a recommendation to *not* adopt the program, but I suggest that if you do that you then go on and say, But if you *do* then here is what we suggest you change to make it more palatable or improve it or whatever.

Mr. Greenwood: I just think we're on a tighter timeline than some of us might think we're on. ___ development. I mean, it's kind of the development stage, but it's like the last stages of development.

Ms. Lohman: I guess for me there's still so many unanswered questions that when I reviewed – I mean, I'm flipping back to a June meeting and the questions are: Okay, you've created basically an increased density out in a rural area. Well, you can't possibly ignore that you've affected the property owners and their tax status just by doing that. So while you made somebody pay for something, you've sure extracted it financially from their neighbor in a way, so there's a bit of a punishment for people that maybe don't participate in it. And we haven't had a discussion about that.

The other thing is, okay, now you've sort of eclectically increased the density willy-nilly all over in an uncontrolled way, if you will, so there is a certain infrastructure demand that has a cost that I'm questioning how in the world are you going to address that. And I'm an aggie and I'm feeling ultra-sensitized right now because we've been trying to get our crop into the barn and there's a heck of a lot of people out on the road for us rural people that live and work on the land trying to navigate all of that traffic that doesn't want to slow down behind a slow-moving vehicle, even a slow-moving vehicle going 50 miles an hour. And they don't like corn silage blowing off your truck and they don't like that you're going to make a left turn and you have to hold them up and wait. But so I'm almost in a way freaking out a little bit about the idea that you're going to add a density but you're not talking at *all* about infrastructure or the cost.

Mr. Pernula: I think you ought to back up just a little bit. I think one way we're going to capture it is if you're going to upzone something anyway from, like, Rural Reserve to Rural Intermediate, then we would capture that development right. It's not necessarily something that we have to approve. The only time where you would actually get a slight density increase is through the CaRD development that we were talking about. That may or may not remain in here. But even those, depending on how it's written, it's not in a large area and it's only where you have a residual amount that's a major portion of one additional development right anyway. So they're going to be few and probably far between, and very far few if you have that threshold bumped up to, like, 9 or 9½ acres for that additional lot. So I don't know that you're going to get that much additional development there. Where you're going to get into this program is where you're going to – where you were going to rezone it anyway.

Mr. Walters: And Kirk has asked for some analysis on the Rural Reserve side to figure out exactly how many lots that would be in the whole county.

Chair Axthelm: Well, and you would pick up money for infrastructures – the permit fees. So you've still got some fees there that would pick it up, so if you have additional density then you'd have additional fees for each lot, which would cover some of that infrastructure. Correct?

Mr. Walters: Depending on where we're talking about.

Chair Axthelm: Well.

Mr. Johnson: I mean, it gets very complicated and beyond my ability to comprehend, but if you're moving a development right from Rural Reserve land into a Rural Village I'm not sure that the overall impact on County revenues is going to be plus or minus. Now it might be – you know, there might be impacts on the immediately adjacent property owners in both ways, but – yeah, I mean, if you don't like the CaRD provision, you could say, Get rid of it. If you don't like the rural infill provision, you could say, Get rid of it – or recommend. You know, and it could be limited to the rural upzone, which happens anyway. Ryan mentioned and the Department is recommending against it, but there is a proposal out there to create a new urban growth area of 1200 acres. They've downsized the request to now 3500 residents. But if a program like this is on the books and if that does happen, then there's a way to get some conservation benefit. If a program like this is not on the books and that does happen, whether it's now or five years from now or ten years from now, there's not a way to get some conservation on the books. So, you know, think about – I guess that would be another instance where a non-municipal, a County urban growth area could play into this down the road.

Mr. Pernula: And we're free to answer any questions you have between now and the public hearing in a couple weeks.

Ms. Del Vecchio: So can we go over the timeline really quick, just so we know what – so we have public hearing in two weeks?

Mr. Pernula: Public hearing's on November 2nd, your next meeting.

Ms. Del Vecchio: On Monday, right?

Mr. Pernula: Yeah, that's a Monday, not a Tuesday. I keep forgetting that but it is Monday.

Chair Axthelm: Hold on. We could cover that in the Development Update. Or are you talking specifically for now –

Mr. Pernula: But we're just talking about the timeline for this project so I think that's fair. Then public comment will close on that Thursday, I believe, and then at your next meeting we will schedule it for deliberations and however long that takes. You can make your deliberations and then we'll take that to the Board.

Ms. Del Vecchio: Thank you.

Ms. Lohman: I will not be here on the November 2nd for sure.

Mr. Pernula: Okay.

Mr. Meenaghan: We might as well schedule two meetings for deliberations, you know – my gut feel on how we all feel about this. And I also suspect that our starting point should probably be this draft code, you know? Start with this, not a recommendation that we approve/disapprove of it – the program as a whole – but I think if we're going to start somewhere this is probably where we need to start.

Mr. Walters: Would it be helpful to make a bullet point summary of the draft code? You know, it's 12 pages or something like that, but we could take whatever the number of pages is and reduce it to two pages so you could see the concepts on a single page and go through the concepts, rather than go through the code language.

Ms. Del Vecchio: Is that what the policy does?

Mr. Walters: Not quite.

Ms. Del Vecchio: Not really? Okay.

Mr. Walters: Yeah.

Mr. Johnson: Just throwing this out there, but, I mean, the policies are supposed to guide the code so if – I mean, it would seem to me that the logical place would be to start at the policies and say, Are there any of these that we either agree with or any – yeah, just start there and then move down –

Mr. Greenwood: And then make sure that the code matches the policy.

Mr. Johnson: Yeah, move into the details. Also I'm not making any assertions about when this comes to the Board what they will do. They have indicated that they – you know, they've had several opportunities to say stop and they haven't. They said make it very consistent with the majority Advisory Committee recommendation. And I guess I take, you know, great pride in the fact that it is very consistent with that. Ellen said something about, Well, Kirk probably has some ideas. Well, I have lots of ideas, but this recommendation represents what the eight members recommended, and then we took it to the County Commissioners and we went over each and every specific part of it. And, you know, like on the two-mile limit around urban growth areas they said no, so we took that out. So, again, I have no idea what they're going to do on this, but they have indicated that they would like to see policies. You know, basically they can amend the Comprehensive Plan once per year. They've got the Birdsvew Brewery proposal, which is a part of the 2014 docket. This is also part of the 2014 docket. And I heard the three of them say, We would like the policies at least brought to us for a final decision by the end of this year. So I'm just throwing that out there so you can hear what we've heard from them and you can go check with them individually, obviously, if you want to hear something directly.

Ms. Candler: Kirk, I think you did a really good job, particularly answering Annie's questions, and I'm sure that had to be done quickly. My question is, Okay, when I read this Development Priority Areas designation area under 14.22.030, I don't – I can't read the actual code and translate it into something that I understand what it means in terms of – I mentioned a map earlier. You're saying this is the pink and purple areas on the map we already have, if I understood you correctly.

Mr. Johnson: What's the code reference again?

Ms. Candler: Like 14.22.030, the Development Priority Area, and also 14.22.050, Conservation Priority Areas. Is there – do you have, you know, a map that delineates this or, like, how do I read this, like, (a) and know what that is talking about? Because I don't know those parcels.

Mr. Johnson: So we could – I mean, at a future meeting or right now we could put the Comprehensive Plan map up and show you what – I mean, the Conservation Priority Areas are easy because they're, I think, five different zones.

Ms. Candler: And I have the map – I have a big map, but I think I heard you say that's basically the pinks and purples. Because I don't know which ones are subject to a CaRD.

Mr. Johnson: No, so I'm talking – the Conservation are the easier ones because they're kind of – any parcel in these zones is potentially eligible to come forward. The Development Priority Areas are harder. I was saying the most – the ones where you can look at and say, Okay, that's a Rural Village Residential. Rural Village and Rural Intermediate are specifically designated on the map.

Ms. Candler: Right. We looked at that for some other not too long ago.

Mr. Johnson: Yeah. The other ones really – no, we can't say because we don't know. I will soon have a list of Rural Reserve parcels by acres and so we can say, you know, if it's plus or minus half-an-acre or plus or minus three acres. We can start to look at how many of those there are and maybe, with GIS help, we can identify them on the map.

Ms. Candler: And that's going to go to, like, (a) and maybe (b)?

Mr. Walters: (a).

Mr. Johnson: Yeah, and then the – yeah –

Mr. Pernula: (a) is the CaRD, (b) is the infill, rural infill.

Mr. Johnson: Yeah. (a) and (b) are – yeah, we can get focused in on those – at least the potential areas. Comp Plan map amendment really is anyone who wants to submit for the process on an annual basis and then go through the process.

Ms. Candler: Right. That I understand is a bit harder. But I'd really like to see what (a) and (b) look like.

Mr. Johnson: Okay.

Mr. Walters: And in (a) and (b) there where it cites those code provisions, 14.18.300, those code provisions are at the bottom of the document because they're proposed to be changed along with this too. 14.18.300, 14.16.300 – both of those are at the back of this document because they have to be changed in order to make that all come together and work.

Ms. Candler: I just – it doesn't translate to me, but I understand _____.

Ms. Del Vecchio: Can I ask another procedural? For the draft to go to public hearing, is that what we already – are there going to be any more revisions between now and public hearing, or the 9/24 – is that the version that we have?

Mr. Walters: That's the version for public comment.

Ms. Del Vecchio: That is the version for public comment. Okay. So we're not looking at any intermediary changes?

Mr. Johnson: I think we're acknowledging that we will recommend – I mean, we can't change the proposal that's been released, but we can recommend that, you know, like the UGA boundaries. Those changes would be incorporated into the proposal.

Ms. Del Vecchio: Okay, that's what I'm wondering.

Mr. Johnson: Yeah.

Ms. Del Vecchio: There'll be additional recommendations or –

Mr. Johnson: I don't think so.

Ms. Lohman: Kirk, earlier you said – when you were talking about the interlocal agreement – you said there was a drafting error and I couldn't get my thing out quick enough. What were you talking about? Was it the word "must" that you said was a little too strong, or what was the deal?

Mr. Johnson: Yeah. So it's 14.08 – so this is on page 12 of the draft code – 14.08.090(7)(a).

Mr. Walters: Highlighted on your screens.

Mr. Johnson: So we're going to recommend that that be changed to be consistent with the policies that say a municipal urban growth area would be identified as a Development Priority Area based on an interlocal agreement reached cooperatively between the County and the particular City. I mean, really the only way an interlocal agreement can be reached is cooperatively, but just to clarify that that's the spirit.

Ms. Lohman: Because there's another place that you have that similar language. It's over on page 4 at the very top of the page, (d).

Mr. Johnson: Of the code?

Ms. Lohman: Yeah.

Mr. Johnson: Development credits required?

Mr. Walters: No, (d). It's on the screen.

Ms. Lohman: On (d) at the very top of the page.

Mr. Walters: I think that one – that one actually is more consistent with the policies because it used the word "must" but it's saying in order for this to work, this provision must be authorized. But because it uses the word "must," I think we'll recommend that it be reworded to make it clearer that it's an in-order-for-this-to-work type of thing. It's not a – it wouldn't work without an interlocal so an interlocal would be required, but an interlocal isn't required because the Development Priority Area isn't required for the UGA. It's an optional thing that occurs with cooperation with the City.

Mr. Johnson: Yeah, another way to state that would be “An interlocal agreement between the County and the City must exist for this provision to have effect.”

Chair Axthelm: So if there’s no more comments we’ll move on to the Department Update.

Mr. Pernula: Okay, a few things I’d like to bring up: One is that we held three scoping meetings on the EIS for the Shell Oil and Loading Facility at March’s Point. Last Tuesday and Wednesday they were held in Mount Vernon and Anacortes, respectively, then last night one was held in Lynnwood. Both of those here in Skagit County had over 180 people there, so a lot of people. A lot of people were there and they spoke for about 2½ hours in each case. And then last night in Lynnwood there were about 300 people there and we had two rooms where people were speaking in both venues for about 2½ hours again, so we got a lot of public comments. And from there it’ll be determined what the scope of the EIS will be. The EIS will be developed over the next eight or nine months – something like that – and then a draft will be released. Anyway, that’s a very big project and it’s moving forward.

The next thing, the 2015 Comprehensive Plan Amendment docketing hearing will be held by the Board on October 27th at 8:30 a.m. That’s next Tuesday.

Then next Tuesday night another one of those community meetings like we held on South Fidalgo and in Concrete will be held at the Big Lake Fire Department. That’s next Tuesday night at Big Lake Fire Department. And November 10th in Edison, and your next Planning Commission meeting is on November 2nd and it will be a public hearing on the CDI. That’s all I have.

Chair Axthelm: There’s one that’s on a Monday?

Mr. Pernula: That is the one that’s on a Monday.

Mr. Meenaghan: Is there anything else on that night besides the public hearing? Any other topics that we know of?

Mr. Pernula: I don’t think so. Not right now.

Mr. Meenaghan: And at the Comp Plan docketing hearing next Tuesday, will they – will the Board of County Commissioners say what they want docketed for that Comp Plan? So they’re going to come out and say, We want Birdsvew, we want CDI?

Mr. Pernula: Not at that meeting.

Mr. Johnson: No, and they’re two different things. The docketing is proposals that have been submitted for the 25 Comp Plan Amendment – 2015 Comp Plan Amendments, so this is a part of the 2014 so this is – Birdsvew and this will not be the subject of the Board’s hearing on Tuesday. It’ll be new amendment proposals that are – we’ll have to move forward.

Mr. Meenaghan: How does anybody keep this straight?

Mr. Pernula: We have computers!

Ms. Lohman: It’s by the year that they’re proposed, isn’t it?

Mr. Pernula: Yes, and we're going to change that in the future so that if you propose something in July of 2016 and we know that it'll be adopted in 2017, it'll be part of the 2017 docket. We're changing that in the future. It's just getting too confusing.

(laughter)

Mr. Pernula: That's all I had.

Chair Axthelm: Okay. So Planning Commissioner Comments and Announcements. I do have a question on this e-mail thing. So I'm one of those that gets the e-mail – that gets it sent to the County e-mail and also to my e-mail for, like, agendas and stuff. And part of that reason is because getting into the e-mail system – I don't check it every day for the County, and I want to get that information a lot sooner, as soon as I can, so I can see it. But with that, even if I do check the County e-mail, I'm checking it on my computer, I'm responding off my computer, so what's the difference?

Mr. Walters: Significant difference: We gave you all County e-mail addresses to conduct County business with because we want you to use the County e-mail and the County e-mail server so that the County e-mail server has all of your incoming and outgoing County business e-mails. When you use Outlook web access to do that, all of that information is stored on the County server. There's no original record on your computer that we're worried about. If you use your private e-mail, then you are creating public records on your own private computer and that creates a problem in the event of public records requests, but also for compliance with the records retention statutes.

In terms of accessibility, we have three or four options for improving accessibility. My sense is that most of the trouble has been with Outlook web access. The County is running Exchange 2010, which is two versions behind. The current versions and the prior version of the Exchange mail server software works better with other browsers other than Internet Explorer, but it'll be a year before that's upgraded.

But we have other solutions. If you're running Windows 8, 8.1, or 10, you can use the built-in mail app and connect to the County server. It will be fast and fluid, easily searchable. Copy and paste, printing all works great. I recommend you do that. If you have an iPhone or any smart phone you can connect to the County server through Exchange Active Sync and get your e-mail there. And you can do both of those. And in all of those situations all the e-mail is stored on the server, both incoming and outgoing. There are no records retention or public records request issues.

Chair Axthelm: So, yeah, because I put it on my phone and I responded off my phone and then you told me don't use your personal e-mail. And I used the instructions that you gave me earlier – at least I thought I did – for how to connect it up with my phone.

Mr. Walters: So long as you're replying using your County e-mail account, then you're good.

Chair Axthelm: Okay, because it still said "Outlook mobile," or whatever it was I had on. I can't remember. But it – so, okay.

Mr. Walters: Do you have any Android phone?

Chair Axthelm: Yes.

Mr. Walters: That makes things a little bit more complicated sometimes, but we can work through that. And I think if anyone who moves away from Outlook web access to one of the other alternatives I think will enjoy the experience a lot more. I definitely try to avoid using Outlook web access whenever I can. Although the current version is quite nice, we don't have it. So there was also an issue with the Mac; however, our new Planning Commissioner seems to have already solved that problem.

Ms. Del Vecchio: Although that might be because I'm not using one of your three options.

Mr. Walters: There is a fourth option that only is applicable to Mac, laptops, and desktops. It's called EWS instead of OWA. But evidently that's working for you, so it should work for you as well. So I'm hopeful that we have resolved the accessibility issues and – or at least *can* resolve those accessibility issues for everybody.

Chair Axthelm: Who should we talk to?

Mr. Walters: Me. Only me.

Chair Axthelm: Okay.

Ms. Lohman: So we hand you our phones so you can put it on there?

Mr. Walters: We can do this individually after the meeting, if you want.

Mr. Meenaghan: When I had trouble a couple years ago with this, I went to the IT Department across the street, or up College Way, and they – I took my stuff in and they helped me right there. I spent, like, 30 minutes. It was quick and easy. They were great.

Mr. Walters: I can do it in 5.

(laughter)

Chair Axthelm: That's all I have. Anybody else have anything else?

Ms. Hughes: I do.

Chair Axthelm: Amy?

Ms. Hughes: After going up to Concrete and seeing the Department's presentation to the Town of Concrete, I want to thank all the members in the Department that went, that have attended all these meetings. It's hours of time. But it makes the public process work so that's the first thing. The experience that was in that room from the Planning Department was years and years and years of expertise to sit and just listen to the community. And they were sincerely there for that.

Along with that, though, I want to thank the community because I've been at this a year now and it's the comments from the community that make this position enjoyable. So the people who take the time, not only here but to attend those meetings that the Department is doing around the county, I wish more people would attend. And I wish this wasn't at the end of this where everybody's turned off their TV. I hope that there's a big attendance at Big Lake because your time's valuable. So spread that through the Department. Thank you.

Chair Axthelm: Yes?

Mr. Pernula: That reminds me of something that I wanted to bring up, and that's that Carol Ehlers called and made a suggestion that we make hard copies of all the Planning Commission materials and make it available at the front desk. And we did it this week and we're going to continue to do that. It's something that was done a long time ago in the past and we're going to make sure that it's always available. Somebody can come in and look at it at any time. And I just want to let the public know that.

Chair Axthelm: Okay.

Mr. Meenaghan: Great comment.

Chair Axthelm: Thank you. That's excellent.

Mr. Greenwood: Just – speaking of urban development, I was stuck in traffic getting here going through Seattle. But having missed the discussion about the Capital Facilities and Transportation Improvement Plan, I just wanted to encourage the Department to make the TIP a little more user-friendly for review so that it shows how we're attacking – and I mentioned this before – the Priority Array, and then how the funds are distributed across the county. Because in the Priority Array, it is sorted oftentimes by commissioner district so that funds are – at least priorities are looked at. When there become choices, we can distribute some of those choices across the county. So I just think that there's improvement that can be made there in the future in coming plans.

Chair Axthelm: Anything else?

Mr. Meenaghan: Birdsvew Brewery's doing a fundraiser this weekend, this Saturday. If you want to see what the noise is like, or not, I encourage you to attend.

Mr. Greenwood: But don't act stupid and ___ – drink too much or something like that. You'll get on film or something.

Chair Axthelm: Do I have a motion?

Mr. Meenaghan: I move that we adjourn.

Ms. Hughes: Second.

Chair Axthelm: Okay, any objection to that?

Mr. Greenwood: No.

Chair Axthelm: Okay (gavel), we're adjourned.