

**Skagit County Planning Commission
Public Hearing: CDI Program
November 2, 2015**

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

Staff: **Dale Pernula, Planning Director**
Kirk Johnson, Senior Planner

Public Remarks
Commenters: **Ellen Bynum, Friends of Skagit County**
Roger Mitchell
Carol Ehlers
Ed Stauffer

Public Hearing
Commenters: **Roger Mitchell**
Bryan Harrison, Burlington Administrator
Jim Owens
Lori Scott
Ed Stauffer
Ellen Bynum, Friends of Skagit County
Carol Ehlers
Andrea Xaver
Steve Sexton, Burlington Mayor
Randy Good
Gary Hagland
Carolyn Kelly, Skagit Conservation District
Bruce Lisser
Paul Schissler
David Gribble

Chair Josh Axthelm: Good evening. It's Monday, November the 2nd, for a Planning Commission Hearing – a Planning Commission *meeting*. Excuse me. And we call this meeting to order (gavel). Are there any changes to the agenda from the Planning Commissioners?

(silence)

Chair Axthelm: Okay. And we do have two Commissioners that are missing, Commissioner Greenwood and Commissioner Hughes – or, sorry, Lohman. Is there one – three?

Dale Pernula: Meenaghan.

Chair Axthelm: Oh, yeah – Meenaghan, Kevin Meenaghan also. So he is. Sorry. So we'll go ahead and start the Public Remarks portion of the –

Unidentified male voice from the audience: Does that microphone work?

Chair Axthelm: Yes, it is. I can pull it closer. How's that? Thank you. If you take a look at your agenda, and tonight we have – first, of course, Calling to Order, the first item. The second item is the Public Remarks. This portion of the Public Remarks is not the public remarks for the hearing. And if you'll note on your agenda, there's an explanation of that. But basically that's general public remarks that don't have anything to do with the hearing itself. So if you'll hold your comments to the hearing till the next portion, which is item 3, which is Conservation and Development Incentives Public Hearing portion, and you'll have the opportunity to speak at that point.

Number 4 is the Department Update and number 5 is the Planning Commissioner Comments and Announcements. So, with that, we'll start with the general Public Remarks.

Ellen Bynum: Good evening, Commissioners. Ellen Bynum, Friends of Skagit County, 110 North First, Mount Vernon.

Chair Axthelm: And Ellen knows this already, but if you do want to make remarks, please, your remarks are limited to three minutes.

Ms. Bynum: Yes.

Chair Axthelm: And as you approach the microphone, if you will please state your name and your address for us. Thank you.

Ms. Bynum: Right. In the process of looking at the document for tonight, the Conservation and Development Incentives Program, I took a look at the 1968 Skagit County Plan. Believe it or not, we had a plan in 1968 and it was written and it's on the web. And one of the things that we have done – that we did with the plan is that we did take a look at it and carried it forward when we began to write the plans in the '70s, and then later when we wrote the plan that was rewritten for under GMA. And one of the areas that we had issues with was this notion of what conservation greenbelts and open space was. So I went back and looked at the plan and it has here that under section (e) it says "Agricultural land, greenbelts and open space surrounding and between urban centers shall be preserved for its highest and best use." And then I noticed that it says "for the growing of food products." And somehow in our translation of updating that portion of the plan we've left out the "for the growing of food products." So I intend to come back next year with a Comprehensive Plan update that asks that this be reinserted into both the Open Space Plan and also into the Rural Resources Lands, because I think that was the original intent of the conservation areas. It was for food production. And with food security being one of our greatest issues at this time I think it's important for people to know that we had that notion in 1960s. Thanks.

Chair Axthelm: Thank you.

Roger Mitchell: Good evening. Roger Mitchell, Bow. I just have two very quick things. They're both apologies. The first one is that when we do get to the public hearing on tonight's main event I apologize for the fact that given so little time it's always very difficult in three minutes to say what needs to be said. So I always feel like I'm rushed to do that. I apologize for that. But it's a very complex subject and we'll try to get as much as we can into our three minutes.

The other thing that I apologize to everyone: I am a firefighter EMT volunteer and tonight I'm supposed to be at training, and it happens to be a very critical certification, recertification. So as soon as I am finished with my public comments later I will be leaving immediately and I apologize for the abrupt departure because I'd really like to stay and hear everything but I can't. So thank you.

Carol Ehlers: Carol Ehlers, west Fidalgo Island. You remember that rain map I gave you last time that showed 20 inches on the west and 190 in the east? Well, this last couple of days we've been experiencing it and if you do as I do and look at the section in the *Skagit Valley Herald* that shows the depth of the river, and particularly the depth of the Sauk River, you'll find it quite interesting because sometimes, as it's happened this last week, the Sauk went from four feet to eight feet. Now it's down back to six. And that's important because Kirk has a map that I hope he gives us which shows that the northern part of the Skagit River basin is essentially controlled by dams. The southern half of the basin, which goes all the way down into the Stillaguamish, is completely uncontrolled. The Glacier Peak drains into the Sauk Valley and it can go up two feet, three feet, or sometimes when there's been a lot of rain it can go up a foot an hour overnight. And that's what really causes the floods. So when you're thinking in the future about water availability in eastern county versus lack of water availability in western county in terms of protecting wells and things like that, keep that map handy and watch this winter as you're seeing the rains come, because you're going from the lowest level in a long, long time – a number of years – and we'll see what Mother Nature does.

Now that's one thing I get out of the *Herald*. The other thing is a legal issue, and I'm saying this as much to anyone watching as it is to us. There's the Federal Register for federal laws, the State Register for state laws, and in Skagit County there's the *Skagit Valley Herald*, which is the legal paper of record. So for most of the 72 elected taxing districts in this county and for any of the state agencies, they must put the legal notice in the *Herald*, which means you have one place you go instead of a half-dozen the way it is in most places. I like that. What's really crucial is that if there's a legal notice and it applies to you and you don't read it, you don't bother with it, forever hold your peace. I learned that in the fall of 1987. I've been reading it ever since faithfully.

Now I had an experience this week that I ought to warn you about. The *Anacortes American* also has legal notices. If you want to know the foreclosures in this county, you go look at that. There's been hundreds in the last number of years. Hundreds and hundreds, and they publish for the entire county. They also do some legal notices from themselves, and there was one this last week that really set me off because I thought there was something really wrong going on. So I worked this weekend to find out exactly what I was thinking of. I went in this afternoon to talk to them, and it's a typo. So before you get jumpy and complaining to legal this and legal that, see if what you're looking at is a typo because the Cities really are trying to be honest. But you never know. Seattle City Light put in one for up the Skagit River and you should have seen the errors in it. So fair enough? If you want to know what's going to be done legally with your property, the property next door, property down the street, property in the next road, you need to look at the *Skagit Valley Herald*.

Chair Axthelm: Thank you. Carol, you're out of time.

Ms. Ehlers: No snide remarks about anything else.

Ed Stauffer: Good evening, Commissioners. My name is Ed Stauffer, P.O. Box 114, Bow, Washington. Just a couple of pieces of unfinished business: Last winter at the first Planning Commission meeting on the rollout of the 2016 Update – I believe it was on the Housing Element – Chairman Axthelm requested of Planning staff the urgency that the feeling was of the Planning Commission and the Chair that a dialog needed to take place between the members of the Planning Commission and the planners of the Cities in order to adequately prepare. Shortly following that meeting I had an opportunity to attend a Skagit planners' committee meeting hosted by SCOG at the EDASC office building, and I have the date and the agenda of that meeting and I'm going to present that just for your information and use. I was surprised. I did attend that meeting and there was no representation of the citizens of rural Skagit County or of the Planning Commission –

Unidentified male voice in the audience: Would you speak into the microphone please?

Mr. Stauffer: – certainly – on that board. So that will be the Skagit planners' committee meeting. The last opportunity I had to speak with Mr. Temples, he asked me if I was aware of the TDR activities that were taking place in Shoreline, Washington, which, I believe is just over the Snohomish County line in King County. I said no, but I would look into it. I did get for him a copy of HB 1513, which addresses the next level of TDR beyond where we are which is now being engaged in by the four counties that did TDR planning before we did with all the same people. I want you to have a copy of that. And then for our new member, Hollie Del Vecchio, here is an interview done by Joe King, the Chairman of the House Ways and Means Committee, who was responsible for beginning and throwing in the hopper our Growth Management Act bill, which is now our planning act of the land. And along with that, from the State Department, is what they call "From Our Corner" and it's called "An Archive's Treasure." And what this does is have a photograph on page 2 of the six House committee chairs which were chosen by Joe King to write the Growth Management Act and then put it together. And they became known as the Steel Magnolias.

Hollie Del Vecchio: Thank you very much.

Chair Axthelm: Do you have any other public comment, general public comment?

(silence)

Chair Axthelm: Okay. Seeing none, we'll move on to the Conservation and Development Incentives – CDI for short – Public Hearing. Does the Planning Department have anything?

Mr. Johnson: Oh, there's an opening statement in front of you somewhere.

Chair Axthelm: You'd like me to read that? Okay, opening statement:

The purpose of this hearing is to receive testimony and written correspondence regarding proposed Comprehensive Plan policies and development regulations to implement the Conservation and Development Incentives Program, or CDI for short. The Program would support the voluntary and permanent conservation of

private farm, forest, and open space, while encouraging development in urban and rural areas better suited for growth.

There is a sign-up sheet in the back of the room for those who would like to testify. An opportunity will be given at the end of the hearing for those who will wish to testify but did not sign up to speak. Please limit your comments to three minutes so that everyone will have a chance to speak. Special interest groups, associations, or those representing others are encouraged to designate one person or spokesperson for your group to allow greater participation and cross-representation.

Before you testify, clearly state your name, spelling of your last name, and your address. A recording system will record your comments. Written comments are also being accepted and can be placed in the box located on the staff table near the front of the room. The written comment period is open until Thursday, November 5th, at 4:30 p.m. Written comments are encouraged and are not limited in length or in the number of issues that you may raise.

Before we begin taking public comment, staff will give a brief presentation about the proposals. Thank you for your time to participate.

So the sign-up sheets – if you haven't already signed up, please do so and then we'll most likely proceed in that order.

Kirk Johnson: Good evening, Planning Commissioners and members of the public. I have a brief overview of the proposal. It's a condensed version of one that was presented to you back in October.

So 35,000 more people are expected to move to Skagit County over the next 20 years. That's the state's median forecast for the county that's been preliminarily adopted by the Cities and the County for planning. There's strong public support for protecting the Skagit's agricultural landscape, forested hillsides, open space lands, and rural character. And with the Conservation and Development Incentives Program, projected growth can help conserve resource lands, the resource economy, and the rural landscape, helping to complement the existing framework that we have through the Comprehensive Plan and the development regulations.

So the CDI Program works on the same basis as a density and transfer of development rights, or TDR, program, and, in fact, it has elements of both. Under the program, the opportunity for additional development potential in some areas, whether in the cities, downtown, or in a residential neighborhood or a Rural Village, can generate financial support to conserve farms, forests, and open space land. And so that's kind of the overview that this image provides, is there's additional development that may be happening in certain areas and it's helping to support the conservation of resource lands and open space in rural Skagit County.

Under the proposal, natural resource landowners can sell their development rights in order to conserve the natural resources or open space values of their land. And I've heard over and over again and have tried to respond over and over again that land is placed in a *permanent* conservation easement through this program, just like it is with the Farmland Legacy Program, and that easement would be held by the County. So I just wanted to clarify that.

Landowners or developers can purchase development credits either from the County or from a private seller to increase development potential in specified areas. So in both these instances there's the ability for if you're a natural resource landowner to sell development rights to a private party or to sell them to the County. And in either case the land would go – would be placed under a permanent conservation easement if the landowner decided to move forward and do that. And in the same way, development credits could be purchased essentially from a private landowner or from the County through the density credit mechanism. The TDR mechanism is more the private-to-private transaction.

So the program establishes conservation priorities – priority areas – where development rights can be sold to conserve land, and the focuses are farmland, forestland, and land with significant open space value. And the eligible zones are Ag-NRL, Industrial Forest, Secondary Forest, Rural Resource-NRL, and some Rural Reserve lands.

The program also creates development priority areas where additional development is possible with the purchase of credits. But I also want to clarify here it's not simply with the purchase of credits. I think there was a misunderstanding from some members of the Planning Commission earlier that you purchase credits and you got additional development. But for each of these there would be criteria and a process that would need to be met that would determine the suitability of the proposal for that area. And if the approval was granted, then with the purchase of development credits the person could access the additional development potential.

So those are Comprehensive Plan amendments and rezones affecting rural lands; limited infill in Rural Intermediate and Rural Village residential areas; certain cluster developments, as we've talked about, that are a bit smaller than the standard 10-acre Rural Reserve zone; additions to urban growth areas. If it's a municipal urban growth area, that would require City approval; and areas designated by a City or a Town that's participating with the County in the program.

So some of the benefits of the program are that it would provide options to natural resource and rural landowners. It would help to conserve working resource lands and open space. It would offer incentives to concentrate development in areas best suited for growth. It would coordinate conservation and development with participating Cities and Towns. And it supports GMA and the County Comprehensive Plan.

Again, the conservation would be permanent, just like with the Farmland Legacy Program. The easements would be held by Skagit County, just like with the Farmland Legacy Program. The program would be administered by the County. City participation is optional but encouraged. The proposal is consistent with the Growth Management Act and the County Comprehensive Plan. The program would complement the Farmland Legacy Program, and it would help to conserve forestland and farmland not eligible for Farmland Legacy as Farmland Legacy is only eligible to land in – farmland in Ag-NRL.

And so how to comment? By speaking at the public hearing tonight or e-mailing comments to the address above, or handing them off at the Planning and Development Services Department by 4:30 p.m. on Thursday.

Chair Axthelm: Thank you, Kirk. Okay, so first on the sign-up list is Roger Mitchell.

Roger Mitchell: Roger Mitchell, Bow. I strongly oppose the TDR proposal reincarnated as the Conservation Incentive and Development Program. It's unnecessary, unworkable, and unfair. Please recommend rejection of the CDI proposal.

The CDI Program is unnecessary – unnecessary because adequate tools already exist and are being used. Unnecessary because many rural citizens and the Comp Plan already protect and conserve rural land. Unnecessary because it undermines the very successful Farmland Legacy Program.

The CDI Program is unworkable. There are too many inconsistencies. Adding Rural Intermediate and Rural Village as priority development areas doesn't prevent rural development, nor does it preserve rural character. A CDI Program creates islands of zoning and inconsistencies prohibited by the GMA and the Comp Plan. If Cities don't participate, that leaves only rural areas as the receiving or priority development areas, the exact opposite of what this was originally intended to do.

Unintended infrastructure costs have never been discussed or included in a legitimate cost-benefit analysis. Allowing a parcel with 7 to less than 10 acres to participate contravenes the whole purpose of past planning policies.

The CDI Program is unfair – unfair because neighboring property owners' rights and expectations for zoning consistency are violated. Unfair because sending parcels, lacking a development right, must be devalued, thereby increasing everyone else's property tax. Unfair because developers will pass their costs along to the end buyer through increased cost per housing unit. There's nothing wrong with that, but it does result in less affordable housing. Unfair because only a select handful will benefit. There is no tangible benefit for the other 117,000 of us, yet we pay the cost of the program. It's unfair because just one government person decides who can and cannot participate. There's no public input or process. Unfair because government is involved in what was previously touted as a *private* transaction. Unfair because government shouldn't be involved with a money-driven process. It's like selling something we don't really have. It's a taking without compensation. The people who want these things should pay for them. Who voted for this? Unfair because we are told it's a market-based program, but it's not. No appraisal value is used for the sending property, government determines who can and cannot participate, and government sets the exchange rate to, quote, "to equalize things in the market."

In summary, please recommend rejection of this unnecessary, unworkable, and unfair program. Thank you.

Chair Axthelm: Thank you. Bryan Harrison.

Bryan Harrison: Good evening. Bryan Harrison. I'm City Administrator of the City of Burlington, 833 South Spruce in Burlington. And previously I did submit written comments. You should have a letter dated October 23rd. I'll just briefly go over those comments for you tonight.

Specifically I'm asking that the proposed Comprehensive Plan policies 2H-4.1(b) and 2A-1.2(b) that reference amendments and expansions of urban growth areas, that that mandatory language, that mandatory participation in this program be amended to a voluntary program. There are areas that it may be appropriate and there are certainly areas that it may not. I understand that some language was submitted by your Planning staff in support of that change. Specifically urban growth area expansions in the last 25 years of Growth Management planning have responded traditionally to a neutral projection and analysis of need, based on population, growth projections, and a buildable lands analysis and an analysis, if needed, commercial and industrial property. And then an examination of the logical outer boundaries for expansion of an

urban growth area, based on that analysis. It's intended to be neutral and really present no winners or losers other than those that own property that most logically is located in an expansive area to address the City's need. This factor of extracting the value of the – of a portion of the value of property in an urban growth area in order to send that value elsewhere to purchase property that may or may not be linked to that urban growth area expansion just doesn't make sense.

Specific to Burlington, there's some research and studies that were included as background information that examined the possibility of using Burlington's commercial and industrial zone property to access value to fund this program is problematic. There's an assumption that there really is no limitation on commercially zoned property in Burlington, and, in fact, there is an apparent recommendation to essentially downzone existing commercial property with the assumption that property owners could purchase back up to pre-existing levels of development through a donation to this program. Well, the properties within Burlington that are zoned commercial, the market has already set their value. Folks that have purchased these properties and invested in these properties have an assumption of that value that is market-based and based on existing limitations. There are lot coverage requirements and vegetation requirements, height and building size requirements, parking requirements, stormwater infrastructure requirements. All of those factors are used to determine the existing development potential of commercial property. Those limits are currently in place. So it was an assumption that they aren't in place. Well, they are and they are currently driving those values. So assuming a downzone or devalue of those properties with the assumption that those property owners need to purchase these rights to do that through a contribution to this program, it just – it really would be terribly upsetting to the existing market. This program –

Chair Axthelm: Your time is up. You're about almost four minutes, actually.

Mr. Harrison: All right. I appreciate that. Thank you very much.

Chair Axthelm: Please submit your written comments. We'd like to see those. Thank you. Okay, and the next one is Jim Owens.

Jim Owens: Jim Owens, O-w-e-n-s, and my address is 22496 Amick Road, Mount Vernon, and I'm here to speak in favor of the CDI Program.

I'm a small forestland owner in Skagit County and I also belong to the Washington Farm Forestry Association, which is a statewide organization of small forestland owners. And earlier this year I talked to four or five of our members about a TDR program and no one I talked to was opposed to it and some said they thought it would be a good option. And I thought it could be particularly helpful at a time of a generational transfer of property either through inheritance or a transfer to a younger generation. Sometimes an heir will just want the money and has no interest in owning forestland. Not everyone wants to grow trees. A TDR program – or now, of course, it's CDI – could be a way to maybe funnel some money to an heir and keep the forestland intact instead of having to have a forced sale or a change in use. So I think the CDI Program could be a good tool to have available. Thank you.

Chair Axthelm: Thank you. The next is Lori Scott.

Lori Scott: Lori Scott, S-c-o-t-t, Alger, Washington. First I want to thank the Planning Commission, all of you who were involved in our issue out in Alger earlier – well, actually last year now, although it still goes on – in working on the marijuana regulations. As a result I don't

believe any other property owners will be disadvantaged as our neighborhood is still. We purchased our property in Rural Intermediate in 1987 out in Alger. At that time it was zoned for 5 acres. Now the zoning is 2½-acre parcels. It is in a LAMIRD area and is now being considered as one of the receiving areas as part of the CDI Program. Even the reduction from 5 acres to 2½ has had some negative effects on the rural atmosphere, and we feel that allowing 1-acre parcels would be even more detrimental. The intent of the GMA seems to be to restrain low density sprawl and encourage the majority of growth in cities and urban areas. Trying to preserve natural resource land by increasing density in Rural Intermediate doesn't seem to meet the intent of the GMA or the LAMIRD, which currently applies to our area. It seems like cities and urban areas should be the receivers rather than increasing development in areas where current code states long-term open space retention and critical area protection are encouraged. There are already regulations to preserve forestlands and natural resource with lot limit sizes and development and that sort of thing, and adding an additional program that requires additional County staff time and government oversight just seems to add another layer to the bureaucracy.

The Alger Subarea Plan, which was approved in 2008, was supposed to guide the development of the area for the next 20 years, and extensive public involvement and a thorough review of the whole build-out process was done at that time. The results were designed to protect rural character and includes a pattern of land use that doesn't require the extension of government or urban services. Even with the zoning in our area remaining as it is now, it allows for the current population to double over time which will, in and itself, increase the demand for services such as sheriff and fire. Designating our Rural Intermediate area to receive additional development is really not in keeping with the Alger Plan either. Some potential receivers in Alger are within 1/2-mile of the Friday Creek, which is designated low flow. And because of that, even a CaRD program would not be allowed in that area, so why would it be chosen to receive additional development? There's already identified concerns about water quality and quantity, and the preservation of critical areas in this zone.

I respectfully request that prior to approving this proposal that Cities and urban areas be identified that really want to be contracted as receivers, and that the Rural Intermediate areas all be more thoroughly reviewed to see what the impact would be there. I don't know a lot about the other Rural Intermediate areas in our county, but speaking for our neighborhood, we have already received an industrial marijuana grow with the obscuring black fences, the security cameras, and the disgusting odor, which continues to exist because not enough research was done prior to allowing that facility to come into existence. So I urge really extreme caution in going forward with a program until we've identified which areas, how it's going to impact them, and we know who all the players are going to be for sure. Thanks.

Chair Axthelm: Thank you. Ed Stauffer?

Ed Stauffer: Before my time starts, could I ask for a clarification of the Chair?

Chair Axthelm: Yeah.

Mr. Stauffer: It seems like *déjà vu* all over again for me. I feel like I've testified in front of you on this maybe four times over the last two years. At the last go-around I went to the trouble and time to prepare a list of reading materials which I submitted on the public record for you to access. Do I need to submit those documents anew this time? And does that come out of my three minutes?

Chair Axthelm: That's up to you because those documents are still available and they're still on public record.

Mr. Stauffer: Yes.

Chair Axthelm: But if you want them reiterated or shown again then that's up to you whether you want to present them again.

Mr. Stauffer: I'm just asking you if those documents which are part of public testimony on this issue before the Planning Commission still prevail.

Chair Axthelm: They'd still be on the Internet as far as the record, wouldn't they?

Mr. Johnson: I'm not aware of – I mean, I don't know if they were provided to *you*. I'm not aware of what documents Mr. Stauffer is referring to so I don't want to try to speak to where they are or where they reside.

Chair Axthelm: That's up to you, because if they could be on the Internet as far as public record from the hearings, but if you want them –

Mr. Stauffer: Well, if I submitted them and they were stamped in I believe they're a matter or record. My concern is that we're constrained in further deliberations if this issue proceeds beyond this hearing to evidence that's been submitted formally at public hearing. I feel I've already submitted those documents.

Chair Axthelm: Yeah, and you have, but if you want them brought back to light sometimes that would help. It's up to you.

Mr. Stauffer: Okay. For tonight a couple of new ones I have for you that I'd like to have date-stamped as testimony: A Record of the Proceedings of the Skagit County Board of Commissioners dated Tuesday, June 19th, 2012, in particular page 5, item c). Secondly, a letter signed by me, Ed Stauffer, addressed to Honorable Ron Wesen, Chairman, Board of Skagit County Commissioners, dated June 18, 2014. And a series of excerpts from RCW 36.70A, the Growth Management Act, which I have highlighted for the benefit of the Commissioners of what I find are some relevant definitions and conditions of our Growth Management Act conservation plan which we adopted in 1997 which is still in place today, which govern these proceedings and I feel have been overlooked. For your information only, that will be 70A.011, .030, .060, and .070.

Then for my comments: We already have a Growth Management plan. We engaged in that starting April 1st, 1990, when the state legislature passed the Growth Management Act. Skagit County was among those required to plan under GMA. We did that. I was appointed to the citizen advisory committee that wrote and crafted the Rural Element for that plan at the beginning of 1993. We met for a year. Our results were presented to the Board of County Commissioners in September of 1993 by Craig Olson of the Planning Department. The Rural Element subcommittee, after years of deliberations, recommended that they carry forward the land use plan for rural residential uses, which was part of our plan which we had been developing through the '70s beginning in 1968. We recommended a 5-acre minimum lot size. That would ensure us in the rural residential areas of the county what you are now calling rural sprawl. Rural residential usage had to sustain itself without the expectation of piped public utilities in order to serve those. In other words, we would have to be independent with our own

onsite sewage disposal systems and water systems. That's called carrying capacity of the land, along with the 5-acre minimum lot size which had been in place since 1970 in Skagit County – we felt was a pattern which was working and we adopted that into our plan as our recommendation.

During the years from 19 – when we completed our work until 1997 and it was adopted, there were massive changes to the recommendations of the committees. But yet that's the underlying fact that we use. Rural sprawl was by intent. Our exercise called for us to first inventory and map all resource areas of long-term commercial significance. That was taken out and set aside as a land use first, then critical areas and sensitive areas. And lastly, based on existing patterns of development, rural residential uses. It is very clear in the language of the Growth Management Act, enabling legislation, and the plans that we developed locally under our Skagit Countywide Planning Policies and our Comprehensive Plan gave us a criterion for establishing a healthy, vibrant, sustainable rural community which exists to this day. If you even read the report of the final marketing survey consultant to the TDR project, you will find that the Board of County Commissioners has steadfastly upheld our sparse, 5-acre minimum, 10-acre minimum lot size requirement with almost no exceptions other than CaRDs.

Chair Axthelm: Ed, your time is up. Thank you.

Mr. Stauffer: If I had any time left, I would dedicate it to anyone who would like to move that they rescind this idiotic idea.

Chair Axthelm: Thank you. Okay, next on the list is Ellen Bynum.

Ellen Bynum: Ellen Bynum, B-y-n-u-m, 110 North First, Friends of Skagit County, Mount Vernon. The proposed CDI Program is the third study of TDRs conducted by Skagit County. The two previous studies were limited to conventional TDRs and they concluded that this zoning overlay was not needed. The TDR programs are overlays on zones that were created within the rules of the Growth Management Act. TDRs must not interfere with the goals of the GMA. Using the CDIP to change the densities specified by the Comprehensive Plan by permitting purchase of density credits creates a de facto change in the underlying zoning. This changes and undermines the success of the Comprehensive Plan, the policies, and the codes. GMA required the County to designate resource lands and provide long-term protection from encroachment from activities in neighboring zones. Rural zones allowed limited, low density development and employment and services. These zones provided long-term preservation of the character of the areas not designated as resource lands or UGAs and restricted incompatible, non-resource-based uses. They are transitional areas and are buffers between resource and non-resource lands; they preserve critical areas; and they support resource industries.

Low density sprawl violates GMA goals 1, 2, 8 and 10. Ordinance number 18375, July 24th, 2001, is the Planning Commission's recorded motion on the 90-day compliance issues brought by Friends of Skagit County to the Growth Management Hearings Board. In section 1, it identifies the Fidalgo Island Subarea Plan. The Hearings Board noted that subarea planning for Fidalgo Island was an appropriate strategy for considering growth in this area of the county. The Hearings Board further found that this subarea planning must be done before accommodating any further density on Fidalgo Island. Attachment A was the Fidalgo Island sub-planning process.

In 2003, the County appointed the CAC for the Fidalgo Subarea Plan. In 2008, the County abolished the CAC and rescinded the resolution appointing the CAC. The Subarea Plan was

never completed. Given the requirement for a completed Subarea Plan, we do not see how Rural Intermediate, Rural Reserve, and Rural Resource-NRL lands can be used as rural development priority areas. I should also add Rural Villages into that.

As currently proposed in the CDIP, Skagit County cannot create rural development priority areas and comply with GMA and the requirements of the Comprehensive Plan. The only appropriate area in the county for additional density are inside the UGAs. We request that the CDIP be rejected and the County revisit its commitment to conservation of resource lands using other methods.

And I'd also add to that that we'd really like to see the Fidalgo Subarea Plan started over and we'd like to see that completed. My logic for talking about Rural Intermediate and the other zones that are on Fidalgo is that I understand that there has to be consistency within those zones in the county. For instance, you can't zone and allow certain things in Fidalgo in Rural Intermediate that you wouldn't allow in other parts of Rural Intermediate. So there's a consistency issue here. I'm not – I don't know if we ever need TDRs, but I want proof and I want to see it work elsewhere, and I don't have any proof of any place that it's worked for the purpose of conserving forests and ag lands in the entire country on a consistent basis. And Kirk will disagree with me on that, but I just think what we have here is an economy that's based on rural industries and if we are going to do something that affects the way that they operate we have to be sure that it's the right thing to do. We cannot afford to make a mistake. Thank you.

Chair Axthelm: Thank you. Next is Carol Ehlers.

Carol Ehlers: Carol Ehlers, west Fidalgo Island. This was not planned, but thank you, Ellen, for bringing up the fact that the South Fidalgo Plan was not completed, because on the 22nd of September the County Commissioners told the group on South Fidalgo that despite the issues they were raising regarding drinking water at – and a bunch of other substantive issues, there would be no planning on South Fidalgo Island other than what we do, which is why I'm saying what I'm going to be saying.

This plan is an administrative nightmare. Shall we start out with the fact you're going to have conservation easements, which are widely used in the county but they are not on the Assessor's database. There is a statement on the parcel in the database "conservation easement." What it should say and could say is "CE number such and such." But it's never been authorized by the County Commissioners. Were it to be done so, it would be a godsend for this program and a half-dozen others that exist already. But what happens now is that every six years you get a call from the appraiser who's supposed to deal with your property that has a CE on it and you have to dig up the darn thing and you can't – there's no easy way for him to say "CE such and such." Type it into the database out of the Auditor's file, here it comes – ah, you can't build on this. You can't do on this property. Okay, I can't tax it as if you could. That administrative process doesn't exist so it will be a nightmare for you.

There are a number of basic problems with the word "suitable," which lurks again and again in the draft description of this document. Suitable. What of the infrastructure? Is there water? Is it piped water? Is it well water? Is it well water in an area of South Fidalgo Island that the part of the code says the County finds suitable for injecting chemicals into the water? And they will plan to find out how far that water goes for 1000 feet. 1000 feet's considered a long way to protect water, but the County Code protects a farm for 5,280 feet. I want to protect the farms, but water is absolutely essential for every single category of any life anywhere, and once you've destroyed it then you have to put in the pipe lines. Then you have the expense. Then you have

following the pipe lines, more development. Then you have, then you have, then you have – it's a series of if...then, if...then, just as it was in geometry years ago.

There are no criteria. So I have a suggestion. I'm going to turn in to the County one of their documents that you find in the kiosk, "Mining Special Use Permit Information," a very detailed, very well done description of what somebody needs to do should they want to have a mining permit. That's what you need for this. Then everybody knows, and somebody who's working in the County isn't caught in a bind. It's basic government. And this for 2005 is really very, very good. I haven't seen it before. I might have changed what I said at the last hearing if I had. But here it is and I'll give it to you, Kirk.

Chair Axthelm: Carol, your time is up, so if you'll sum up your comments, please.

Ms. Ehlers: All of you have a paper copy of the plan, of the Comp Plan. Go look at it and see where the Rural Intermediate colors are from east county all the way down to west county. And then find the Rural Intermediate that's closest to where you live and look at it and see what the characteristics are: Are there cliffs? Are there landslides? Is this a safe place to put anyone, in addition? Because you can't just look at land as if it was flat and square. That isn't land. You have to look at the topography. So that is my basic suggestion and it applies not just for this but for almost everything else. Please get to know the zoning map.

Chair Axthelm: Thank you, and the next person on the list is Andrea Xaver. Thank you.

Andrea Xaver: My name is Andrea Xaver. I reside at 19814 State Route 9, Mount Vernon. I find it astonishing that in this county we need incentives to develop. My family has been here since the 1890s and some before then, and all my family has ever talked about and all I've seen since I landed on this earth was more and more development. I'm on the Farmland Legacy board. I want to make it clear I do not speak on their behalf. But I want to say that if this proposal goes through that the Farmland Legacy Program should not be a part of it. The Farmland Legacy Program as it currently exists is working very effectively. It's the best in the state and possibly one of the best in the nation. Despite rumors to the contrary and various conversations, there is money available and it's working well, and people have to sign up and do what they're supposed to do in order to qualify and so on, but it's working well and I'd hate to see that compromised by some program that has not been thought out.

The TDR or the Development Incentives or CDI – whatever you want to call it – I want to see more specific language, because without it following the language from A to Z, if we don't do that kind of thing we won't know what the consequences are, whether intended or otherwise. This County has made a lot of mistakes over the years and mainly what they do is try to go out and get a lot of land to make sure it's going to be developed and so on, and they change zoning and they change the names. In the mid-1990s, they did away with a zoning designation called Agricultural Reserve. And this affected the Baker Heights area along with many thousands of other acres in this county. You'd think because the world is increasing its population by over 300,000 people on a daily basis that we might need some land set aside as Agricultural Reserve. Houses should stay in the city and farmland should be left alone and protected.

There is a friend of mine who's sitting in the audience. I don't know if he's going to speak tonight or not, but his farmland was gobbled up into Mount Vernon's urban growth area and he's been trying to fight that and get out of it and – to no avail – and what happened there? Why was that put in there without his consent? There was a letter to the editor the other day that talked about how this type of TDR program, or whatever you want to call it, really doesn't qualify unless your

county had 600,000 residents. Whether that's true I don't know, but it might be something to look at. Meanwhile, let's protect some farmland here and some of our rural areas, too. We've got lots of people everywhere.

Chair Axthelm: Thank you. Next is Steve Sexton.

Steve Sexton: Thank you. Steve Sexton. I'm the Mayor of Burlington and I wanted to talk a little bit this evening to bring a little bit of the city perspective to this. And Roger Mitchell stole most of my ideas. That's what I get for taking his phone call last Friday, I guess, and talking to him and giving him my thoughts on this. But I want to reiterate a couple things that Roger did say. I look at it from a city point of view, and, to me, this usurps private property rights. When I buy a house in the city and it's next to a zoned property that's zoned for a duplex, four-plex, whatever, I have a reasonable expectation that's what will be built there. And this allows for that expectation to be bought away, and I just – I don't think that's quite fair.

And there's another aspect of this that I also want to reiterate. And this comes from the history in Burlington. We have an Agricultural Heritage Program in Burlington. We've had it for five years. And we've had one property just recently that wanted to increase their density by 40 units, and I think we settled on 22 units. But I'll guarantee one thing. If you want to fill up this room with angry residents, go ahead and adopt this program and allow that to happen, because we heard from the citizens that that was not what they expected from that property.

And that just leads me to the third point I wanted to make. Kirk talked about another 35,000 people coming to Skagit County in 20 years. That's another city of Mount Vernon, and we currently have a lack of affordable housing. The City of Burlington is being tasked with looking at this with the Raspberry Ridge development. At the Skagit County government's level we're looking at this. At the County level we're looking at this. There's a lot of entities coming together to address how we look at this. And when I looked back to that property, the apartment building is a good example. We added 22 units in density to that property and the developer paid a charge. If the Cities zone property to the highest and best use as they see fit and not charge that fee, that will help keep housing affordable. This does nothing but add on to those fees to develop and increase the price of that housing in rents to those renters unnecessarily. It's just – it's anti-affordable housing, in my opinion.

And Andrea made a point the Farmland Legacy Program's working. The other thing's working in this county is GMA. Since 1991 when the GMA was implemented, 80% of the growth has happened inside the city; 20%'s in the county. That's the goal of GMA. We're hitting that goal. It's nothing to be messed with. So thank you.

Chair Axthelm: Thank you. Next is Randy Good.

Randy Good: Randy Good, G-o-o-d, 35482 State Route 20, Sedro-Woolley. I'm just going to mention some of my comments tonight. I'll turn a report in.

How are these TDRs working in other areas? King County since 1999 has only 430 acres of farmland protected by the TDR program down there. King County, realizing the TDR program was not meeting expectations in 2008, added policies to try to boost the demand and improve supply side incentives by adopting the following policies:

- use of TDRs to help meet greenhouse gas emissions for new development projects

- number 2: use of the TDR to satisfy traffic concurrence requirements for development in rural areas
- and then higher transfer ratios in the RA-10 zones.

All of this information is available on the King County TDR website.

Consequences of the CDI- I call it TDR program – that have not been addressed:

- Determine the certified lot numbers in the rural county to see if this proposal is even feasible for the county. Get a true count.
- Ag-NRL lands must be removed. It does not work – this program does not work in rural counties.
- Inadequate receiving areas. Who will accept higher density? Most communities want to stay as they are. Most communities lack infrastructure and amenities to support increased density. Most residents want to keep their rural character, keep their single-story residences, and also keep their lot size. This is why TDRs do not work in rural counties.
- Failure to identify and map sending and receiving areas. A well thought-out program would have sending and receiving areas identified and mapped in a proposal. A successful program requires such. Check all the other TDR proposals across the country.
- What are the limitations in receiving areas created by concurrency requirements?
- Eliminate the bonus credits – will encourage rural development and sprawl.
- Consider a forest legacy program instead, like the Farmland Legacy.
- TDRs are unproven across the country. Check on the Internet.
- Will increase housing costs for those who cannot afford it.
- How will the County cover costs of enforcement and administration with this unproven program? County will have to add staff.
- Termination of the program; failure to enforce the program, leading to loss of value in certificates; eliminating receiving areas and altering methods could lead to takings.
- County indirectly controls the market this way by decisions made for sending the receiving areas, creating a regulated market.
- There would be no support to use Conservation Futures funds on this proposal. Conservation Futures funds are the backbone of the Farmland Legacy Program.
- Forterra, formerly known as Cascade Land Conservancy, acknowledges that most county TDR programs in Washington state are either top-heavy with acquired development rights or have failed to accomplish anything. Clallam County recommendations for their proposed TDR proposal was to shelve the endeavor until emergence of at least one truly successful TDR program in a Washington state rural county. And then you find that on the webpage.

Why in the world put together a CDI proposal that does not work in rural counties and hang it around the neck of our next generation? Thank you.

Chair Axthelm: Thank you. And (the) next person is Gary Hagland.

Gary Hagland: I'm Gary Hagland from Anacortes. I'm also with the Skagit chapter of the Citizens Alliance for Property Rights and I also will probably echo some of what has already been said. And I also want to recommend that the Commission here recommend rejection.

But, anyway, the following analysis is from San Juan County Prosecuting Attorney Randall Gaylord. And I think we'll hand out copies of his analysis. And although it was done in the year 2000, I think it's still applicable and still accurate. And Mr. Gaylord addresses many of the concerns and consequences of such a program as Conservation Development Rights or a TDR program. And here's a quick summary of his conclusions:

He mentions Island and Clallam Counties. Their TDR programs turned out to be failures. And Island County in a four-year period in the late '80s, early '90s, 65 certificates, credits were issued. Only two applied for. And in fact all TDR programs in Washington, they're proven cumbersome and problematic. One way to think of a TDR is that they are non-governmental – is a non-governmental scheme of shifting money from one segment of the community to the other. Unfortunately, the shift is in the wrong direction. Those who are hurt are moderate- and low-income buyers, especially first time home buyers. Large property owners are the ones usually most benefitted by these programs.

A second way is as a financial incentive for land use planning, as what they've done in King County. Rural counties, where most growth is single-family homes, finding receiving areas for TDRs, of course, is difficult and this will undoubtedly be the case in Skagit County. There's a real potential, of course, for this to create inequities as there is no connection between development costs and property values and the price of the credits or certificates, which is, I think, something the folks in Burlington said. And, again – and I'll just mention very quickly – the Skagit County, I guess, wants to use receiving areas Rural Intermediate, Rural Reserve because of apparent lack of enthusiasm by our Cities and Towns that are defined by UGA boundaries. Mr. Gaylord mentions in his analysis cases before the GMA Hearings Boards that involved Kitsap and Jefferson Counties where the Board's determined that densities at urban levels were violations of the GMA. And, of course, it was mentioned this is not a market-based program. Any time the government gets involved it's not market-based. The County will indirectly control the market by decisions made with sending and receiving areas. And, of course, I think Randy mentioned the thing about the possibility of takings and liabilities.

And I'd kind of like to add my own opinion about the program, which I think it was Commissioner Hughes alluded to during the previous meeting on this program. Why do we want to saddle future generations with such a tenuous program? The current system with a GMA-compliant Comp Plan, zoning, and legacy programs are serving the county well. Let those coming after us decide their own future. Thank you.

Chair Axthelm: Thank you. And the last one on the list that's written is Carolyn Kelly.

Carolyn Kelly: Good evening. Carolyn Kelly, Skagit Conservation District, Mount Vernon, Washington. And first I'd like to explain that I've been involved with the Farmland Legacy Program since it was invented, so it's been a good 15 years. I am currently still on the Conservation Futures Advisory Board, which helps with the oversight of the program. So I do have a little bit of experience in that area.

I'd like to talk a little bit about background and the background for – and the staff report, and how I would like when you consider a new program I'd like it to be based on facts and not subjective assumptions. There was some information that was provided in the staff report that, I think, takes things out of context and almost puts a scare tactic on why we need this program, and I really object to some of that language, especially, when it comes to talking about farm bill programs and how we've used that money for the Farmland Legacy Program. Talking about onerous rules and strings associated with that funding. I would have preferred if staff would

have talked to the people that actually use those programs on the ground and are actively involved to see what the rules and regulations and requirements are. Also the perception that that money is going away. Well, government's government and they move money from one pot to the other and they give it another acronym, so what was a lot of money in ACEP, Ag Conservation Easement Program, there's still some money there but a lot of it's been moved to their regional Conservation Partnership Program. You know, we like to play with – and there *is* money there. Just last week I signed an agreement with my federal partners and my state partners to bring in a million dollars into the Samish Watershed to purchase development rights. There is money there.

So is there enough money to buy all the development rights right now in Skagit County? No. I saw the projection. We've only done 10,000 acres. I think that's a lot. We've extinguished a lot of development rights. The intent was never to do it all. The reality is we're not going to buy everybody's development right. What we looked at was two things: a ring around the UGA to protect leapfrogging into ag land, and protecting a critical mass of farmland so we could maintain our agricultural infrastructure. This program, as proposed, is contrary to that. When I hear that proposed receiving areas might include additions to UGAs it's like, Wait a minute. That's contrary to what I've been working for for 15 years. And then promoting rural sprawl, as it were, I'm like, Wait a minute. I'm pretty simplistic on all this. GMA – 80/20. That to me is simple. 80 – you know, we're supposed to be focusing all our growth into the urban growth areas, not doing more density out into the rural areas, whether it's farm or forestland.

I do agree the forestland owners need something. They've been tossing around ideas for a long time. I don't think this is it. I do agree that there should be a mechanism for people that are going through transitional issues, such as when they're trying to do succession planning. This is not it. I always felt assured that with the Farmland Legacy Program that because we did everything based on appraised value, I could go to bed at night and sleep and not feel like I ever cheated anybody out of the value. And when I hear a program that's described – that's more opportunistic and there is the potential there for somebody who is trying to settle their family estate, as Mr. Owens, for some developer to come in and offer money to try and ease – you know, so things often maybe under market value. Market-based does not mean always market value. And that really bothers me that that could happen.

We've looked at TDR programs. I think it's always nice to have all the tools in the toolbox that you can have because you never know when you're going to need that funky little wrench, you know? However, I can't even describe now what this tool looks like. The product isn't done. So I would urge you at this time not to accept it. Thank you very much.

Chair Axthelm: Thank you. Is there anybody else that wasn't on the list that would like to speak?

Bruce Lisser: Thank you for the opportunity. I'm Bruce Lisser, Lisser and Associates, 1320 Milwaukee in Mount Vernon, and I was a member of the task force that worked on the TDR that's now the CDI problem for a couple of years. And I come away – I do a lot of development work. I represent a lot of landowners. This is a tool. I've used the TDR program in the city of Mount Vernon and it works. And amazingly enough, it provides affordable housing because you're able to transfer some property, protect – in the case of Mount Vernon, we protected agricultural land which was inside the city limits and put it up on the hill, increased the density, and you were able to increase the density for a lower cost and so your housing is going to be more affordable. It worked. The recession came and it kind of died. We haven't used it much.

You know, is this a perfect one? Probably not. Is it a tool? I think just what was mentioned by the last speaker. We need all the tools we can get. There're a lot of landowners that would love to be able to conserve their lands like the agricultural community has. They've got a really great thing going with the Farmland Legacy Program. It's really nice. And they get a substantial amount of money for preserving farmland and I think that's a great thing and it should continue. But I don't see it happening anywhere else on some of these other properties. I think you're going to see probably more voluntary conservation that's going to go on than anything else. I don't think there's going to be a lot of money made on this thing. It's not going to be even comparable to the Farmland Legacy Program.

But I think people are going to feel good about the opportunity to put their land into some type of a conservation easement. And then the folks that were talking about their forestry land, I think if there's an opportunity to even protect your property at no cost or no benefit back, and have a conservation easement without having to go to Skagit – the Land Trust, I think there's going to be an opportunity. I talk to people all the time. There's no opportunity. There's no tool that you can utilize that says, Hey, I want to protect my farmland, I want to protect my forestland, I want to just protect my land from urban sprawl. This would be an opportunity to do that. You can – the document would be there. It could be done. And you may end up without any transfer of development rights.

So this is – I look at this as a really good tool. Is it going to be used? I bet it get used once in five years because there's not that much going on in Skagit County. But the opportunity to have the language that allows Cities to become part of this program is really important. I think that's what you're seeing in King County. The last one that I saw, they had a substantial amount of development rights that went into Seattle for the high rises. I mean, that's where you're going to be able to really make this work, is that to do a TDR and take care of the people that we need to take care of and maintain some type of affordable housing, we have to go vertical. And the only way to do that is to transfer those development rights into the Cities. Is it going to happen overnight? No. I mean, the City of Burlington even mentioned they didn't like the idea of buying – you know, in Burlington you can just pay an amount to increase your density. I think they found out that maybe that had to have a limit on it too. So we're going to learn as we go forward with these programs. And, yeah, it's probably got some problems to it. And I don't think it's really going to be used that much but, God, what a great tool. I mean, it's in the box, you can – like she said, it's that wrench. You know, when you need it, it's there. And to be able to offer that to a client, you know, even the opportunity of going you have 7.1 acres and you want to be able to buy that additional upzone to get a two-unit short CaRD. You know, what difference is it going to make in the big picture? You're still going to end up with, you know, 8 acres of – or 7 acres of open space or 5 acres of open space. The rural character of the land is going to be retained.

So I would really – there's been a lot of work that's put into it. You know, is it perfect? Probably not. Does it need tweaking? It will happen as we – as it matures, and I would hope to see you support it so that people *do* have the opportunity to conserve property that does not meet the criteria of Farmland Legacy.

Chair Axthelm: Thank you. Anybody else?

Paul Schissler: Good evening. My name's Paul Schissler. I live in Whatcom County, actually – 714 Wilson Avenue. I've lived there for 35 years. I'm an independent contractor and I have clients that do business in Skagit County. I'm not here speaking on behalf of any clients. I'm speaking just as a citizen.

Unidentified voice from the audience: Speak into the microphone.

Mr. Schissler: Thank you. As I was starting to say, I'm an independent contractor. I do planning work, much of it related to housing affordability, and in my spare time I'm a volunteer for the Whatcom County Executive. He appointed me to the Purchase of Development Rights Oversight Committee that provides citizen oversight for the County's Purchase of Development Rights program, which was modeled after the Farmland Legacy Program which, I agree, is working well. It's one of the best in the country actually. So Whatcom County, we actually imitated some of that – lessons learned. And it's a younger program up there. We've only protected so far about – I say "we"; the County's protected 1000 acres, but there's growing interest in the idea of protecting farmland.

I would like to echo a couple things that were said on the sending side of the equation. It would be another tool that could be available to protect other kinds of resource land other than the ag zone land here – timberland, for example. I don't know where the money'll come from to buy those development credits yet, but at least there'll be a program that will exist if funding could be found somewhere.

The bigger problem is on the receiving areas. Where are you going to find a willing City to cooperate? Because that's really – when it comes to housing affordability anyway, smaller homes that are more affordable for people who work here. Let me just hit a small sidebar here. As many people do not know, only three out of every five homes in Skagit County is affordable for the people who live in that home. If you look at the census data, and it goes back pretty far but the numbers are getting worse. Only three out of every five households can afford the home they live in. By definition, they're paying an unaffordable amount. They're paying more than 30% or more than 1/3 of their income for housing costs including basic utilities and rent. So as people probably know, it's almost \$1000 now to rent a basic two-bedroom apartment. If you need a three-bedroom apartment, you'd need to be earning \$50,000 or more per year as a household to afford a three-bedroom basic apartment.

So two out of five households don't have affordable housing now. Three out of five do have – did I misstate that? I hope I didn't. So 40% of the current residents in the county – current households in the county – don't have affordable homes, so we have this huge problem. And what I think we might be able to do is convert the problem of a receiving area into – somehow there's got to be a way to convert that into something Cities will find it worth their while to accept – into existing UGAs, existing urban – better yet, inside existing city limits where it is appropriate to have more small homes that people could afford so they wouldn't have to drive all the time and could afford to live close to where they work and send their kids to school, or, if they don't have kids, you know, it's just a nice place close to downtown. In all of the nice towns in this – I live in Bellingham but I think all the towns down here are quite, you know, livable and I, you know, sometimes wish I had moved here 30 years ago but I didn't.

Chair Axthelm: Your time is up.

Mr. Schissler: My time is up. I would encourage you to keep working on this because the sending side seems to be working well. You'll expand that. If we can figure out how to make the sending area a real benefit and something that actually, I think, could attract some dollars so that the County would have – or someone would have – money to pay the landowners who would like to sell their conservation easements. I think we can turn it into funding for affordable housing. I'm pretty sure we can do that.

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

David Gribble: My name is David Gribble, G-r-i-b-b-l-e, 15593 State Route 9, a mile south of Big Rock. I have several comments. One of them to make is that I'm pretty ignorant after attending this meeting as to all of the events that have transpired concerning the use of land in Skagit County. We moved here in 1946 after the war and I thought I'd died and gone to heaven. I still do and I like the way it looks. It's changing but I want to keep our area as it – somewhat like it was before. In the mile between Big Rock and Big Lake School there were six small dairies, and then the Big Lake Ranch, or whatever it was called, on the east side of the highway. That's changed now but there's still an element of rural character in our little valley. And I don't care what the name of the program is. We would like to be able to conserve our bit as a conservation easement to retain that land to be used for agriculture and selective logging. We started cutting logs and taking them up to the little mill at Big Rock when we first moved here. And a bit of logging has been done on our property several times in the years since.

I have two general areas to talk about. One is that we have made two efforts, one a concerted effort, to attempt a conservation easement. We were – because we are not zoned agriculture or farmland, we were told and I understand and until I hear otherwise we are not eligible for Farmland Legacy options. We went to the Skagit Land Trust a number of years ago when that organization was in the office down – in the middle of downtown upstairs someplace, and at that time we were told there was no – we could donate our property and receive some kind of tax benefits in the future and all this sort of thing, but at a cost that we couldn't afford. Within the last year we spoke to Skagit Land Trust and they came out and looked at the place and we walked through it but we were not high enough on their list of considerations to be eligible for a program through them. I don't care what the name of the program is. If it is at all available, I want to take advantage of the – of that program to provide a conservation easement. It's a little bit less than 60 acres. I would mention, I would say that in recent discussions with contiguous neighbors to our north and to our south they, too, wish to maintain an area as it is: a rural area without development.

Chair Axthelm: David, you're out of time.

Mr. Gribble: Okay. Well, I'm going to say that – I'm going to have one thing to mention. We took part in the Growth – or we were in the audience during the Growth Management Act, my daughter and I, and watched the map of the eastern urban growth area of Mount Vernon change from where it was. We were not included too. For some reason the growth – the area expanded to almost a half-a-mile and included us with no explanation to why that came about. We attempted – myself and five neighbors of contiguous property – attempted to get out of the Growth Management – attempted to get out of the urban growth area. We paid our money, sent in our letter, and we received a letter back saying no, with no reason as to why we were rejected. So my comment is that there's a sense, at least on my part, that we're not being representative. The urban growth area, the way it works in some ways is legislation without representation. I can't vote in Mount Vernon, but Mount Vernon has some right or some say about what happens to our property, and we're unable to – at least as I see it. There may be something I'm missing and maybe I need to hire a lawyer. Lord knows, life shouldn't be that complicated.

So my comment in ending is any way you can support further capability – adding to the tool chest, as people are talking about here – of providing a rural character, I'm for it, strongly for it, and, goddammit, I think we should try harder to get these things to work.

Chair Axthelm: Thank you.

Mr. Gribble: Thank you.

Chair Axthelm: Any other comments from the public?

(silence)

Chair Axthelm: Okay. Before I close the public portion, we are pretty early. I noticed – as a side comment – I noticed in the Commissioners' meeting they allowed some extra time at the end of the public hearing if there weren't that many people to talk. Do you want to open it up to anybody or do you have any questions you want anybody to approach? What is the will of the Commission there?

Kathy Mitchell: _____. I'm sorry. We should have been louder. What I was saying was that Mr. Harrison from Burlington was cut off earlier than some of the others.

Mr. Harrison: We have comments in writing.

Ms. Mitchell: Okay.

Chair Axthelm: Okay.

Ms. Del Vecchio: (unintelligible)

Chair Axthelm: Okay. Is there anybody that felt like they had more comments (and) they didn't have a chance to say it – within reason? I would allow – how many more minutes would you like to allow them if that was the case?

Ms. Del Vecchio: Two.

Chair Axthelm: Two more minutes? Would that give you some time? Two more minutes? We have been – at least I have been pretty flexible tonight. A lot of the people have gone close to four minutes, but given the amount of people that were on the list I wasn't too worried about it. But we still have to restrict it somewhat just to be fair.

Ms. Ehlers: Carol Ehlers. Yes, of course you have to, but this is a really good way of doing it. It's the way the Commissioners did it last week. We went through the group and then we could come back, and it took the sting out of it, especially when I was only given 75 seconds last week. I don't do anything in 75 seconds.

You've got to have a physical sense of what you're looking at. If you're going to go in the Rural Intermediate in east county, the county is already driving people out of Cape Horn where they're living in platted lots because of the flood conditions. That is such a major issue for much of the county in the east part that you need to help the people who are there identify. A woman up there said, I know I'm above the floodplain because it has never flooded here. How do I prove that it isn't? Who do I hire? Where do I go? What documentation do I have? Well, those are valid questions. And if she doesn't know and she can't find out the Planning Department should know, and I suspect there is someone in the Planning Department who *would* know. It's often a question of finding out the permit person who's used to dealing with a geographical area, which leads me to the issue of the Natural Hazard Mitigation Plan.

We have one. The Planning Commission hasn't been told about the latest version of it. They need to be. You need to deal with that issue when you're discussing things because on Fidalgo, for example, on the east side there's an ancient landslide that in 1990 slid, took several roads with it, divided up some houses. There is already a density there because it's been developed since 1890, but you really would be smart to not add anymore. Near where I am, which is also Rural Intermediate, there's cliffs below us. You can't add to that because we bought it and donated it to the Trust, which is how I have the experience with the conservation easement argument every six years. But down the road there's a piece of land that is zoned Rural Intermediate, 5-acre. Every time they cut a tree it slides down onto the road. They can't build there, but they're being taxed as if they could. And so there's an equity question that if you're going to do things to help Mr. Gribbles – and it certainly makes sense for things like that – there are pockets like that all over the county.

Chair Axthelm: Carol.

Ms. Ehlers: And we have to be fair.

Chair Axthelm: Time's up.

Ms. Ehlers: Finally, who's going to pay the real estate excise tax?

Mr. Stauffer: Ed Stauffer from Bow again. Years ago as Planning Commissioner, Ms. Ehlers pointed out –

Chair Axthelm: Ed? This is just a general comment as well. Please make sure that your comments are relevant to the hearing and what we're talking about. They're a lot – I just – I know you have a lot, but I just want to make sure it's keeping it relevant.

Mr. Stauffer: Is there a problem or shall I proceed?

Chair Axthelm: No, I'm just – that's fine. You're fine. That's a general comment for anybody.

Mr. Stauffer: Ms. Ehlers reminded us all of the principle of the three-legged stool. What I'm asking you to do is, number one, consider the fact that we do have a conservation plan in place now without this proposal and it has worked and it's worked well. We have low density rural residential development independent of public utilities that has occurred according to plan without sprawl. Those rights to use that property are guaranteed under the Growth Management Act. If you read the citations I gave you, you'll see them there.

Willing buyer, willing seller. Is that relevant enough for you? What is a disincentive? What if you create a disincentive? What if you take away the rights to use potable water from 5500 property owners? The Skagit County Assessor's office reacted to that by devaluating those properties by 70%. That value of those properties came exactly directly out of the Skagit County budget. You buy a development right off of a piece of rural property, as few as there are, created intentionally by our effort for the Growth Management Act to provide the opportunities guaranteed under the GMA to the residents of Skagit County, and you shift the value of that land to an urban area and away from the rural area, which is away from the County tax base. You have to take that into consideration. I hope that was relevant.

Chair Axthelm: Thank you very much. No, perfect.

Ms. Bynum: Ellen Bynum. I have an additional comment. In the previous hearings or in some statements that are written – I'm not sure whether it was written – possibly it was just discussed – one of the County Commissioners said that we shouldn't be purchasing development rights from Ag-NRL with public tax dollars and retiring those at the same time we're making zoning decisions that are creating development rights on the other side of the equation without obtaining some form of public benefit in addition to the additional residential development. And that public benefit would be resources that would help achieve conservation of our resources – our farms, our forests, and our open spaces.

I just wanted to reply to that. Those are like apples and oranges. There's no reason to say we shouldn't be purchasing development rights from Ag-NRL with public dollars and retiring them because we decided that program was something that we wanted. We voted on that. You know, 85% of the county said they wanted to save farmland when Skagitians to Preserve Farmland did their study, and I don't think that's changed. If you ask people again I think they're going to say that they want to do that. And they chose to do it with a purchase program because it was the program that was most certain – provided the most certainty – and it was the clearest. It also didn't require huge administrative costs to implement.

The other part of the Commissioner's statement that you should get some other public benefit when you give a development right. Well, we've decided how many development rights we want by decided what our zoning is and what the rate is within that zoning. We did a pretty good guess on that. We haven't achieved our 80/20. I think we've achieved it in three years out of 20. But we also haven't gone back and said, Do we want to recoup that part that we missed with that? I think the role of government is to manage, to see that we are zoning properly and we are conserving properly and we are being fair to all citizens. And I don't think that you have to have some other benefit out of governance. We pay our taxes, right? It seems like that's enough.

So I would urge you to reconsider that statement as something that is – you know, the Farmland Legacy Program's one piece of it and the role of government is another piece of it, and I don't think those two things are connected except in the sense that the Farmland Legacy Program is something that the citizens decided that they wanted. And it's something that has made a huge difference to the way that the farmers use the land and it has helped with succession planning. We need a succession planning tool in the toolbox. It's not TDRs, I don't think. I think it has some – maybe we need to do some technical assistance to farm companies and to farmers so that they can get a handle on all the options that are available to them. We did a workshop one time about that and had some people who came in who do that for expert opinions. But I think we need to do that again. There are other ways to do what we want to achieve here. So thanks very much.

Chair Axthelm: Thank you. Any other comments?

(silence)

Chair Axthelm: Okay. So seeing that we had no more comments, that would close the public testimony portion of the meeting. But you'd also still have the opportunity to comment if you had anything comes to mind or if anybody else, you know, does then you can have the opportunity to comment until the end of the comment period. And where is that – that date?

Mr. Pernula: It's right on the screen.

Chair Axthelm: There we go. I turned mine off because it kept flashing.

Mr. Pernula: The comment deadline is November 5 at 4:30 p.m.

Chair Axthelm: Okay. And we do appreciate your comments. This is what helps us to make our decisions and makes them a lot easier because when we receive public comment, whether it be for or against, it lets us know how you feel. And we appreciate you coming tonight and sharing those opinions with us.

Commissioners, do you have any comments while people are here? Anything?

Tammy Candler: My question is have you had a chance to work on the map or is that going to be forthcoming, or what's going on with the mapping that we talked about last meeting?

Mr. Johnson: So we've been working with GIS on getting a handle on the number of Rural Reserve parcels that would be affected, depending on where the threshold was set for that CaRD provision. We looked at 7 acres – basically we looked from –

Chair Axthelm: Kirk, hold on a second. Public, if you would like to talk, if you'd please step out into the hallway there. You still can hear what we're talking about. It's on a television out there. But for us to hear and understand what's being said, we need it to be silent out in the audience, please. Thank you. Kirk, go ahead.

Mr. Johnson: We looked in half-acre increments from 7 up to just under 10 acres, and then also looked in half-acre increments from – so 13 – you know, like if you had a 13½-acre parcel up to 15. And I have some preliminary numbers. I didn't hand them out because I want to make sure that they're correct before I hand them out. But we haven't taken the next step to then have a map that shows where those – I mean, it would kind of depend on what threshold you were looking at. If it was more like the 1-acre short of 10 or 3 acres short of 7. That would be helpful to know before we tried to identify where those parcels are located.

So is that – I remember there was that issue and then there was the Rural Village and Rural Intermediate, which are on the Comprehensive Plan map, which I believe you said you had a copy of.

Ms. Candler: I do. I do have a copy of that. I'd like to see the map set at the lower threshold that you were talking about.

Mr. Pernula: The 7?

Ms. Candler: Yeah, for the 7.

Mr. Pernula: Okay.

Ms. Candler: Does that sound good to you guys for now?

Chair Axthelm: You can just tell him what you want.

Mr. Johnson: It may even be it would take a while. GIS might be able to color-code so –

Ms. Candler: That would be cool.

Mr. Johnson: Yeah. I mean, it shouldn't be a surprise that if you go down to 7 acres you're going to include more parcels that would be eligible than if you kept it at, say, 9 acres.

Ms. Candler: Any idea of how many more? Or, like, what are we talking about – twice as many?

Mr. Johnson: So it looked like if the threshold was set at 9 acres, that would pick up – create the potential for 628 additional lots and if for 5-acre increments, if the threshold were at 4½ acres – so let's say you had 14½ acres, because a half-acre is half of one – yeah, that would be just 27 additional lots so that would be 655. Now that's just that meet the acreage size criteria. So if the parcel's in the floodway, it wouldn't be eligible. If it is in the Mineral Resource Overlay, which can't have a density of greater than one per 10, it wouldn't be eligible. So there would be site-specific reasons that could knock that number down. If you increased it to 7 acres or at least 3½ acres on increments of 5, that would go up to 1369 potential for additional lots. So that's a little bit more than doubling.

Ms. Candler: I don't – I mean, I don't know how much time we're talking about putting in, you know, but I would like to see those color-coded. I'd like to see the difference myself.

Mr. Johnson: Okay. Okay.

Ms. Candler: I don't think I'm the only one.

Chair Axthelm: Yeah. I'd like that, too.

Ms. Mitchell: Same here.

Chair Axthelm: So, Kirk, if somebody's really close to that, close to the threshold – so you gave different examples like if that threshold was changed to a lower number – if they were really close – let's say the threshold's 15, if you had 14.9 acres would somebody be able to go in and have that to allow more density because it's so close?

Mr. Johnson: There are rules in terms of – and Mr. Lisser might know these better than I do – but there are rules for determining the acreage that's available, and I think you can count to the centerline of a road. And so there are lots of things that our Planning staff currently does when somebody comes in and says, I'd like to do a CaRD and I have 14.99 acres, then they'll work with that person to see if under the existing rules they actually have 15. But if they really had 14.99, then we can't say that they have 15 if we apply the rules and they don't apply to that situation, so in that situation if this provision existed then with the purchase of a development credit they could be as if they had 15.

Chair Axthelm: That's based on density. It's not density of their property necessarily, but considering the roadways and that density.

Mr. Johnson: Yeah, it's based on parcel size in terms of what counts as a parcel and what can be counted into the acreage that's available, you know, for a CaRD project.

Chair Axthelm: Any other questions?

(silence)

Chair Axthelm: Okay. Is that – and I'm sure – oh, by the way, I appreciate your answering all these questions. I think everybody else – if I could speak for everybody – it's very useful to see those questions be answered as they have been, so I appreciate that.

Okay, so we'll move on to the next portion of the – move on to the Department Update.

Mr. Pernula: Okay, before I go too far into it, I just wanted to mention that the next thing that's scheduled on the CDI Program is November 17th is when you're scheduled to deliberate on this information, plus what we get in comments by Thursday.

Now coming up next week on Tuesday, November 10th, we have another community meeting. This'll be at Edison School. Once again it'll be from 5:30 to 8, the same format as the others. It'll be at Edison School on November 10.

The Board of County Commissioners will be deliberating and making a decision on the Comprehensive Plan Amendment docket for 2015 on November 24.

And another thing that's coming up is another one of those Short Courses that are put on occasionally. This one's in the town of Coupeville, and if you're interested in going to that I have some information on it. I can forward it to you. And I noticed in the solicitation for people going there it reminds us that – it says "Open public meetings portion of the agenda meets the requirements of ESB 5964, requiring every member of a governing body, including planning commissioners, to take training on the Open Public Meetings training within 90 days of taking an official role, and every four years thereafter as long as they remain in that role. Now Ryan has been providing that periodically so that you are up to date on that, but that is a part of this training that will occur in Coupeville, as well.

Holly Del Vecchio: Dale, do you have a date for that?

Mr. Pernula: The date is December 2nd and I have a flyer on it and I can send you an e-mail, as well. And we will reimburse you for your gas mileage. And that's all I had.

Chair Axthelm: Okay. Thank you. All right. The next portion is the Planning Commissioner Comments and Announcements. So I have a general comment – more a comment/question. I noticed with the Birdsview Brewery, when we did that public hearing that there were a lot of people that were not residents of Skagit County, didn't own land and didn't reside in Skagit County that were making comments on that hearing. And maybe this is an item for the lawyer. But it's – when should those comments be not allowed or allowed? In your –

Mr. Pernula: No, I think they signed a petition. Were there people who were speaking as well?

Chair Axthelm: Yeah.

Ms. Candler: Patrons.

Chair Axthelm: Yeah. But because they don't reside in Skagit County, is that something that's – that they should be making those comments?

Ms. Mitchell: Well, by the same token, at some of the public workshops, although it's interesting to hear people's input, we've had people come in from other counties that either work there or are familiar with the area coming and making comments that would impact our Comp Plan, and

I'm questioning the same thing. When is that nice to know versus it should or shouldn't be considered?

Mr. Pernula: Good question. I think that's up for you to balance, but we can get a more precise answer to that question if you want.

Ms. Mitchell: I'd like some legal guidance, please.

Chair Axthelm: Yeah.

Mr. Pernula: Okay.

Chair Axthelm: I mean, is it up to us or is it, you know, to accept some of those? Because sometimes there are opinions that come from other counties that are very good opinions or help us understand a situation. But there are other situations where it wouldn't be appropriate. You know, it might affect an area. We just want to make sure we're doing it right and not being influenced in the wrong direction.

Mr. Johnson: I think that would be a good issue to have Ryan weigh in on.

Chair Axthelm: Yeah, okay. That's all I had. So that's it?

Mr. Johnson: That's it.

Chair Axthelm: We'll go ahead and – or I need a motion?

Ms. Del Vecchio: Motion to adjourn.

Ms. Candler: Second.

Chair Axthelm: Okay. Everybody's in favor of that, I think.

Ms. Del Vecchio: Aye!

Chair Axthelm: The meeting's adjourned. Thank you very much.