

**Skagit County Planning Commission
Deliberations: CDI Program
November 17, 2015**

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

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

Others: **Nels Lagerlund, Agricultural Advisory Board**

Public Remarks

Commenters: **Ellen Bynum, Friends of Skagit County
Ed Stauffer**

Chair Josh Axthelm: Okay, it's Tuesday, November the 17th and welcome to our Planning Commission meeting. I call this meeting to order, and if you take a look at the agenda we have the standard Public Remarks and then after that we have Deliberations on the Proposed Conservation and Development Incentives Program Comprehensive Plan Policies. And 4th we have Department Update, and Planning Commissioner Comments and Announcements. Do we have any changes to the agenda or comments from the Planning Commission on the agenda?

Unidentified female Planning Commissioner: No.

Chair Axthelm: Okay, seeing none we'll go ahead and move on to the first item on the agenda, the Public Remarks.

Ellen Bynum: Good evening, Commissioners. Ellen Bynum, Friends of Skagit County, Mount Vernon. I had two items that were process items. I attended the EDASC town meeting today and one of the things I heard over and over was the lack of accurate and timely data both on the sides of the planners and on the sides of the developers who are looking for parcels within cities. They're complaining about they go and look at the – they get the parcel, it looks great on paper, they go out and ground-truth it. They have to call a realtor to verify that. And they're not really sure that what they are looking at on paper has anything to do with the land that they're looking at. That's really expensive for everybody involved. And so I was going to just tell you that story and make a request that we maybe take a look at the way that we develop data and whether or not we ever ground-truth it and we go back and look at it again. And I know that's to

a large degree the GIS Department, but I think it's something that needs to be put in the hopper and something that the Planning Commission and the Planning Department both need to look at.

And related to that I'd like to make a request and I guess it would be to Kirk, although it might be to the GIS via Kirk. I saw that you provided the maps on the proposal for the CDI parcels. We really would like to see, when we do that, we'd like to see parcel – maybe parcel numbers with acreages and zoning. We don't need to know the names of who owns them or any of the other details, but it's really helpful to me to be able to summarize the, you know, the zones and the acres in the zones and different things to consider anything of that sort.

One more thing. It's a process issue. I know that the guys that do the video coverage are really conscientious in getting all of your good words down and I know that someone has to listen to that and provide a transcript. And the transcript lags by some weeks or months. In the instance of you relying on the transcript instead of looking at a video, it seemed like it would be important to have the transcript available. So I made a kind request into the system from the video end of things, but I also wanted to make that in through the Planning Department maybe to go back and see if those can get posted more quickly. Thanks.

Chair Axthelm: Thank you.

Ed Stauffer: Good evening, Planning Commissioners. Welcome to the clean, clear air of Skagit County. You can see forever tonight. A quick remark is I was reading the proposed list of Comprehensive Plan Amendments that's come out recently. It's not clear to me if you're being those to deliberate on top of everything else, but there were some 17 submitted by citizens of Skagit County. Out of those – proposals for amendments proposed to be docketed this go-around – out of those 17, at least 52 of them were reviewed, commented, and juried and rejected by an unnamed member of staff. But in reading the analysis and comment of staff of the unnamed person, I thought it would be really germane for the members of the Planning Commission to read those comments with a critical eye, because if you step away from the comments and away from the personalities involved and the issues raised, you get a fairly clear picture of how Planning Department staff, or at least the author of those comments, views the function of the Planning Commission – you. I just want to point out that the majority of the residents of Skagit County are now represented by a planning commission in an urban jurisdiction where they elect their commissioners. We have a volunteer planning commission – you folks – who are the only direct representatives that the rural residents of unincorporated Skagit County have in the formation of all policies. So please keep your priorities straight and don't allow yourselves to get spread too thin because without you we're sunk. And we're not going to go down easy. Thank you.

Chair Axthelm: Thank you. Okay.

Kirk Johnson: Mr. Chairman, on the transcript – that was e-mailed to me this afternoon and so we can – from the hearing – we can put that on the Planning Commission website tomorrow.

Chair Axthelm: Okay. Good.

Ryan Walters: I might also comment a bit on the transcript issue. It's my office that prepares the transcript. We have one person who's doing that. I have considered possibly directly her to not prepare transcripts because I'm not sure of their value. So if the Planning Commission finds the transcripts to be particularly valuable, I think we need to know that. It might still be that we don't

– that my office discontinues preparing transcripts but we might be able to find some other outlet. But I would be interested in hearing if you find them particularly valuable because they do take a great deal of time to produce. And in my experience it's much better to be able to watch the video because it just is conveyed completely differently from the written transcript.

Chair Axthelm: Any questions on that from the Planning Commission?

Kathy Mitchell: I'd like to respond. I'm one of those that uses the transcripts routinely. The video's always helpful, but for those of us that live in places where the streaming is iffy, which frequently happens. For instance, today I could watch something but three minutes would probably take a half hour because it keeps stopping. So sometimes you can use those or you can get a hard copy of it, but that's where the transcripts really come and help – where you can quickly read things, find things, and know exactly what was said. The other part of the problem is that when you are viewing things from the video standpoint from the user end, oftentimes you have to scooch ahead forwards or backwards to try to find something, and if you have to stop something more than once to understand exactly what was said – because it's not always easy to understand what was said – it can – you might have to do that several times. And if you have to stop that several times to do that it gets all boggled up where you have to start all over again and that can be really complicated. So although the videos are very helpful, oftentimes there are other places in the county where the transcripts are very important as an additional tool.

Chair Axthelm: Anybody else would prefer to have the transcripts still printed?

Keith Greenwood: I like them. I use them. I did use more historical though, so most of the ones that I use are more based upon something prior to video. So I think I just like both. I like to read sometimes because sometimes my wife watches movies and then I can't watch my movie, which is you guys, so streaming probably.

Tammy Candler: I have a question. Would we have to do minutes if we didn't – how do – do we not have minutes?

Mr. Walters: You don't have minutes now. No.

Ms. Candler: No, I know. But I was kind of thinking in lieu of minutes, but maybe that's what the video's for.

Chair Axthelm: The transcript would constitute the minutes or would the video constitute minutes as well?

Mr. Walters: You don't have minutes now. Action minutes would be extremely abbreviated because you generally don't take any action except with your recorded motion. So there might not be very much point to minutes unless they were detailed minutes, which – that would be an exercise that would take a whole bunch of your time because then you would want to edit the minutes.

Chair Axthelm: No, I know.

Mr. Walters: I saw you shudder there.

Chair Axthelm: But right now we have the transcript so essentially that takes the – I know it's not technically the minutes, but in a way it is.

Mr. Walters: Right. There's some corollary there.

Chair Axthelm: Where you have the video, eh...

Mr. Walters: The other consideration is we really cannot – unless Planning wants to take this on – my office cannot produce the transcript any faster than it is currently coming. So if it's useful when you're getting it now, good. But we can't speed it up.

Ms. Mitchell: I would –

Hollie Del Vecchio: Oh, I'm sorry. If we did not have the written – the actual transcript, then would we *need* the detailed minutes?

Mr. Walters: No.

Ms. Del Vecchio: Okay. Okay, so it's not one or the other.

Mr. Walters: Right.

Ms. Mitchell: I'd rather have access to the transcripts any day than not at all. And they have proven valuable over time.

Annie Lohman: I have a question. If you just had audio, do you still have trouble with the Internet – if it's just the audio?

Ms. Mitchell: Yes. Either/or.

Ms. Lohman: It's either/or?

Ms. Mitchell: Mm-hmm.

Mr. Walters: And you can download the video and audio now.

Ms. Mitchell: Same problem. I can download them but it gets so sketchy with coming in that it can take a very long time to do that.

Mr. Walters: To do the download?

Ms. Mitchell: Mm-hmm.

Chair Axthelm: Service?

Ms. Mitchell: It's service. We're in the boony. We are very rural.

Mr. Walters: Mm-hmm.

Chair Axthelm: Okay. All right, so with that we'll move on to the next portion of the meeting – is the Deliberations on the Proposed Conservation and Development Incentives Program Comprehensive Plan Policies. Any comments or clarifications?

Mr. Johnson: What's that?

Chair Axthelm: Do you have any comments or clarifications?

Mr. Johnson: Maybe just to briefly summarize the e-mail I sent out I think around noon, a little before noon, and then the one from last week. So I just wanted to clarify in case somebody *didn't* see that that we're – we don't expect you to have read and digested the 22-page response to comment memo by tonight. It would have been nice if we had gotten that to you a week ago but there were a lot of comments and it took a long time to compile that. So Ryan will talk a little about the – kind of the timing – the two meetings and how that meets with the Board's desires. But we have basically two nights scheduled for you to deliberate on the CDI policies and tonight is the initial night to begin those deliberations, but we're not asking and we're not recommending that you make any decisions tonight, so that you do have a chance to review the response to comments and then maybe go back to the comments – just more time to think about that and reflect on tonight's discussion. And then Tuesday, December 1st, would be the day to come and make recommendations on the policies.

What we'd suggest or recommend doing tonight is having a pretty high level discussion, even above the policy level, and that was included in the memo on deliberations that we sent out last week. And it's really kind of the level that the TDR Advisory Committee considered these issues as it was being asked to make recommendations, or if there were recommendations coming from that group.

And so that's at least how we'd like to start tonight, is to walk – and I can hand these out, but I can't talk and hand them out at the same time, not because I can't do those at the same time but I wouldn't be by the microphone. We would suggest walking through these four different items and the sub-items within them to first make sure there's an understanding of the different choices there and how those choices would work under the ordinance, and then to talk about your thoughts and feelings or concerns or questions about each of those. So that would be our recommendation of how to move forward, at least to begin with tonight.

Mr. Walters: And I had asked the County Commissioners if they had any preference with respect to when they got your recommendation, and the sense I got from talking to them individually is that the County Commissioners would like the ability to take action on the policies this year. The policies go into the Comprehensive Plan. We can only amend the Comprehensive Plan once per year. Next year's Comprehensive Plan amendments will take place with the Comprehensive Plan Update, which will hopefully happen before July. But in the alternative, if we can issue a recommendation on the policies without delving into the details of the code, the Board could take action on the policies before the end of this year. And then you could finish up the code at any time, because code amendments are not restricted to once per year. Or, if the Board decides not to adopt the policies, you don't need to worry about the code because there wouldn't be a program to implement. Does that make sense?

Mr. Johnson: Okay, I guess what I'd like to do is summarize what's in item number 1, which is transaction mechanisms, and briefly describe those. And if I get less than brief, maybe Ryan will hit me and he'll be the brief guy. And then we can talk about them each in turn.

So what's in the proposal right now is two different ways that development credits could be purchased and development rights extinguished. And one is through private transactions – and that's what would commonly be referred to as a TDR transaction – between a private buyer and a private seller who negotiate the sales price and execute the agreement. And the County is the facilitator in that and it's the County that enters into the conservation easement with the seller to retire the development right from the conservation property. And it's the County that would then issue the development credits to the buyer who could then use them in one of the Development Priority Areas. So that's your private transaction between two individuals. Certainly the program sets the conditions of the deal, but they negotiate the price, decide if it works for both of them and then move it forward like that.

So that's the TDR approach, which is a part of the proposal, and then the what I call development credit approach is that the County could sell development credits at prices, based on analysis of what it thought, based on market analysis, an additional unit of development would be worth to a developer in a certain Development Priority Area. And if that met the developer's need they could purchase that development credit at that price. There wouldn't be a negotiation. If it didn't meet their need, if they couldn't make their project pencil at that price they wouldn't purchase the credit. And the County would pool the revenues that were generated from those sales and then use them in a purchase of development rights capacity, very much like the Farmland Legacy Program, where it would probably put out a call for proposals once or twice a year – say: We're interested in conserving land, purchasing development rights. Interested landowners may apply. And then there would be ranking criteria that would be used, like the Farmland Legacy Program, and the property that offered the greatest conservation benefit would be the one that would be prioritized first, and then second, until all of the funds were expended. And in the same way, the seller of the development rights would enter into a conservation easement with the County that would retire those development rights.

So those are the two transaction mechanisms that are proposed under the policies and code. The majority of the Advisory Committee that said to recommend to the Board that the County move forward with the program said, We like the idea of offering both options because some might be more attractive to some individuals and the other option might be more attractive to other individuals, and there's definitely some analysis or discussion in the TDR literature, as it's referred to, that having those two different options can make a program more successful.

So, Ryan, is there anything you would like to add to that?

(silence)

Mr. Johnson: Okay. So you could recommend – I mean, item number 4 is whether you would recommend moving forward – that the Commissioners adopt policies or not. But on each of these sub-items you could recommend both mechanisms, like the proposal, or one or the other. I suppose if you said neither mechanism that would equate to not recommending moving forward with the program, so that's not – you know. So any questions?

Ms. Del Vecchio: Yes. So would the County system – whatever we're calling that, but not the private transactions, but the ones that are being facilitated by the County – would – is it safe to assume that we would not be purchasing rights without having first sold? So your example here – sorry, it sounded much better in my head – but your example here is developer pays a fee and then the County uses that to extinguish a development right on resource land. Would – is it safe to assume that the opposite would not be occurring? That we would not be extinguishing rights before we actually had somewhere for those rights to go?

Mr. Johnson: So as the Committee majority recommended and as is included in the proposal, the purchasing could only happen after development credits – the County’s purchasing of development rights could only happen after development credits were purchased by a private buyer or multiple private buyers. So there’s no proposal that the County would fund the program up front with public funds that could then be used to purchase development rights for conservation.

Ms. Del Vecchio: Okay. Thank you.

Mr. Walters: It’s pay as you go.

Ms. Del Vecchio: Okay. Perfect.

Ms. Lohman: I guess my – Mr. Chair?

Chair Axthelm: Yeah.

Ms. Lohman: My question is before you get to 1, should there be a question that asks us if – how we want to launch the project? Because you jumped right into how we want to collect fee with – I feel like we’re jumping into the deep end before we know how to swim. And so the reason I’m asking that question is, Do we want to do some kind of program like this or do we want to step back a little bit and say wait a minute? Maybe we should do something that’s like a forest legacy program and include Rural Resource-NRL as well as a forestry program, and model it after the Farmland Legacy Program, and ask that question first. And then, depending on how we – I’m asking the Planning Commission as well – how we answer that question, or then jump into, How do you maybe want to pay for it or assess for it? But I almost feel like it’s a little bit premature to ask, Okay, do you want to collect money on a or b?

Ms. Del Vecchio: We could start with number 3, work up the list, and then come down to number 4.

Ms. Lohman: Or we can add to the list.

Ms. Del Vecchio: No joke. But I think that if we were to address whether or not the list of the types of areas are something that we want to be including as Conservation Priority or Development Priority Areas, and then, okay, move on to – okay, if there’s anything left. I mean, we could decide there’s nothing on this list anymore then there’s no point in getting to number 1. It sounds like what *you’re* kind of getting at is do we want to limit this to just forestland.

Ms. Lohman: Right.

Ms. Del Vecchio: Which gets at 3.

Ms. Lohman: Because just conserving land for the sake of just conserving land without a reason and just saying that you’re going to use it for estate planning, I don’t think we should use County land use policy-making as somebody’s estate planning. That’s a secondary benefit to the individual. But to use that as a key driver to implement a plan for the County, I think that’s a little overreaching for government’s role. Same for – I think it – and same for retirement plans. I don’t think we should – that discussion is personal. It’s not a public discussion. It may be a benefit that you can’t deny, but for it to be the driver for the policy, I have a problem with that. So

when you're talking about lands that you want to preserve, why are you preserving them? I understand it for the Ag-NRL because you've got a very finite amount of contiguous ag land, and when you break it all up and mess up that continuity there's a lot of problems when you look into the future. But when you just talk about Rural Reserve, which is a – or rural resource lands, that's more of a mosaic of type of land use activities going on in that zone, it's maybe a different conversation. So I don't –

Ms. Mitchell: I'd have to agree with Annie.

Mr. Johnson: So I have a response and it's just my response, but, sure, you could talk about that. I mean, I think what you're saying is ultimately very related to item number 4, you could say, We don't think this program is needed or appropriate. What we want to recommend is a Forestland Legacy Program that, I assume, is paid for with tax funds or grant funds, not private purchases, because really number 1 goes to the issue of a way to generate _____.

Ms. Lohman: But like the Farmland Legacy Program, there is a vehicle that allows fees to be collected by municipality, or even the County could, and then they have a mechanism to accumulate those fees. So the County could enter into a fee kind of scenario like you're talking about in number 1(b). It goes into a pot and then that pot could accumulate over time. So it has besides potentially a self-assessing by an act of the voters, like we did for the Farmland Legacy Program, it also has that other component that allows for contributions from different other mechanisms, including somebody just wanting to write a check and making a donation – you know, a – or a whatever.

Chair Axthelm: So we're kind of getting off on a different foot than I was thinking we were going to get off on. So for starters, do you think at deliberations we have some options here: whether we accept the development program or whether we want to reject it in general?

Ms. Lohman: I guess I'm struggling with the order – the number 1, 2, 3, 4 – because I can't start on number 1 because it's premature for me.

Chair Axthelm: Yeah, and I'm feeling the same way.

Kevin Meenaghan: Mr. Chair? I suggest that we look first at the policy and the goals in the Comp Plan – and I think this is what you're getting at – which really means looking at 1 through 3 here, maybe not in that order. Because the Board of County Commissioners is asking us to basically make a – if they were going to approve this, what do we want them to approve, okay? We're not making a determination first on whether we actually recommend this or not. So I'd say let's look at this, give them something to work with, and then secondarily, after we do that, we say yes or no. We make that recommendation. Okay, so –

Chair Axthelm: Because if we don't – we've had this happen before where we've made a recommendation, said, No, we don't want it, and they went ahead and did it anyway.

Mr. Meenaghan: Exactly.

Chair Axthelm: So and my concern is if we don't have a – so if they *do* do it, what recommendations would we give them if they did it? And we still have the option to say we don't like it, we don't want it, or the people don't want it. So, you know, there's two options there but at least we have reasoning for it. And if they *do* do it, this is what we'd like you to do.

Mr. Johnson: Yeah, I think we would recommend whatever order you go about it that – I mean, there is the possibility that the Commissioners might adopt the policies that implement the program. So if you have a recorded motion that says don't implement the program but you don't go through the different items that are in the proposal, then they're sort of like, Okay, you know, we'll do whatever we decide to do and we didn't get input from the Planning Commission. So I – you know, it really doesn't matter what order you take it in – and, again, we weren't saying that we were looking for decisions on any of these. It just was maybe how it's laid out in the code or policies. I'm not sure. But we would like at some point the ability to walk through the different components of the proposal itself and say this is how it would work. Not necessarily what the impacts would be but just the mechanisms by which it would work so that we're – we all understand that. Because there have been a lot – you know, a lot of the comments in the public comments suggest that people don't understand how the program would work. Again, not what impact it would have because that's subject to differences of opinion, but simply how the program would work. So I think we'd like to by the end of the night have walked through these particular items and talked about how that relates to the proposal. And if you want to have a different discussion first – if you want to jump to number 4 or number 3, go for it.

Chair Axthelm: I think keeping – it's important that we keep to the policies and not get too far into the code and that will – I mean, there's a lot of items that we have unanswered questions on and details that we need to take care of, I think if we can keep it a little lighter that way.

Dale Pernula: Josh?

Chair Axthelm: Yep?

Mr. Pernula: I'd just like to suggest that after listening to Annie and Hollie that maybe question number 3 is the one we begin with because that's the reason that we're here. That's the reason we're looking at it. And if we establish a reason, then we can get into the other procedural issues.

Chair Axthelm: You okay with that?

Ms. Del Vecchio: Yeah. I would say the same thing.

Chair Axthelm: Okay. So let's go ahead. Okay, so based on those questions, number 3, Conservation Priority Areas: in which areas should conservation be facilitated by purchase of development credits? And they list Agricultural-Natural Resource Land; Industrial Forestland-NRL; Secondary Forest-NRL; Rural Resource-NRL; Rural Reserve parcels eligible for the Open Space Tax Program.

Ms. Del Vecchio: Can I start by asking Annie to expand a little bit on the forestry side of things? Specifically forestry is not my background. I would – I'd love to hear some more folks' thoughts on Industrial versus Secondary, and if they're all kind of viewed as the same or if there's one that's more appropriate. I'm getting a "no." Maybe we can turn it over to Kathy?

Ms. Lohman: Keith is the forestry guy.

Ms. Del Vecchio: Oh, okay.

Chair Axthelm: Okay. Do we want to start on for – well, forestry's the second one there.

Ms. Del Vecchio: Yeah, but Annie started it so...

(laughter)

Mr. Greenwood: You know what I say to my kids, right?

Chair Axthelm: As long as we cover them, let's go for it.

Mr. Greenwood: Well, on the forestry side of things there's a qualifier there. Industrial forestland has to be within a fire district within 200 feet of a road in order to have a development right that's exercisable. So and the difference between that and Secondary Forest is sometimes based upon size and sometimes based upon proximity, you know, to where other resources (are). They tend to be the smaller forestland owners. We've had some of them come in and they say they've got 10 acres or 20 acres and they want to manage it for forestry. And, you know, we have some out on Fidalgo Island. They may be harvested once every 120 years or so. So small contributions but they can be effective in the overall scheme of Industrial Forest management, if you will, on the resource end. Just like in ag land, you know, you've got the 5-acre farm and you've got the 80-acre farm. So they all contribute so they're all important to us. But one thing that drives forestry, and it was in one of the staff reports to comments, was that an active forest and a healthy forest industry is driven by a lot of factors, not just whether it's set aside for that purpose or not. But you have to have other components that make it cost-effective for people to stay in that business, and that's why we could preserve all that we want but if there is no industry or transportation network to get it there it doesn't happen. So you can have forestland that has no industry to take advantage of it. And then the market becomes further and further away – the processing facilities get further and further away and then it becomes uneconomical for somebody to continue to manage it for forest growth and harvest. That's kind of how I look at that.

So if you've got a conservation easement and you have development rights potential, they may not look very attractive right now because you don't think you want to develop it. But if there's no saw mill to take advantage of it, then now you have no real value to your property after that except to look at. Does that help?

Ms. Del Vecchio: Yes, yeah. So when land in forestry areas is set into a conservation easement, who's responsible then? I feel like maybe we've talked about this, but who's responsible for maintenance and clearing out dead trees? Does it – do we have –

Mr. Greenwood: It's driven by the conservation easement itself, which has conditions for continuation in a conservation easement. Because usually it's, you know, they'll compensate you to conserve your property and manage it for the ongoing use usually that you have.

Ms. Del Vecchio: Right.

Mr. Greenwood: But there's conditions for it, and then they do a monitor to make sure that you're in compliance with your – well, you've got to pay them back.

Ms. Del Vecchio: Right, so would that exist here?

Mr. Johnson: I'd like to clarify. So the purpose of this program – and it's very much like Farmland Legacy – is to preserve resource land that remains in private ownership. So the landowner is selling the residential development right but they're not selling the land. So there's

some concern about, well, when land is conserved it's taken off the tax rolls. Well, this land that would be conserved through this program is not going into public ownership or to a nonprofit organization. It remains in private ownership and they would be the person who would decide whether to manage more intensively for forestry or kind of selective logging like some of the people who spoke said, or manage it as a forest preserve. So it would be entirely – it would be their property and it would be – the one thing they couldn't do is they couldn't put a residence on it because they would have sold the development right and retired that.

Mr. Greenwood: So it's just somebody holds the development right.

Ms. Del Vecchio: Right. So you said maintenance and everything stays the same. That goes into – there's no obligations there that transfer. It's just the development rights that ___.

Chair Axthelm: And tax-wise, your taxes would be lower because you wouldn't have the development right.

Ms. Mitchell: Right.

Mr. Johnson: Right. In most cases – I mean, if you look at virtually all of the Ag-NRL land, it's already in the Open Space Tax Program and the criteria for Rural Reserve parcels – and actually some of the people who have spoken and said that they would like to use this program are forestland owners in Rural Reserve where they have mixed ag and forest. So it's not just that all forestland is in Secondary or Industrial Forest. But they'd have to be eligible for the Open Space Tax Program, so they could be enrolled in – so to the extent where land is already enrolled in that program, it's already paying the resource – taxes on the resource value, not the highest and best value. So there is some question about, Well, if you remove the development right then that's a fiscal loss to the County and if it's already in the Open Space Tax Program they're already paying the resource value, not the development value.

Chair Axthelm: So you wouldn't be allowed to do this program if you didn't – if it wasn't already in the Open Space?

Mr. Johnson: No, it – there was a question with the Advisory Committee. Going back to the Advisory Committee, Kim Mower was one of the members and she said, You know, there's some really good farmland that's in Rural Reserve and there ought to be a way that a person who has that land and wants to keep it in farming and wants to keep it permanently in farming can retire their development right but keep it in farming. So we got into this – you could kind of pre-determine where those areas are in Rural Reserve that have the values that, you know, are determined to be worthy of conservation, or you could say if it's in Rural Reserve – and we talked about in active farm or forestry use, but that's pretty hard to define. And then it turned out that the Open Space Tax Act has some pretty good definitions of what's active farm, what's active forestry, and what qualifies as open space under the state tax code. And so basically those seemed like pretty rigorous existing criteria that we could point to to say if you would be eligible for that program, whether or not you're in it, then you would be eligible at the property owner's choice or discretion to sell development rights through this program. If you're not eligible for that program, then, you know, you're not meeting these predetermined criteria of active farm, forestry, or open space.

Chair Axthelm: Okay, because –

Ms. Lohman: Okay –

Chair Axthelm: One more second.

Ms. Lohman: It's on the same topic.

Chair Axthelm: Okay. So if you're in Ag-NRL and you're under a certain acreage, you don't do the Open Space. You can't do the Open Space. You can have a development right on your property still. Your property might be farmland. But you can't do the Open Space Program.

Mr. Johnson: Mm-hmm.

Chair Axthelm: So with the forestry, is that the same situation? So then a smaller acreage wouldn't be able to do the transfer of development rights even though they had a single development right on it?

Mr. Johnson: Well, so the eligible for Open Space Tax Program only applies to Rural Reserve parcels. Because if you're in Ag-NRL, Industrial Forest, Secondary Forest or Rural Resource, the Comprehensive Plan has already determined, based on GMA requirements and criteria in the Comprehensive Plan, that you are a resource land. So there's not the screen of whether you're eligible for the Open Space Tax Act, but there is a discussion that Commissioner Greenwood has raised in the past: Should there be a minimum parcel threshold for participation in this program? And I'm guessing that the reason – I don't know, but I'm guessing that the reason if you're below a certain parcel size in Ag-NRL – like your 1 acre in Blanchard – you know, there's been a determination that that's not open space and so you shouldn't be eligible for the Open Space Tax Program. But the Open Space Tax eligibility only applies to parcels in Rural Reserve under this proposal.

Chair Axthelm: Okay. Annie?

Ms. Lohman: Okay. That answered my question, because in order to be eligible for the Open Space Taxation there's an income threshold, particularly if the properties are less than 20 acres.

Mr. Walters: And the income threshold varies by acreage. I don't think there's an acreage requirement so much as there's just a high income threshold if you're under a certain threshold.

Ms. Lohman: But it seems like – so I just had to do this because the County Auditor's – or the – yeah, the Auditor is cleaning up some Open Space Taxation issues, trailing issues. You know, maybe making sure if you have that designation that you, in fact, are legit or eligible to have it. So I had to go through this on a piece of my property, and there is a – it seems like there's a little more proof required if you are smaller parcels. So how many – so you can't just say, I'm a hobby farm, and not have any income generation and stay in Open Space Taxation, for example.

Chair Axthelm: So back to Industrial Forest.

Ms. Del Vecchio: Kirk, when I was raising a similar question early on, you had provided me with a little fact sheet about the Open Space Tax Program and the eligibility criteria, which was really helpful to me. I don't know if those have been passed on to everybody else.

Mr. Johnson: Yeah, I can send a link to everybody. It's actually linked in one of the response memos.

Ms. Del Vecchio: Oh, is it? Okay.

Mr. Johnson: Yeah. So this is Washington Department of Revenue. It's the implementation of the Open Space Tax Act. So this actually provides the criteria that properties would need to meet. So again, it did seem like a pretty objective, existing, rigorous set of criteria for determining that the parcel has some ag value, some timber or forestry value, or some just open space value. But I'll send the link to all of you or put it on the website.

Amy Hughes: When I look at Conservation Priority Areas, one of my questions is: If we want to look at certain areas being of a higher importance like we do in the Farmland Legacy, the first ones that were really protected were the ones around urban growth areas and then it kind of went out. I'm wondering if we want to take a look at that for this program. And when you were talking, Keith, I was thinking, What's a good size to keep a forest viable? So in generations to come we don't end up with owners down the road saying, Well, why's it in conservation? It doesn't make any sense to me. What makes sense for one generation may not make sense for the next generation. What is a passion for one generation to keep a farm intact may not be for the next owner. And so it seems to me that determination should be maybe a little bit more on a value. You know, are there certain areas that we should look at first as far as these forestry – I'm looking at you as the person.

Mr. Greenwood: Well, yeah, I struggle with this myself in that as a forestland owner if you're not intending on developing your property and you see a value there and somebody's willing to pay you for that value to continue doing what you're already doing, you're going to raise your hand first. But those people who are going to raise their hand first are the ones furthest away who aren't going to really be exercising because they don't even see the pressure to develop. And like you said, the ones closer – at the very outset, my main focus was on, What are those sending and receiving areas and how are we prioritizing those so that the right ones get purchased and/or, you know, or extinguished, if you will, in the areas that we want development and we for some reason can't develop to the level we want to develop. We have to provide some incentive to get it to happen. And it seems like we've gone with the zonal approach, which is if it meets this criteria no matter where it's at, then we're going to exercise the program. Maybe so that we're not discriminatory, I guess, but I can see the first places where it would happen is someplace way out there, you know, that might be in the fire district but it's not in an area with any growth and may not be for a very long time.

Ms. Hughes: Well, and the follow-up to that is the number of acres. If we're talking a few number of acres but there's three owners that all want to do it, that's a significant acreage to conserve. But, yes, my concern is, Are we going to have acreages here and acreages here and acreages here and it's going to be a patchwork rather than an outlay of conserved ground? And to put that in a visualization of areas that I've seen it work fantastically, but it would be more like on the tourist end of it, if you drive through the Methow Valley from Mazama to Winthrop there's that greenbelt bottom floor. And you could talk about, well, as far as an agriculture commodity, is it that valuable, and that could be a discussion. But as far as the scenic byway, it's magnificent to have it conserved for the future. And so that might be something to look at as well. And then there's another piece over on Kauai and it's just in the middle of the side of the road, but it's probably 800 acres and you just drive by it and you go wow. You know, generations from now people are going to go wow, and it won't be a development. So that's how I look also at the value of these programs, but it seems like there needs to be a large amount of acreage sometimes to achieve that.

Mr. Walters: So there are, I think, two ways you could implement that idea if you wanted to do that. One is to narrow the universe of properties that are eligible to sell their development rights and get into the program. So just cut properties off the Conservation Development Priority Area list. Maybe eliminate Industrial Forest; only do Secondary Forest – something like that. You could do that. Or you could say where the County is going to be purchasing the development rights the County will do that prioritization. So on the private side, anybody that wants to sell in Industrial or Secondary Forest or any of the other areas on the list can do so, but where the County is selecting properties to purchase, it could exercise more of its prioritization. So there are those two options.

Mr. Johnson: I'd like to – yeah, and I'd like to say that the Advisory Committee wrestled with this and what they recommended was that the Conservation Areas be fairly tightly constrained around urban areas, urban growth areas, and, I think, state and federal highways. Because they felt – they had that concern if you're conserving a parcel of Secondary Forest up around Marblemount that wasn't going to develop anyway, have you really conserved something? So they said, I think, 2½-acre – or within 2½ miles of those areas. When that came to the County Commissioners, they said, You know, let's try to keep this simple. Let's go just by zones. And then if and as it gets up and running and we feel like the pattern is too far out, then we can start looking at geographic constraints. So I don't – there's not a right or a wrong. I'm just saying, you know, those issues have been discussed. And it's often pointed out that PDR programs and TDR programs can work together because PDR, purchase of development right programs, tend to be more targeted, have more specific criteria, and can do kind of this competitive process. Where with the TDR program that's market-based, you don't want to draw your boundaries too tight to begin with because you need property owners who are willing to participate and so they tend to be a more – are going to tend to pick up the lower cost development rights, whereas PDR programs are going to tend to pick up the higher cost development rights. So that's like Ryan saying, you can have that dynamic within the program itself. The PDR aspect of it could have criteria for proximity to urban growth areas or quality of soils. I mean, the Farmland Legacy Program has edge criteria and core criteria. It's kind of a hard challenge. What's more important? Is it to protect the edge or to protect the core, the big mass of the resource land? It's kind of a challenging question.

Ms. Mitchell: I asked Keith about this earlier. I know of places under Secondary Forest where this should probably say within a fire district within 200 feet of road as well. That might narrow down some of the criteria because there are plenty of places out there – there may be a series of properties together the further you get out in that area of that neighborhood. They wouldn't fit the criteria for having a development right because they wouldn't be fitting the same thing an Industrial Forest would. So they wouldn't have that same right anyway.

Mr. Johnson: Under the code, Secondary Forest doesn't have that same limitation as Industrial Forest.

Mr. Greenwood: It's not required to be in a fire district?

Ms. Mitchell: Then how come they can – then how can they apply the fire district rules and the insurance rules and that kind of thing if it doesn't?

Mr. Johnson: Do you want to look up that section of the code, Ryan?

Mr. Walters: The Secondary Forest zone is 14.16.420 and under Permitted Uses, detached single-family dwellings are listed without any provisos. I don't see any of the other constraints that are related to Industrial Forests.

Chair Axthelm: So, Kirk? The Open Space, is that also considered a – it's considered a protection program, isn't it?

Mr. Johnson: The Open Space Tax Program?

Chair Axthelm: Mm-hmm. Because you can't do certain things with it.

Mr. Johnson: Well, yeah, I think you can't develop the property if you're getting a tax reduction for keeping it in forestry or timber or open space.

Chair Axthelm: Wouldn't that constitute a protection program?

Mr. Johnson: Yeah, just like zoning would. But it's not permanent, and so, you know, there's the question if you're looking for permanent protection, zoning isn't permanent. Open Space Tax Act isn't permanent. Conservation easement *is*. Now I had an interesting conversation with Commissioner Hughes the other day about, you know, Is permanent protection good? And that could apply to this program or it could apply to the Farmland Legacy Program. I guess I would just say if you're going to have that – you know, it's the issue of, Will we have a viable forestry industry here in 75 years or a viable ag industry here in 75 years? If we think we will, then permanent protection's probably a great thing. If we don't think we will, then maybe it's not. But a conservation program doesn't assure you a viable industry. You know, there're a lot of other things that you have to do to try to maintain that.

Chair Axthelm: Well, I would think, you know, in 100 years the conservation or the – it could be overwritten or changed at that point. I mean, in the future if the city moves out to that point they may relook at those development rights.

Ms. Lohman: I think I agree with what Amy is saying where if you just have 5 acres here and 10 acres there, it doesn't have the impact for the long term. Where maybe an accumulation of properties of that size that are aggregated, still maintaining individual ownership but they're aggregated because they're in proximity to each other and end up having some kind of continuity with their land mass, so then it makes sense. But just to have it – when you say you're going to open it up for – on zoning, the thing that gives me pause is that when our zoning designations were made, they weren't ever ground-truthed so there's anomalies in every single zone. They're not perfect. You're going to find a well-how-do-you-handle this piece of property or that piece of property. So I have a hard time just blanketly saying unilaterally we're just going to go zones by itself without any – maybe a second part to it. And then when you talk about permanence, I've often thought that maybe what we ought to be talking about is like a 25-year lease, a conservation *lease* rather than a retirement of the development right. Then you can assess in 25-year intervals whether the program's working or what the conditions are. But I don't know how to implement that any more than we're having this discussion. I mean, so it's equally – it's complex. And nobody has a crystal ball and that's really what we're trying to do.

Mr. Walters: A lease might not be that difficult to accomplish. You would still do a conservation easement but you would make it a 25-year conservation easement. The question would be how you would value the property. On the private market you wouldn't have to worry about it because the private market would figure out the value of the 25-year lease, but for the

development credit side that might be hard to value in any particular zone the value of a 25-year lease. But that's something that you task the economic consultants with to come up with those values. So maybe that actually wouldn't be that hard either.

Mr. Johnson: I want to say Kitsap County tried 40-year easements for a TDR program and the Growth Management Hearings Board – I mean, because you're doing something that is permanent on the development side but just not permanent on the conservation side.

Mr. Walters: That's the problem.

Mr. Johnson: Yeah. The Hearings Board said, No, you can't do that. Now Paul Kriegel, who was a member of the Advisory Committee, said – I mean, the Forest Advisory Board, most of the members were uncomfortable with the permanence of the easements. I talked to another large forestland owner who said, Hey, as far as I'm concerned, forestland is one of the best investments around. So it kind of depends on your view of the future, your risk profile. And then we certainly heard from smaller landowners saying, This fits my – you know, I think part of it was retirement plans but part of it was just their sense of stewardship of the property. And now I have –

Ms. Lohman: The reason why I even contemplate the idea of terms – terms rather than permanence – is, like the federal government has the CRP programs and the CREP programs and various other ones, and they are definitely a termed program. They are not perpetuity.

Mr. Johnson: Yeah, and that's where Paul had said, you know, I really like the DNR program that pays us for a certain five years or 15 years to manage it – maybe not to cut in this area where we could under the regs – and then at the end of that period, I mean, there's been a benefit for that 15-year period and then you can choose to do that for another 15-year period, but you haven't, as a result of that, put a house over here that supposedly was transferred for there. So I don't think it works as well for a TDR program as it does for a –

Ms. Lohman: Well, it would work for a PDR-type. It wouldn't grant somebody else a building right as part of the component. It wouldn't have that part.

Mr. Walters: Yes, it would work for that if you didn't have the other side of the transaction, but then you have to have a funding source.

Mr. Johnson: I will say that there have been a lot of negative comments about this proposal asserting that the conservation easements would not be permanent, and they would be every bit as permanent as the Farmland Legacy Program easements. So, I mean, if you want to have that conversation about easements, whether they apply to this program or Farmland Legacy, that's fine. But I think we want to stand by as it's currently written. The easements would be every bit as permanent as the Farmland Legacy easements. And there are very limited circumstances where those can be terminated, but they're very limited.

Mr. Pernula: We might be able to work it in in certain situations. For example, if you have a CaRD open space near an urban growth area, that open space, once it goes into the UGA, can be converted to residential development in the future. And, you know, if you have a town that may be growing into some of these open spaces that you're creating in the future, that's one situation where I could see where you can have something that could terminate at some time in the future. I don't see a lot of others, but something like that could.

Mr. Greenwood: Well, I will tell you that where I work they value investments in timberland highly. But I will tell you that many of the investment groups that are buying timberland today are retirement investment trusts and they work on a five- to ten-year cycle, basically, of buying and selling. So their confidence in 75 years from now might maybe not be as high as, you know, it is today for even us.

Chair Axthelm: So I have a question. You have your comments here, but then looking back at the policies _____. Do you have copies of that – the policies? It reads a little differently than that.

Mr. Johnson: Okay.

Chair Axthelm: So I just – I don't want to discuss something that might be different than what the actual policy's reading.

Ms. Lohman: Which one are you on?

Chair Axthelm: I'm on Goal 2H-5, which is what I was referring to.

Mr. Meenaghan: Josh, are you reading the proposed Comp Plan?

Chair Axthelm: Yep. Yes, the proposed one, which is –

Mr. Greenwood: 9-24?

Chair Axthelm: Yeah, 9-24, release draft. At least that's the latest one I had seen.

Ms. Del Vecchio: The Comp Plan policies, not the CDI policies.

Chair Axthelm: Correct.

Ms. Lohman: On page 5, you're talking about?

Chair Axthelm: It's Comp Plan policies, yes, but it says it means CDI text is what we're into. So it's a draft on 9-24.

Ms. Candler: I'm not sure if it's substantively very different.

Mr. Johnson: Actually Commissioner Del Vecchio made a suggestion a week or so ago because it didn't seem to track entirely, but that the code – so often policies are more general than the code – but that the code could say/should say lands in the Rural Reserve designation that have active farm or forestry uses or significant open space value – I don't remember the exact language – but as determined by their enrollment in or eligibility for the Open Space Tax Act. So that's a way to use the same language on the more general point in the policy and then take that to a greater level of detail in the code. And that's actually in the Response to Comments memo, is something that the Department would support to make sure that they're parallel.

Ms. Lohman: So the policies are still in draft form on the website. They don't have that extra language yet but you're going to add it? Is that what you're saying?

Mr. Johnson: Well, it's in the response so – there's one section in the response to comments memo that says comments were made that this policy should be amended like this, or this code should be amended like that. And then there's a section that says the Department would recommend making these changes. And so we can't change the proposal once it's been released, but you have the ability to say, We like that suggested change. We don't like that suggested change.

Chair Axthelm: So this is a draft at this point. When we get through deliberations, we'll be approving this document, right?

Mr. Johnson: With – again, you might say –

Chair Axthelm: With changes.

Mr. Johnson: We want to take Industrial Forest out, so then your recorded motion would say – I haven't done one for a long time – but drop that from the policies.

Chair Axthelm: Okay. So in answering these questions you're talking about these questions here. We really should be paying attention to what's written in the policy itself, making sure that they – I mean, it could be because the change we make here we can say, Okay, let's scratch it out of the policy.

Mr. Johnson: Yeah. I think the idea was to start very weak but sure. Then when you get some clarity, then move – you know – and then –

Chair Axthelm: Oh, okay. So we'd revisit it?

Mr. Johnson: Yeah. But that's a good point. It's good to be looking at them side-by-side.

Chair Axthelm: Okay.

Mr. Greenwood: Well, see, I – if you don't mind, Josh – since we're talking about section 3 of the Key Issues, where I kind of hiccup is at the very beginning, the opening portion of it, which maybe is dealing with question 4, or Key Issue 4, but Conservation Priority Areas – and I think we have general agreement on this. Conservation Priority Areas: In areas where – in “areas should conservation be facilitated” and then that's where I stop because I have trouble with the aspect of “purchase by development credits.” So if we're in agreement that there are places where we think there should be conservation, okay, then we can get down to the nuts and bolts, perhaps, of how we want to achieve that conservation. Annie's brought up some good points about ways to achieve conservation. We already have other mechanisms, and is the purchase of development credits by the purchase, by the transferal of development rights from some receiving area? So that exchange is where I'm having the problem. And that's where we get into this permanence versus 25 years or 45-year easement. We make the easement unacceptable because we've tied it to maybe something we don't even like in the first place, which is development in an area in a city that doesn't want the development intensity increased in the first place, which is one of the issues I kept bumping up against when we had public testimony. So if our receiving areas don't want the reception, why are we trying to tie it to our conservation efforts unless it's just to raise money for that?

Ms. Lohman: Well, you got comments from the Ag Advisory Board that asked to have the Ag-NRLs removed from this proposal, and you had Skagitonians that was in favor – two different ag groups with a little bit of different view. So –

Mr. Greenwood: That just means that there's support for it and then there's opposition to it, right?

Chair Axthelm: Or is that because it's a – because there's already a program in place to preserve the agricultural Ag-NRL?

Mr. Greenwood: I think that's in it too.

Chair Axthelm: Is that the problem or do they not want to be managed?

Ms. Mitchell: We could ask one of the presidents of one of the groups.

Chair Axthelm: Is that all right if we ask them?

Ms. Lohman: It was a very short letter.

Ms. Candler: It didn't go into those because some people haven't seen the code and they don't realize that the receiving areas aren't in the cities and they haven't – and maybe they aren't really looking at what it looks like. You know, if you look at – Kirk, I want to thank you for making the map.

Mr. Johnson: Well, I didn't make it but I caused it to be made.

Ms. Candler: Well, getting the map – yeah, causing the map to be made. You know, if I understand this correctly – I'm looking at the one with the pink coloration – these are all – these – both these maps are two different maps that are for Development Priority Areas. Neither of these is a Conservation Area, right?

Mr. Johnson: Right.

Ms. Candler: So the green one is a bigger parcel, I think, and the pink one is the smaller parcels?

Mr. Johnson: So the pink one is the more lenient parcel size limit, so it would be the 7-acre. You could do a CaRD if you had 7 acres. The green is you could do a CaRD if you had 9 acres, so 1 acre short of 10.

Ms. Candler: And there're some areas in here that are incredibly concerning as Development Priority Areas all along the Skagit River. You know, and a lot of the comments – you know, Alger didn't – there was somebody from Alger who didn't want development. The South Fidalgo Island people made petitions – you know, several signatures. And there's little pieces of – I'm going to call them receiving areas because it's easier – all over here and I think, if I'm reading this all correctly, the conservation areas could be a dot right next to it. So it seems like we're just moving – like you could literally just have them, like, side-by-side. Am I –

Mr. Johnson: Yeah, so we could get into that and that's really how the Response to Comments memo begins, is it begins as a lot of the negative comments were on the rural receiving areas

and here's why they're here and here's what you can do with them! No – I'm sorry. I couldn't pass that up! You have the option to say, We don't like those.

Ms. Candler: Well, and Ellen brought this up, I think – Ellen Bynum brought this up at the public hearing and you're kind of having a contrary opinion tonight but – or somebody did. Maybe it wasn't Ellen. But, you know, the way that we approached the marijuana stuff was to kind of narrow it right off and say, Look, we don't know what this is going to look like. It's incredibly important in the future to know what it looks like before it happens – because we had all the complaints. I think this is the exact same thing. Like your version is you kind of want to make it broad to get more people involved, but I think maybe the opposite is true. And I think maybe Annie had mentioned that as well. Until we know, unless we just – I mean, there was another comment that talked about exacerbating sprawl, which is what I see on this map – just sprawl. You know what I mean. And do it seems to me that narrowing it is – would be a lot better way to approach a beginning of it.

Mr. Johnson: Okay, and the Department is supportive if you want to do that. So again, I almost don't want to get into this unless we're *really* going to get into it, because we were on the conservation side and I don't feel like –

Ms. Candler: But initially my comment started out to try to answer why some of these – some people might be supportive; other people not. You know, we had comments from – the guy from Whatcom County, for example. He came down here and everybody who made positive comments – that's too general, but it seemed like they were saying, Yeah, we really need – this is a great program. Let's get this development in the city. Let's go up and not out. It's just, okay, but that's not what this does. And so I'm wondering if maybe that's some of the difference, is that people are seeing different parts of it.

Mr. Johnson: So I'd like to speak to Ag-NRL and if you want to ask the Chair of the Ag Advisory Board you can do that. I mean, I want to speak to Skagitonians to Preserve Farmland, and then Ryan had a comment.

Ms. Candler: Okay.

Mr. Johnson: But Allen Rozema was on the Advisory Committee and, as he said in his letter, Skagitonians has supported implementing a TDR program since the 1990s and they very much think that one of the Conservation, one of the sending areas ought to be Ag-NRL because they're concerned about the potential and, in recent years, the actual decline in federal funds for farmland conservation. And they think this is a good way to supplement that and they don't see the programs being conflicting. They see them being complementary. So that is one – and Skagitonians' letter said, We don't like the CaRD provision. Okay, so, but then there are many others in the ag community who say, We think this is going to harm Farmland Legacy. And, again, you can ask one of them right there, if you want.

(several Commissioners speaking at once)

Chair Axthelm: Let's get Ellen – get your take on that. Could you approach the microphone and give us just a brief explanation.

Ms. Bynum: I think you heard Carolyn Kelly pretty clearly say that the reduction in federal money is a Trojan horse, non sequitur, whatever you want to call it. It's not happening. She got a million dollars for the program and so I think that we have to stop saying that because the

Farmland Legacy Program is governed by a group of citizens who want to see that succeed and they work at trying to figure out ways they can continue to qualify. And as she said, some of the programs she gets funded out of one pot of money one year and the next year she gets another pot of money. So I don't think – I think that's kind of a – you know, you don't need to think about that and I don't think you should say that, Kirk, because she asked you not to say that. You know, she did.

Mr. Walters: I don't think she's correct, though. When she says that she's received money, she is not the Farmland Legacy Program. She's the Conservation District. The Farmland Legacy Program has actually –

Ms. Bynum: She was speaking as a member of the Farmland Legacy Program and I suggest you check with her about that because she was pretty perturbed that the Planning Department hadn't checked with her about the status of the funding for the program. It's really important because the public needs to know that the program is quite viable and ongoing and that it's governed by a citizen board that was appointed to do this governance. They make the decisions on where the – which areas – you know, which parcels to accept in the Ag-NRL zone for consideration for purchase of the development rights. That's done by a citizen group. And people do staff it.

So another point: I think that Secondary Forest piece being inside of a fire district – I looked it up and I think it was also in a Growth Management Hearings Board ruling. So that's just another piece of it.

So, I mean. I don't know what else to say.

Ms. Del Vecchio: Can I ask a related question? And, Ellen, if you could answer?

Ms. Bynum: Sure, no problem.

Ms. Del Vecchio: Because I have a feeling you'll have something to add to this, too. So assuming – if we were to assume that the Farmland Legacy Program stays viable and continues and remains funded, is there a – and I have no idea which one is more accurate – but if somebody is eligible for the Farmland Legacy Program and it's viable at the time, is there a reason they would go through CDI instead of the Legacy Program?

Mr. Walters: There are a couple of different answers to that question.

Ms. Del Vecchio: Okay.

Mr. Walters: Assumedly, a landowner would go to the program that gets them the maximum benefit in the shortest period of time. And it's hard to say which would be faster. The Farmland Legacy Program sometimes is very slow. Sometimes it can do things more quickly. CDI doesn't exist yet so we don't really know how quickly that would be. On the question of how much benefit they – how much value they would get for their easement, it's quite possible that they would get much more value from the Farmland Legacy Program because the CDI Program doesn't have any money at the outset and even if it did later, it's not going to pay more than fair market value, which is what the Farmland Legacy Program pays. So I think the balance of those weigh in favor of the landowner going through the Farmland Legacy Program, unless the Farmland Legacy Program really doesn't have any money or they've already allocated that money to other properties.

Ms. Del Vecchio: Okay, now –

Mr. Johnson: Or if I could –

Ms. Bynum: No, I think that Ryan characterized it appropriately for Ag-NRL, but the question is there's 56,000 acres of rural that have some ag component on it that have no preservation ability. So the question is –

Chair Axthelm: Your program, could your program – can your program incorporate those into it? It can't? Is that correct? Your program can't –

Mr. Johnson: Just for clarification, she's –

Ms. Bynum: My program – I don't do –

Mr. Johnson: – Friends of Skagit County. She is not the Farmland Legacy Program.

Ms. Bynum: Yeah, I don't do the Farmland Legacy Program.

Mr. Johnson: And we have the Chair of the Ag Advisory Board in the back who is – the conversation started out that the Ag Advisory Board was against Ag-NRL and Skagitonians to Preserve Farmland was for including Ag-NRL, and so this seems to me like testimony outside of the public – unless you specifically meant to ask Ellen that.

Chair Axthelm: No, I was asking a question. I think it went a little farther than that. It was mainly the question just for clarification on whether your program –

Ms. Bynum: Yeah, Friends doesn't hold easements.

Chair Axthelm: Okay.

Ms. Bynum: You know, we don't have a program for holding easement.

Chair Axthelm: So there was a misunderstanding.

Ms. Bynum: Yeah. I think Skagitonians holds easements and the Skagit Land Trust holds easements and maybe some other conservation areas like the Anacortes Forestry – they all hold easements.

Mr. Walters: There's no Skagit Land Trust.

Chair Axthelm: Okay.

Ms. Bynum: No, no, but, I mean, organizations and entities in Skagit that hold easements.

Mr. Walters: Yeah, all of those ____.

Ms. Bynum: But the Farmland Legacy Program is its own program and it's separate and it's a County-blessed program and started – the County started it.

Mr. Walters: It's a County program.

Mr. Johnson: It is a County program. Yeah.

Chair Axthelm: Okay, thank you, Ellen.

Ms. Bynum: Okay, thanks.

Ms. Lohman: Can we hear from the Chair of the Ag Advisory?

Chair Axthelm: Yeah, and that was – I mixed the two up and that was my intention, because you were talking about the funding running out so, yeah, that applies to the Ag Advisory, right?

Mr. Johnson: No.

Chair Axthelm: No.

Ms. Candler: Did you have a concern about hearing more public comment after the hearing is closed? Is that what –

Mr. Johnson: Well, I thought the Chairman had asked the Chair of the Ag Advisory Board to come up and talk, and maybe he meant to ask the Director of Friends of Skagit County. But she's not the Director or on the Conservation Futures Advisory Committee so I thought it was getting a little kind of blurring lines between extended public comment –

Chair Axthelm: No, that wasn't my intention. It was more just to ask the question and get the question answered.

Mr. Johnson: So the Ag Advisory Board was set up by the County Commissioners to advise on agricultural policies, and obviously they have a big interest in the Farmland Legacy, but the Conservation Futures Advisory Committee is the committee that makes recommendations to the Board on purchase of development rights. And they're not represented here tonight.

Chair Axthelm: Okay. So is there a specific question? Because that means an answer for deliberations, not necessarily public comment.

Mr. Walters: I thought the question was, Why did the Ag Advisory Board recommend exclusion of Ag-NRL?

Ms. Lohman: Yes.

Ms. Candler: Yes, which is addressed in the letter.

Ms. Mitchell: I'd like to understand why.

Chair Axthelm: Would that be all right? He's here.

Ms. Lohman: I think it –

Chair Axthelm: Perhaps –

Ms. Lohman: Not to put you on the spot...

Nels Lagerlund: Hi, I'm Nels Lagerlund. I'm the Chairman of the Ag Advisory Board. I think the main reason why we wanted to exclude Ag-NRL from the TDR Program – or the CDI Program was just we weren't comfortable with any other or secondary program that might hurt the Farmland Legacy Program, considering how successful it is. And there is a citizens advisory board that sets criteria on properties where development rights are purchased. And I guess we maybe just weren't confident that another program was necessary and if things would get confusing.

Chair Axthelm: Okay.

Mr. Lagerlund: So does that clarify that?

Chair Axthelm: Yes. Thank you.

Mr. Walters: I would like to make sure the Planning Commission is aware there already is a second program that is not very different from the concept of a TDR program in County code that creates Farmland Legacy easements, and that's our 1-acre Seg Program. In Ag-NRL, a 40-acre parcel with an existing house can create a substandard lot of 1 acre if it segs off the rest and puts a conservation easement on the remainder. And that's held by the Farmland Legacy Program.

Mr. Johnson: And I'd like to add whether Ag-NRL is included or excluded you could still – I mean, there are those who believe it would be complementary to have it as part of this program because, as I said before, a PDR program is going to pay top dollar and a TDR program, being market-based, is generally not. So there may be Ag-NRL landowners who have applied to the Farmland Legacy Program and they may not have been selected or they may not have been selected in a timely manner because they deal with a limited pot of funds. And so you may have some Ag-NRL landowners who want to conserve their land and realize that they're not on the short list for Farmland Legacy but there may be a buyer out there willing to buy their development right, which would then go to a conservation easement. But I would totally agree with Ryan that if there are people who want to buy Ag-NRL development rights through this program, through a *market*-based program, they're not going to be offering \$100 to 110,000 per development right and so the owners of those lands might say, I want to go where I'm getting the top dollar.

So the other issue is if you exclude Ag-NRL you can still help to conserve those farmlands that are outside of Ag-NRL or the mixed farm and forestlands, where we had some people speaking to that at the public hearing who aren't eligible for Farmland Legacy because they're not in Ag-NRL. And I'm not sure if I finished my little anecdote, but Kim Mower, dairy farmer, saying some of our farm soils in Rural Resource or Rural Reserve are better than most places – prime farm soils – and they are worthy of conservation if the landowner is interested in doing that. So that's another way by saying (if) Ag-NRL is not included, you still can be helping to complement the cause of farmland preservation by opening a door that's not opened through the Farmland Legacy Program to landowners in other zones.

Chair Axthelm: Here's what I was getting at also, is that in the policy because of the statement how it states it differently, is that it gives a different – it looks at it differently. Here the question is talking about purchased development credits, but in the Goal in 2H-5 it doesn't talk about development credits at all. All it's talking about is Conservation Priority Areas. So if we look at

that as Conservation Priority Areas, I would just scratch that – I mean, the question here is important about the development credits, but if we're talking about 2H-5 it's not talking about development credits. It's just talking about Priority Areas. So is Ag-NRL, should that be a Priority Area for conservation?

Ms. Lohman: Well, wait – for this program.

Ms. Del Vecchio: You have to look at it in context, though, too. And this is the CDI Program, which involves the purchase and transfer of development credits. So I think if we're going to be looking at what –

Chair Axthelm: Okay.

Ms. Del Vecchio: – is worthy of conserving – in that context.

Chair Axthelm: You think that's something we could – it still – it may not go through that part of the program and the program might be regulated by a different agency, but still placing it in a Conservation Priority Area would probably be a good idea, right?

Ms. Lohman: But even if you took out the Ag-NRL now, there's nothing to preclude you at a future date of reexamining it and adding it back. So if you scratched it, it really isn't going to be a giant harm because it's not permanent. This – we're going to be revisiting this, I imagine, in the future.

(laughter)

Ms. Lohman: I couldn't help myself either!

Chair Axthelm: Do you see what I'm saying?

Ms. Lohman: Yeah.

Chair Axthelm: It's not to necessarily – I understand this is the TDR program, but the TDR program can say "Conservation Priority Areas." It's a Conservation Priority Area but it's not – I'm sorry: CDI Program.

Ms. Lohman: Yeah, but you're –

Chair Axthelm: It's not a – it's a Conservation Priority Area, but it may be regulated by a different agency outside of this.

Mr. Johnson: It seems like it might be clearer to say if there's a program and if development rights are purchased with revenues generated by selling development credits or by developers who buy development rights from landowners, then what – if either of those or both of those moves forward, what lands do we think ought to be eligible for conservation through that program, then you could still say at the end of this process, We don't think the County should implement that program, but we think the County should implement a program that uses another source of funding – you know, whatever it is you want to suggest – and it should focus on these – you know, forestland or whatever. But I think it would be confusing in terms of a recorded motion to say, Well, we want this in the Development – or the Conservation Priority Areas, but

we don't want any of the mechanisms that are proposed here for conserving it. That'd just be my suggestion.

Chair Axthelm: Yeah. My concern about taking it out or having it taken out is then the emphasis is not on the conservation. So at some point...

Ms. Del Vecchio: I don't think we would be – my take on it is that we wouldn't necessarily be saying we don't think that Ag-NRL is worthy of conserving, just that it's not needed in this program.

Mr. Greenwood: But if we can establish the areas of agreement on conservation, then we might develop a recommendation that says something along the lines of don't adopt but here's an alternative. But if we don't get to the points of agreement, then we – I don't want to throw the whole thing out and just say we don't like any of it. There are parts of it that we like and there's parts of it that we probably don't like.

Ms. Lohman: Well, and then it's our prerogative, too, if we come up with potentially a slightly different mechanism – maybe not so complex – as well.

Mr. Greenwood: Yeah, and that gives the Commissioners something to work with, right?

Ms. Lohman: Right. But I don't think we should give them a yes or a no without any meat to it.

Mr. Greenwood: True.

Ms. Del Vecchio: So the one Conservation Priority Area that I don't think we've discussed at all is the Rural Resource-NRL. Is there – does anybody have any thoughts on those lands, or can somebody give us an example of what is being included there that's not captured in the other area lands?

Mr. Johnson: I know you haven't had enough reading to do –

Ms. Del Vecchio: Oh God!

Mr. Johnson: – but in this 100-page report it does go through each of the resource lands and Rural Reserve and it talks about their sizes, kind of the criteria that were used to designate them, the types of activities that occur on them, the number of potential development rights that there are within them, the existing programs that there are to conserve them.

Ms. Del Vecchio: Does it have tangible examples for me?

Mr. Greenwood: If you can describe Rural Resource – what is it?

Mr. Johnson: Yeah. No, I can do that. I'm just saying if anyone – I mean, pretty much any subject we've talked about tonight – you know, Ag-NRL in or out; hurt Farmland Legacy or not – it's discussed here, and including discussed – I mean, Mike Hulbert was a member of the Ag Advisory Board and was a member of the TDR Advisory Committee and he raised objections to including Ag-NRL and they are discussed in here. So. But, yeah, Rural Resource is resource land that's not prime ag land and it's not necessarily prime forestland. I think there's different PFLG – Pacific Forest Land Grade – criteria for Rural Resource. So it's not the prime forestland. It's the next to the prime forestland, and a lot of the parcels can have mixed agriculture and

forestry uses on them. They tend to be – this is from the Comprehensive Plan – smaller-scale. I can't think of –

Mr. Greenwood: Don't they include, like, gravel pits and things like that under mineral?

Ms. Del Vecchio: That's what I was thinking.

Mr. Johnson: Yeah, so I think the hill just north of Clear Lake, I believe, is called Rural Resource. It's a forested hillside between Clear Lake and the Skagit River. There's a big knob there. I think that's all Rural Resource.

Mr. Greenwood: Well, there was an example we dealt with a couple years ago perhaps in Fidalgo Island where there was a person who wanted to develop some property. It was currently forested and it was adjacent to some of this Rural Resource, and it happened to include a large mineral deposit of gravel basically. So they've identified areas that are kind of amoebic-looking, circled on a map, but there was supposed to be key resources on it.

Ms. Del Vecchio: Correct me if I'm wrong, but could they make more money off of that than they could off of developing those areas?

Mr. Johnson: Well, an interesting kind of a compromise and Gary Christensen would be the best one to talk about that. But some of those Rural Resource lands were a different designation and through the GMA process the County decided that it had to designate those as resource lands because they met basic resource land criteria. But in going to a one-per-40 density, the owners of those lands lost development rights. They were downzoned basically. So the County – that was one of the reasons for creating the CaRD ordinance and allowing density bonuses on Rural Resource lands. So under standard development, you can do one residence per 40 acres, but under a CaRD you can do four on a 40 but they have to be on 1-acre clustered lots. But, yeah.

Ms. Del Vecchio: So with that reasoning then, would we want to also include, say, natural hazard areas that we don't want people developing on? They may or may not be able to anyway. I was wondering if that's –

Ms. Lohman: But they already don't have a certified lot on a parcel like that.

Chair Axthelm: I think that's getting into detail. We're getting too much into detail where the basic question right here – what.

Mr. Walters: Because natural hazards can occur anywhere, natural hazards are addressed through the critical areas code rather than through the zoning code.

Ms. Del Vecchio: But if we're talking about areas that have been downzoned – I mean, where they've lost the ability to develop. I guess I'm just not totally buying the Rural Resource.

Mr. Johnson: Oh, that it's –

Ms. Del Vecchio: The rationale behind including the Rural Resource, and was playing a little bit of Devil's Advocate there.

Mr. Johnson: Okay, under GMA and the Comp Plan, it is a designation of long-term, commercially significant natural resource land. I mean, I guess my feeling is it belongs in there as much as Rural Reserve, which is really a rural land that – in the Comprehensive Plan. So all of the resource lands, if you look at the zoning code, the purpose statement, it is for long-term natural resource management, if you look at Rural Reserve or Rural Intermediate.

Ms. Del Vecchio: Okay, so it's just not just to compensate the owners for the fact that they –

Mr. Johnson: No, no. It's a resource land. It's just in putting it into that one-per-40 they got the ability to do the four units per 40 through a CaRD as a sort of, you know, here's something – we have to designate this resource land under the Growth Management Act, but here's something that we're going to offer to help people make up some of the value that they might have lost otherwise.

Mr. Greenwood: I hope we don't minimize the just compensation part because compensation is important, and to just downzone and then there is no compensation, it's cheaper but I don't think it's appropriate either.

Ms. Del Vecchio: But this is totally voluntary. I mean, this is – we're not talking about any –

Mr. Greenwood: Right. And this program is – I think the report that Kirk cited also said if you start to look for compensation through a program like this or use it to accomplish the compensation, it's not an effective method.

Ms. Lohman: But we're also talking working lands, right, Kirk? You're talking working lands, not idle land.

Mr. Johnson: You could have land in Rural Resource or Secondary Forest or Industrial Forest that's not being actively managed.

Ms. Lohman: I mean it's not becoming like a no-touch buffer-type property.

Mr. Johnson: No. No.

Ms. Lohman: It can be used for either forestry or it can be used for agriculture.

Mr. Johnson: Right. It's retiring the residential development rights and other structures that aren't – the building of other structures that aren't directly related to farming or forestry.

Ms. Lohman: But the underlying premise is it's working land.

Mr. Johnson: Right. It's an effort to conserve working lands. It's not an effort to buy lands from a private owner and put it into public ownership so that people can walk through it. In fact, the easements would not allow public access.

Mr. Walters: The easements would not *require* public access.

Mr. Johnson: Would not require. I guess the landowner could say, I – you know. Yeah.

Chair Axthelm: And, again, the Priority Areas are all – they’re specific areas. It’s not like it’s splatted all over the place. You’re saying, This area is the Priority Area, this area is a Priority Area. So it’s specifying a certain ___.

Mr. Johnson: And I guess going back to the issue of, well, I’m not – you know, you’re getting this patchwork. Well, I mean, the Comprehensive Plan already says these are the natural resources that we want to hang on to. So the Comprehensive Plan already says these are priority resource lands and we’re going to hang on to them through zoning – Comp Plan designations and zoning. And so this is an extra level of protection that provides the permanence.

Chair Axthelm: And we’re talking about residential development. This is just residents (*sic*).

Mr. Johnson: Yes.

Mr. Walters: Right. And as an option, *instead* of identifying which zones, you could just say natural resource lands should be the Conservation Priority Areas, which would broaden it. It would mean you would have to figure out a more specific list when you get to the code. But for the purpose of the policies, if you don’t want to get into the level of detail of figuring out which ones, which zones, you could just make a broader statement. Right now the proposed draft does list the zones, the particular zones, but then you could be broader than that.

Ms. Lohman: But then that doesn’t address the Rural Reserve. You’d still have to have a –

Mr. Walters: It would exclude Rural Reserve if you just said “natural resource lands.”

Ms. Lohman: It would exclude Rural Reserve, but I can see the argument that there’s parcels in Rural Reserve that you wonder why they weren’t zoned ag or forestry. So I’m not sure that’s necessarily what you want to do by doing your suggestion of just having –

Mr. Walters: I don’t know what you want to do. I’m just offering you another pathway.

Ms. Lohman: I guess I’m suggesting is maybe we ought to temporarily suspend expanding the program to the Ag-NRL because we already have something. We know that it works. Probably the people that were turned down was because the parcel was probably not into a pressure point location. And you don’t want people to necessarily have sour grapes if they sell out and then they find out they sold out for a lowball figure. Because perpetuity’s an awful long time, and when you amortize a small check over a long time it becomes nothing. So we don’t have anything for forestry at all of either kind, we don’t have anything for Rural Resource, and we don’t have anything for people that are in Rural Reserve that meet the criteria that you have written here. So I almost think that they should be the priority because we *don’t* have something. Like I’m going to still reserve my reservations about this vehicle as being how to serve those people.

Ms. Candler: I have a question. Why would you want to exclude them from the Conservation Area?

Ms. Lohman: Under the CDI –

Chair Axthelm: Under the CDI – see, that’s the same question I have because it’s almost like we should have another – have a map that says “Conservation Area” too.

Ms. Candler: It seems like – I don't know; maybe I'm not tracking with you right.

Ms. Lohman: Well, we don't have a priority – I almost said "array."

Mr. Greenwood: I could say that for you!

Ms. Lohman: We don't have a prioritization of how we're going to allocate this pot or how we're going to figure out what's the most important property. You're just going to say, Okay, we're going to open up – anybody, any Tom, Dick and Harry can just drop in. And I'm not sure how effective that is if you don't have a plan on what you're after.

Ms. Candler: I agree with you on the plan. There absolutely needs to be a very specific plan. But I guess I wasn't concerned about conserving extra land. I was more concerned about where the receiving areas were going to be. So I don't know. Maybe I'm not listening _____.

Ms. Lohman: So we're talking on the sending end.

Mr. Johnson: There's – I think what Commissioner Lohman is saying is there's mixed feelings in the ag community about this being included in Ag-NRL, so in her view that not a lot is lost by excluding it and having this or whatever program apply to other resource lands. And, you know, you can –

Ms. Candler: Okay. I don't agree with that, though, because I think a lot can be lost. If those end up being the receiving areas, they're going to have the problem that –

Ms. Lohman: But ag is not a receiving area.

Ms. Del Vecchio: But that's a different –

Ms. Lohman: Ag is off the table on being a receiving area anyway.

Ms. Candler: Adjacent. Excuse me – a receiving area adjacent. That's what I meant. You know what I mean? With the concern that was addressed in the letter that Mr. Lagerlund wrote – you know, just a little bit of interference with the ongoing ag activity because a parcel is right adjacent to some of that. Do you see what I'm saying?

Ms. Del Vecchio: Only keeping it in the – whether Ag-NRL is in the Conservation Priority Areas or not, though, I think is not going to address that, that it's a –

Ms. Lohman: There's always tension on the line. When you have a line drawn, say, between ag and whatever – ag and the city – that line – heaven help the person on the line on either side because that's where the tension point's at.

Chair Axthelm: So if we look at the goal itself, because we're going to have to mess with the policies anyway. Do you want to look at that right now and then – what we want to do there?

Ms. Del Vecchio: Can I ask another kind of big picture question about the Conservation Priority Areas that hopefully will have a short answer? But the – so if we're looking at either authorizing or purchasing or allowing somebody to sell development rights off of the land within the Conservation Priority Area, whichever we decide is allowable there, would they be eligible to sell

those if they did not – if they were not able to – if they didn't have the water – if they weren't going to be able to develop that land anyway due to lack of water, would they still be eligible to sell the development rights?

Mr. Walters: And I'm pretty sure the answer is yes. Yes. The question is whether you – if you look at the code – the question is whether you have a certified lot.

Ms. Del Vecchio: Right. Okay.

Mr. Walters: If you have a lot certification for conveyance and development

Ms. Del Vecchio: So my concern then –

Mr. Johnson: So if you have a certified lot for development and that lot is not in the floodway _____, and that lot is not in Industrial Forest outside of a fire district. That's the level of review. We don't go into critical areas, water, septic.

Mr. Walters: Because pretty much in all those other situations there's some way around – there's critical areas mitigation. Pretty much you always still have some availability of some development right.

Mr. Johnson: Plus the cost to the landowner to prove that they had the ability to develop would – might be 50% of the value of what they would get paid for their development right, and then it's kind of like, Why bother?

Ms. Del Vecchio: Part of my concern – and I don't know how to address this, but I'll just throw it out there – is if due to the current water situation – which, granted, another court case could change things and we don't – I don't know how close we are to resolving the water situation. But anyway, it seemed like that's a situation that could change. What I wouldn't want to see happening is people grabbing onto this program, selling off development rights because right now at this moment they can't do anything else with their property. And then, you know, a year down the road the water situation is different – we have new laws and we have whatever – however that has been resolved – and now they're back kicking themselves for having sold that off at a time when – I don't know how to address that, but –

Mr. Walters: Well, neither does anybody else. The water situation could be a lot worse or it could be a lot better. Nobody knows.

Ms. Lohman: But that's always –

Mr. Walters: But that's always the case.

Ms. Del Vecchio: Yes, but that doesn't help, though!

Ms. Lohman: But regardless of the program there's really no way to filter out a duress sale.

Mr. Walters: No, and why would you?

Ms. Lohman: Well, you wouldn't, but if you want to protect somebody from that, I don't know how you would.

Mr. Walters: You can't.

Ms. Lohman: Because it goes back down to the individual making the decision.

Mr. Walters: Right.

Ms. Del Vecchio: Well, you could by not purchasing development rights that wouldn't be developable anyway in your code.

Mr. Johnson: You could say water – if you're in the Skagit Basin and you don't have public water you're not eligible, I suppose. I mean, you could craft it that way.

Mr. Pernula: I'd like to make one point here and that's that not many people have been taking advantage of it, but there are some rainwater collection systems that are available for some of those lots. And it's expensive and a lot of people don't like to use it, but it is available and a few people have used it. So development isn't totally out. It's just not utilized – that system isn't utilized very heavily.

Chair Axthelm: Well, just because somebody wants to sell a development right and they have an available lot doesn't mean that's a lot they want to buy. Right? I mean –

Mr. Walters: That anyone else wants to buy it?

Chair Axthelm: Yeah, if anyone else wants to buy that right. There may be other lots or other parcels that the money should go to first.

Mr. Walters: Also there might be someone really desperate to sell their lot and if the program says, Well, we're not going to buy it because of some artificial rule, that person might be quite upset.

Ms. Del Vecchio: I don't know how artificial it is. I mean –

Mr. Walters: It's just as artificial as the rule prohibiting your use of water.

Ms. Del Vecchio: But it's a rule.

Chair Axthelm: So trying to get back on track, is really we have to look at the goals and the proposal. I mean, we have the questions here, which generates our discussion, but in the end we have to come up with this goal. So does this – looking at Goal 2H-5 and 2H-5.1 – are there any changes we want to make to that?

Mr. Johnson: Now again we – our suggestion was that you can wait – that you can discuss these all, you can wait to see the response to comments, go back to the comments. I mean, if you want to make a decision tonight you can, but there was some concern – Oh, how are we going to read these 22 pages. And so you might want to – I mean, we've already heard that one member has one thought about Ag-NRL. Whatever you want to do. I'm just saying.

Mr. Walters: Well, you won't really be making a decision because _____.

Chair Axthelm: Well, no. When we're making the recommendation to the Commissioners, we're going to be making the recommendations on these items.

Mr. Walters: Right. What I'm saying is your recorded motion, we'll have time to draft that next – at your next meeting. So you won't be making a final decision until we get the recorded motion.

Chair Axthelm: No. Yeah, we wouldn't make a final decision, but at least we could – while we're talking about this, let's take care of it and let's move on to the next one.

Ms. Lohman: So Goal 5, 2H-5.

Chair Axthelm: 2H-5, Conservation Priority Areas and Policies. It doesn't mean we're approving it. It just means that if this is what was going to go through, what would we like to have said here?

Ms. Lohman: I would like to make a motion then that we strike the Ag-NRL land.

Ms. Hughes: Second.

Ms. Del Vecchio: So as one of the individuals who has not had a chance to read through the Supplemental Staff Report – and I'm not disagreeing with anything that's on the table right now – but I don't feel like I'm in a position to be voting on anything one way or the other. I've got 22 pages of material here that I have not even looked at.

Mr. Meenaghan: And I also think that if we clear this up now, we can come back to it after we've read all this stuff in a couple of weeks.

Ms. Del Vecchio: But why vote on it?

Mr. Meenaghan: We don't need to vote. We can just change it.

Chair Axthelm: I'm talking just changes. Is the majority okay with that? Should we –

Ms. Lohman: That's a significant proposal.

Chair Axthelm: I guess there's a problem with the vote. Trying to vote on every little thing, we can't.

Ms. Lohman: Well, how in the world do you discuss it if you just come back and everything's all loose ends?

Mr. Walters: If you were to make some preliminary decisions now, you can revisit all of them at the next meeting where you're actually coming to a conclusion on what your recommendation is. But at least you'd have some different starting point for discussion then: the whole proposal.

Ms. Del Vecchio: Okay, as long as we're under the understanding that we are going to come back and revisit everything that's voted on now.

Chair Axthelm: And we're not in the same voting. So the suggestion is to strike Ag-NRL, right?

Ms. Lohman: Mm-hmm.

Chair Axthelm: Okay. I have another suggestion on it, would be to – is that some Ag-NRL is not protected by the existing program. Is that correct?

Ms. Lohman: What?

Chair Axthelm: Some of the Ag-NRL is not protected by, or is not available to or does not –

Ms. Lohman: No, that's not true.

Chair Axthelm: I'm sorry.

Mr. Johnson: Some farmland.

Ms. Del Vecchio: Some farmland, not Ag –

Chair Axthelm: Excuse me – eligible for.

Ms. Lohman: No.

Chair Axthelm: Is some Ag-NRL not eligible for it?

Mr. Johnson: Some farmland isn't – some farmland outside of Ag-NRL.

Chair Axthelm: No, no. I'm talking farmland *in* Ag-NRL.

Ms. Lohman: No. So the question is: Is Ag-NRL ineligible for the program? The answer is no. All Ag-NRL is eligible for the program.

Mr. Johnson: For Farmland Legacy.

Chair Axthelm: For Farmland Legacy.

Ms. Lohman: For *this* program.

Mr. Johnson: Oh.

(many people talking at the same time)

Chair Axthelm: I'm talking Farmland Legacy. The other program or whatever programs are out there is –

Ms. Lohman: The way that the Farmland Legacy Program works is it's a prioritization. All Ag-NRL is eligible to apply, but because of a prioritization you may not be the first parcel as money comes available to buy your property. You may rank low. And so maybe in the ranking you don't get bought that year, so you have to keep asking. But if your property is not at risk of ever being developed, the likelihood that you're going to be swept up is probably slim, but that doesn't mean that you're not eligible to apply. There's a world of difference.

Chair Axthelm: Okay.

Ms. Lohman: The same thing is true on the CDI for the Ag-NRL because it's all contingent upon if somebody is going to buy your property, buy your development right.

Chair Axthelm: Okay.

Ms. Lohman: It's not like everybody in the room gets a check. It's still going to be either the Wild West and it's random who gets bought and who doesn't, or it's going to be some kind of priority scheme. Right?

Chair Axthelm: Okay. I just wasn't familiar with the thresholds as far as Ag-NRL.

Ms. Lohman: Is that a fair characterization?

Mr. Johnson: That's my understanding.

Chair Axthelm: Or the farmland, the farmland programs – where those thresholds are. So, okay. Because if something's under their threshold –

Ms. Lohman: Am I speaking correctly?

Chair Axthelm: – do we still want to preserve it? If it's under their thresholds, do we still want to keep it in the program to take care of those smaller parcels or less desirable parcels for the Farmland Legacy?

Mr. Walters: There was talk earlier about the 5-acre threshold for the Open Space Tax Act in Ag-NRL. But you're not disqualified. You just have to reach a higher level of income per acre if you're under 5 acres. So it's all eligible. It's just you may not, as Commissioner Lohman says, get purchased or you might not produce enough income.

Chair Axthelm: And that's like my parcel. They used to have – the people that owned it before me – I have 4.3 acres and she had a – she did some farm income on it and she proved that and she was able to get some stuff like that. But I was not. I'm not able to do that.

Mr. Walters: You'd have to get a lot of farm income.

Chair Axthelm: Yeah. There's not a lot left.

Ms. Mitchell: Can I say something on this? I agree with Annie. I think if this program goes through in any shape or form, I wouldn't want to compete with the Farmland Legacy folks or the ag folks at all, so why even bother putting the Ag-NRL on this? It could be added on later if it needed to be added on later, but right now it sounds like it was more of the forestry folks that were interested in it. So from that standpoint, it's something that can be added. If we decided it needed to be expanded, it could be expanded. But back to the same arguments that Tammy said earlier with the marijuana thing, I'd like to see this thing pared down to something very simple, very manageable first. See if this thing flies, and then if it needs to be expanded it could be expanded. But right now to put the whole kitchen sink in I think is problematic and we'll never come to a decision that way. So food for thought was leave the Ag-NRL alone to the Farmland Legacy folks. If that needed to be added on somewhere down the road, it's a possibility. So that's just the two cents there.

Chair Axthelm: Okay. So the rest of it, is that rest of it fine with everybody?

Ms. Del Vecchio: The rest of which?

Chair Axthelm: The rest of that section.

Ms. Del Vecchio: Of 2H-5?

Chair Axthelm: Yep.

Ms. Del Vecchio: Okay.

Chair Axthelm: And it doesn't mean we won't revisit again. It's just it's just a general idea and then we can move on to the next set of questions, because really it's not – it's – we've –

Ms. Del Vecchio: So the only other thing that I would want to throw out, and I don't know if this needs to be a separate motion or how we're handling this, but I did kind of like the concept of having a geographic limitation so we were focusing on areas that were closer to urban areas or roads or things that would potentially be developed in the foreseeable future. I don't know that we need to figure out exactly what that geographic scope is, but just that there be some kind of a limiter.

Chair Axthelm: So are you talking outside of any of these designations?

Ms. Del Vecchio: I'm saying this would be on top of.

Chair Axthelm: Okay.

Ms. Lohman: So how would you write that in the policy?

Mr. Walters: So you could say in the policies – in the policies you could say that the County may limit the Conservation Priority Areas geographically within those zones, which leaves open the possibility that it may not and leaves open the possibility that we figure all that geographic limitation out later in the code. Because remember you're doing policies so you're supposed to be high level and not all the precision that you need in the code. But it's up to you as to what level of precision you want to get into.

Ms. Del Vecchio: Since I'm the one that raised it, ___ that level and then that sounds –

Mr. Johnson: So if I could, from the recommendation – the majority recommendation: "TDR sending areas should include" – now they said "all designated natural resource lands" – you're leaning towards excluding Ag-NRL – "and Rural Reserve lands with active agriculture or forestry uses that are in close proximity to urban growth areas and growth corridors." So that's kind of a policy level statement, and then you have to be decided as, Does that mean two miles, two-and-a-half miles, three miles?

Ms. Del Vecchio: So this would be in line with the close proximity language there.

Mr. Johnson: Yeah.

Mr. Greenwood: And yet those are the areas that I struggle with the most, because the closer they are to the urban growth area the higher the threat, perhaps, but also the more likelihood

that they're going to be in the way of something. I was looking at the maps in relation to where Mount Vernon is right now and where it's expanding, and you've got some folks who want it to stay the way it is. And so they're going to be like the little old lady in Seattle who's got the house and there're going to be the high rises all around her but she's not going to give it up. So do we want to force that upon ourselves to where we're saying, I'm staying right here and I'm going to plant my flag here, and then we're just going to let the City, which where we want all the development to take place, to just morph around it.

Ms. Lohman: Well, isn't that what Amy kind of was alluding to when you have, like, teeny, tiny parcels in isolation. That's –

Mr. Greenwood: And then you make it permanent, which kind of told everyone else down the line what they're going to get, and in some cases – I don't know. I just – I like to think that those who decide the future should be mindful of those who are going to come after us but also should be more of a broader decision-making body that makes that decision.

Ms. Del Vecchio: Would that be addressed to some extent through the eligibility – I mean, not – wrong word. But there's ranking criteria – right? – on top of – wasn't there something – didn't the policy call for –

Mr. Johnson: So if it's a market transaction then you set the sending area and anyone within that, you know, parcel size or whatever could offer development rights for sale. If it's revenues generated by the sale of development credits and then the County used those to purchase rights, it would have ranked criteria.

Ms. Del Vecchio: Okay. Yeah, that's the one I was thinking of.

Mr. Johnson: Now there is the King County example that is probably the most staffed up TDR in the state at least, and they prescreen the properties. They say generally our sending areas are these zones or whatever, and then they have done very sophisticated planning for resource lands, hazard areas, open space, and they prescreen and they say, You're eligible and you're not. So we're not proposing that. I think that would be very expensive and maybe would be a level of government involvement that people aren't comfortable with here. I mean, the way it is now within these zones, it's if the landowner is interested they can do it and if they meet the minimum criteria they're eligible.

Chair Axthelm: You said something just a minute ago about being around urban growth areas. Now that didn't go with this goal, so is that stated somewhere else?

Ms. Lohman: Where did you read that?

Mr. Johnson: Oh, that was in the TDR Advisory Committee majority recommendation of what they – their recommendation to the County Commissioners was they felt that there should be some nexus between the likelihood to develop and conservation through the program.

Chair Axthelm: Would we state that in the policy, or where would we state that?

Mr. Walters: Yes.

Mr. Johnson: Yes.

Chair Axthelm: Okay, so in this policy right here we should have some notation to that?

Mr. Johnson: If you agree with that. Commissioner Greenwood sounded maybe not like he's totally comfortable with that. Now I will say Mount Vernon did say, you know, a couple of the property owners who were at the public hearing or who submitted comments – that's not in the path of development probably at least for the next 20 years, if ever. I mean, they didn't say "if ever," but given the topography and everything so they said, We'd be willing to talk about whether those could be eligible for conservation. So there, you know, with this idea that you would coordinate with the Cities and their urban growth areas both for as Development Priority Areas but also Conservation Priority Areas. So you would be consulting with the City to say, Is that really in the path of progress, as they might see it, or –

Mr. Greenwood: And that's where I would say that the partnerships are essential. If we don't have the partnerships I think it's worthless – the program itself. But I, you know...

Chair Axthelm: I think in this statement it's probably not a good place to put it because although it's – because you're going to specify that priority area on a map and then that will change based on the urban growth area. Yes, Hollie?

Ms. Del Vecchio: So I wasn't – my suggestion was not to restrict it to immediately around the urban growth area. It's just that there should be a – just so we're not treating something that's really only the absolute northeastern most portion of the county that's really not looking to reap potential development, and treating that the same as something that's right along the river, or just that we have some way of recognizing the difference there. Not that we have to limit it to land right around the UGAs or right along the freeway – just that there be some kind of a geographic limitation there. So I'll just leave it at that. But that's all I was suggesting.

Chair Axthelm: Anything else on this Conservation Priority Area that you want to go over?

(silence)

Chair Axthelm: Then roll on to the next question?

Mr. Walters: So I think this level of discussion is helpful because you can start to see an outline come together with where it is you might want to go with your recorded motion. And then we could put together a draft for you based on your discussion, and then you could resolve the questions at your next meeting. So good job.

Chair Axthelm: So we're wanting to have them draft something like an urban growth area in there or not?

Mr. Walters: No, no, no – we will. We're going to do it. We are going to draft it for you and probably a couple different iterations of that, and then you can pick one of them or delete them all or whatever it is you want to do.

Chair Axthelm: Okay.

Mr. Walters: Yeah. But then you'll have something to work with.

Ms. Del Vecchio: Thank you.

Mr. Walters: Does that make sense?

Chair Axthelm: Yep.

Mr. Walters: Just keep talking.

Ms. Lohman: We still have the option of change.

Chair Axthelm: Yeah. No, I'm not saying that that's – I'm not saying that's fine at all. I just – I knew normally we might vote on it but what I was trying to do is get through some of the discussion stuff so we could then – we'll vote on it next time. That's fine. I'll just note it.

Ms. Lohman: I just wanted it said out loud that the words are not cast in stone.

Chair Axthelm: No. Okay, so do you want to go to the second one, number 2 – Development Priority Areas?

Mr. Johnson: I would like to give a brief intro on that, which is basically what the response to comments memo says, just so you know what's there. So the Advisory Committee made its recommendations and they were primarily focused on what are called rural upzones or Comprehensive Plan amendments and rezones that add additional development potential to a parcel, as well as urban growth areas, as well as cities, and at the time that we started the Bayview Ridge urban growth area was a residential area. Now it's not. There was also a line in their recommendation: "Future consideration should be given to possible limited infill in Rural Villages," I think. So that went to the Board and the Board said develop the proposal largely based on the recommendations of the Advisory Committee. The CaRD provision, the Rural Village infill, the Rural Intermediate infill were not core recommendations of the Advisory Committee majority. Now there is one County Commissioner who really wanted to explore those options, and there was a Planning Commissioner who, in one of the focus group meetings, said, I think CaRD could be a position where this might work. And I think I've tried to explain the rationale. Unfortunately Matt is not here. And then in a focus group with a developers group, I really got the sense that they would love to be able to do more in the rural area than they can.

So when you put proposals out, one of the purposes is to put it out there and get comments. So that was the spirit in which the Rural Intermediate infill, the Rural Village infill, and a CaRD 7-acre lot – and, again, that was kind of like – and 7-acre was the most lenient possibility that we felt comfortable putting out there. But I will speak for myself – I don't know about Ryan – but we did feel – I mean, I've worked for the County for 17 years and I worked for a 10-year period when we started with 220 noncompliance issues and we got it down to zero, so I feel like I have some understanding of what LAMIRDs are and what's allowed under the Growth Management Act. And I don't feel like we put out a proposal that was in violation with the Growth Management Act. It may not be consistent with how people in Skagit County view rural character. It may not be consistent with, you know, necessarily with the Comprehensive Plan as it is now or as it's perceived, but what our response memo says is you, the Planning Commission, have – just like with Ag-NRL – you have the ability to say we do or we don't like these rural Development Priority Areas. So I just want to, put that, you know, out there up front because that was definitely the major area of concern that came in from the comments, both from people who didn't want to see any program and didn't like those, and the people who *did* want to see a program but they didn't like those. They thought that urban areas ought to be the primary receiving areas. So I just wanted to give that preface.

Mr. Walters: And there's one zone that is on both lists, both Conservation and Development. That's Rural Reserve.

Mr. Johnson: But only through that CaRD provision that – you know.

Ms. Del Vecchio: Yeah.

Mr. Walters: It may not make sense to have them on both lists.

Ms. Lohman: It's hard to have something that's the receiver and a sending area simultaneously.

Mr. Walters: Yes, but the idea is if you put it in both lists in the proposal, then you can subtract it off of one list in the final.

Mr. Johnson: Well, yeah, and that's the other idea. If we put out a broad proposal, then it's easy for things to be removed. If you put out a narrow proposal and then somebody said, Well, I want to add this, it's very hard to do that. So we kind of started with broad and feel free to narrow as you see fit.

Ms. Del Vecchio: So I'll kind take them through order. You started with the Rural Reserve comments. It seems like there's concern about the Rural Reserves period being recipients by the developments. It also seems like there's concern about the CaRD just as a whole. So one of the things that – and it seems to come up in different contexts. So even with my vast six weeks of experience working with Skagit County CaRDs, it seems like it might – there might be benefits in just stepping back and looking at the CaRD program as a whole before we include it in something like this, and then reconsider down the road whether or not it's appropriate and how that really plays into all of this. Though I realize we haven't had any discussion about this, my thought would be to get rid of a in its entirety for now.

Ms. Mitchell: Agreed.

Ms. Lohman: I agree too. The other thing was with that was you changed the acreage – you dropped down the acreage minimum to 7. And I kind of thought, well, that doesn't really make sense to me. You're kind of punishing larger landowners, people that have larger parcels. They don't have that luxury. Yeah, they have a CaRD but they don't have the luxury of being a substandard lot getting a bonus. And I think that when we talk about Rural Reserve we're talking about rural character, and when you're going to just drop what that lower threshold is I just – I'm struggling. You already have substandard lots anyway because they were preexisting. So you've already got that and I don't think we need a mechanism to create more.

Chair Axthelm: So we're saying first is to strike the CaRDs?

Ms. Mitchell: Yes.

Mr. Greenwood: Is there anybody who wants to *support* the CaRDs being included? That makes it easy, huh?

Ms. Lohman: Did you want to?

Mr. Greenwood: No! I didn't see anyone who did so she was very eloquent in saying what I think we all were looking at, which is it's problematic.

Mr. Meenaghan: All the comments said the same.

(sounds of agreement)

Ms. Del Vecchio: If it's possible to make – include with our recommendations to the Commissioners, though, that we do actually at some point *look* at the CaRD program in addition to just removing it from here.

Mr. Walters: And there's a suggestion to take a tough look at the CaRD program as one of the suggestions for docketing that the Board will decide in a couple weeks.

Ms. Lohman: Can we vote if we all already agree?

Mr. Walters: I would suggest you not waste time with voting. Just ____.

Chair Axthelm: Okay. So the next one, rural infill –

Ms. Del Vecchio: Can we eliminate b as well? We're on a roll!

Ms. Mitchell: I'm fine with eliminating b as well. Does that help?

Mr. Meenaghan: Can somebody explain that?

Ms. Lohman: Yeah. I'm struggling with b because something can be designated as Rural Intermediate and somebody's got a 10-acre and they haven't gone to the effort, if you will, of going down to the minimum acreage there. So, I guess, what are you calling infill?

Mr. Johnson: Well, so the idea is if you're within an existing Rural Intermediate area and let's say if you have a 5-acre parcel you can divide that into two 2½s. If you have a 4-acre parcel, you can have a 4-acre parcel. So what this said was – and that it said could divide one parcel within that, you know, 5 acres or 4 – whatever the acre size. Let's say – let's say it was 4 acres. So you would have one opportunity to do a lot smaller than the 2½ that's normally required by a land division in Rural Intermediate. So you could do one 2½ and one 1½. I think 2½ and 1½ equals 4.

Ms. Lohman: So you effectively give a bonus.

Mr. Johnson: Well, you made a bonus available to be purchased and you could up that number, you know, it could be no smaller than 1½, so it could be a 2½ and a 1½ so that would mean you would need to start out with a 4½-acre parcel. Some people say – and, you know, one of the Commissioners says – We've got these areas. They're already mostly developed. We've got infrastructure there. They're the place where we should have development, and if a development can meet all of the requirements – if it has water, it can do septic, et cetera, then – and if you look in the Rural Intermediate areas – and we can talk about Rural Village in a minute – you won't find many lots that are smaller than 2½ acres because they were platted. I think there are lots that are down to 8500 acres because at one point the County had a Rural zone or a – there are lots that might be 8500 acres that might be 12,500 acres –

Mr. Walters: Square feet.

Mr. Johnson: Yeah, square feet – or it might be an acre. So one of the requirements under GMA is that you can allow infill within Limited Areas of More Intensive Development, which Rural Intermediate is, but it has to be consistent with the pattern of development that's already there.

Ms. Del Vecchio: So _____. So one of my thoughts – and I have a question for you, too, Kirk – is if we're going to kind of roll this program out and see how it works, is to start with Rural Villages if we're including any of the rural areas – to start with the Villages and see how it goes, and maybe expand into the Intermediate if there's – if that makes sense. My question to relate, though, is what are the odds – if you're in the Rural Intermediate – what are the odds that you're on a public supply? Or is that going to be only Rural Village?

Mr. Johnson: Of public water?

Ms. Del Vecchio: Mm-hmm.

Mr. Johnson: It would really depend on where you are.

Ms. Del Vecchio: Okay.

Ms. Mitchell: Alger would work. Other places, maybe not.

Ms. Del Vecchio: Okay.

Mr. Johnson: I could actually tell you with Rural Villages because currently if you're in a Rural Village and there's public water, you can divide down to 1 acre.

Ms. Lohman: Does that include, like, Blanchard/Edison Water, which is a Group A, fairly large Group A?

Mr. Johnson: Yeah. Yeah.

Ms. Lohman: That would be classified as public water?

Mr. Meenaghan: They're zoned ag in Blanchard.

Mr. Johnson: But are you talking – oh, I'm thinking if you're in the Edison Rural Village it's mostly public water.

Ms. Lohman: A community water system.

Mr. Johnson: Yeah. Yeah, a community water system. You wouldn't need to drill an individual well. Now I will say, I mean, you really need – just like a City does – you need to think, Is this something that we're comfortable with on the landscape and we think is consistent with the Comprehensive Plan and serves a public purpose? It's not just, well, we're willing to put up with this because it will help to conserve. I mean, I really think even a City considering TDR shouldn't be like, Oh, we're going to do this but it really stinks. So, you know, that ought to be your first level of review, is: Do you see a need? Do you see – you know, do you buy the infill argument within areas that already have this kind of established pattern or do you think what's currently allowed is adequate and you don't want to see more development in those areas?

Ms. Mitchell: I'm having trouble with the idea of doing infill in anything but the UGAs period. Just categorically that's why these make – it just makes it so difficult. It's not that it wouldn't be nice in some places, but we've already set those zones out. I just can't understand changing it now on something like this.

Ms. Del Vecchio: Can any of the Rural Villages really handle more development than they're already zoned for, as far as just infrastructure and – or is this just a theoretical exercise?

Mr. Johnson: Well, there's a – I mean, I talked to someone in the Health Department that does water review and I talked to the head of our Current Planning division, and they said in some – again, in Rural Villages with public water, you can go down to 1 acre. So they said in some places it would be – I mean, just from the ability to meet the needs to do the development on the lot, you could do it. It depends on the topography, the soils and the like, and in some places it would not be a problem to meet – to have your septic system, your reserve septic field, your well and well protection area, and your residence. That could be done in other areas either because of the configuration of the lot or – I mean, Edison has limits on the community septic system, right?

Mr. Pernula: That's pretty maxed out.

Ms. Del Vecchio: So if you were to use one of the development – and I think you just said this a little bit ago. I apologize. But if you were going to try and use a development credit in one of the – say a Rural Village – through the infill, you would still have to show that there's adequate infrastructure – water, septic – I mean, you still have to meet all of those criteria, right?

Mr. Johnson: Right.

Ms. Del Vecchio: So it'd be a limited scenario of where you would be able to use it, but there may be some potential and you'd have to meet all of the other development criteria.

Mr. Walters: You always have to show either that you can connect to public infrastructure or that you can provide for your private infrastructure onsite – water, septic.

Ms. Del Vecchio: Mm-hmm.

Chair Axthelm: It'd be a separate issue from what we're – really it's separate from what we're talking about.

Mr. Walters: What I'm saying is that those are always the requirements and this program doesn't affect those requirements.

Ms. Lohman: The level of scrutiny for the receiving area is different than the scrutiny that you're giving the Conservation Priority Area, is what you're saying.

Mr. Walters: Well, development is occurring in the Development Priority Area and so there are many requirements that go along with development. There aren't really any requirements that go along with the Conservation Priority Areas.

Ms. Lohman: But in order to accept that development right – to incorporate it, I guess – it has to pass more hoops than the sender.

Mr. Johnson: Yes.

Ms. Del Vecchio: So it seems like you could apply those same criteria to the Conservation Areas and say that you can only sell your development right if you can show that you have the water availability, the – that you would be able to develop those – that property anyway. Is that what you're –

Ms. Lohman: But they did. They said you had to have a certified lot.

Mr. Johnson: Yeah, you have to go through kind of the first phase to show that this is a developable parcel, but you don't have to go through the next phase which could cost \$5, 10,000 to say, Well, if I were going to develop it, this is where my well would go and this is where my septic system would go. Because, I mean, at some point it's kind of diminishing returns.

Ms. Lohman: I believe that some of the commenters, when they talked about Rural Intermediate and Rural Village, were concerned about putting undue pressure on the surrounding NRL because now you've got additional folks, if you will, not much different than the city, the urban area. You kind of – where's the tipping point between it's still a rural scenario and it then becomes urban? And the reality is – and I'm seeing it now and I was talking with a couple of people about it – you can't hardly move on Cook Road if you're a farmer. And yet the County – you have to go on Cook Road or you try not to. Sometimes you have to use the same roads, and so if you put increased density out in the rural areas and you shut off the rural area from access to harvest their crop or to deliver their crop, then the Ag-NRL is going to close up shop or the timber will close up shop. They'll give up those parcels that are as close to that pressure first. So you went to all this trouble to preserve the Ag-NRL but if they can't use it because they can't get on the road or cross the road or – so it's a different discussion but you have to consider it, too.

Mr. Johnson: Yeah. I guess the pro side is you're retiring your right from the Ag-NRL and from the Secondary Forest and putting it in this more clustered area. What you're saying is that alone is not – I mean, that could be creating these additional conflicts that still –

Ms. Lohman: Well, now all of a sudden you've got more commuters.

Mr. Johnson: – to resource management.

Chair Axthelm: The hard part with this is that we're talking about this – we were talking about different parcels, but without seeing the individual parcels it's hard to tell what you could do in that situation. You take a Rural Village Commercial or a Rural Intermediate and there might be a whole bunch of smaller parcels clustered around one large parcel. So how you treat that situation can be totally different than a whole bunch of larger parcels beside each other.

Ms. Lohman: But if you look in a historical context – if I pick on Edison because it's closer to me and I'm more familiar with it – 100 years ago the population in Edison was significantly different than now and it was larger, and then it shrunk. So little enclaves like that are going to, when you look in a long enough period, they're going to shrink and swell back and forth all the time. They may not expand their footprint or their outer perimeter per se, but within that perimeter different things have happened. So I think we need to be able to allow that to still happen without forcing something that doesn't fit. And sometimes when you just demand that infill for the sake of infill

and you jam it in, recognizing the constraints on the septic and all of that, I don't think that's good. I think you should let it naturally swell and shrink.

Chair Axthelm: So you're saying these can be handled through zoning. We don't necessarily need the development credits to do that.

Ms. Lohman: I think leaving it on the list is all right as long as you don't just – you keep in mind – I think you need to handle it easily, rather than too prescriptively. Like the *only* place you can go is a Rural Village because maybe that's not the model.

Chair Axthelm: Amy?

Ms. Hughes: Well, and I agree with what you were saying – that maybe that's when d, through Comp Plan amendments, because I think every community is a real – very unique of what it can handle and what it's tipping point is. And so a map decision is hard for us to do at this point. One of the things I learned by going to the meetings we had in the communities: People are still very passionate about their rural communities and they want them rural. And we are in a point, I think, in our planning – we've been at GMA now for 25 years, and there are some decisions we need to start drawing a line in the sand if we want to stay rural, or we *will* start looking like Snohomish County and King County. So we just really have to be diligent, and so I think that maybe for now if we are going towards the – let's get this program down to a manageable size so people can understand it. What I'm afraid of is if – what I've heard before: We've had this program that's kind of big and massive and loose, and I think that that's why people are nervous. And if we want to go forward with this program as a recommendation I think we need to tighten it up a bit and let it work and breathe, and people need to see it because I don't think they're understanding really the impacts. And if all of a sudden we start putting growth in rural areas, I think we're going to have a marijuana issue again! Sorry to go back to that!

Ms. Mitchell: Well, I think you're absolutely right. And you look at these maps that were generated that were quite helpful – so thank you for facilitating that – but to me that brings back the marijuana issue all over again, meaning you had places Rural Intermediate across from Rural Reserve, next to a – in Rural Village, dotted all over the place in different fashions. And so if we do go ahead and put in rural infill here, rural infill there, rural – you know, that kind of thing, every single neighborhood's going to look different compared to what it looks like. Take an example for Alger. It looks very different than it does in perhaps Conway or Hamilton or someplace else. And every single place on the map looks different. And that's why I think we should be very guarded on how we do this and if we say 'rural' at all. I think we should tone it back, if they're going to do this, and say, Go for the UGAs. See if the program works. Then if it's successful, perhaps you can expand it somewhere down the road.

Mr. Walters: I'd like to add something to that because, not to make an argument, but simply because I see maybe an error in logic. And I don't necessarily disagree with your suggestion. I don't think there's any problem with restricting it just to UGAs. But the map you didn't see is the map with the dots indicating where development can occur *today*, which is, I think, one of the maps that Envision Skagit generated – the dots of all the parcels where development – and I don't know if that one even looked at CaRDs.

Mr. Johnson: It didn't. It was kind of a maximum.

Mr. Walters: Maximum possible CaRDs?

Mr. Johnson: Well, one of them is a maximum buildout.

Ms. Mitchell: But that's very true, but those people do have those rights.

Mr. Walters: Well, they have those rights by virtue of the code as it is today.

Ms. Mitchell: Right.

Mr. Walters: But if you look at – so if you look at that map – that map is much scarier than the other map – you can see, I think, the comparison to the status quo, which you don't see in just the CDI maps.

Ms. Candler: But it's not the same thing because you're talking about where you want to *increase* it.

Ms. Lohman: Right.

Ms. Candler: I mean, this is just where we're going to say is a Development Priority for, you know, something we want to actively increase.

Ms. Lohman: Right.

Mr. Walters: Well, there was one of the comments that suggested that the County should simply *require* a development credit for all density bonuses under the current CaRD ordinance, which would have the opposite effect. It would scale back the map.

Ms. Candler: But it would take away development rights that currently exist.

Ms. Lohman: But if we strike the CaRD, that's moot for this.

Mr. Walters: No. Because it's not – that's not even – that's not one of the proposals now. That was somebody else's additional suggestion.

Chair Axthelm: I wouldn't want to take away any development rights that already exist. I think that should be their right, it should remain their right – and without having to pay the extra. Because if they already have the development right to do it, why should they have to buy a development credit to –

Ms. Hughes: Exactly.

Mr. Walters: And I'm just saying they have that right because someone wrote that into the code some 10 years ago or so.

Chair Axthelm: And they purchased their property and they own that property based on that.

Mr. Walters: They *might* have.

Chair Axthelm: Regardless, that's what they own right now.

Mr. Walters: Right. And the Board did not want to go there.

Ms. Lohman: But you could use that argument – anybody that ever got downzoned.

Ms. Candler: Which we've heard at the community meetings and we've heard –

Ms. Lohman: I mean, the 40-acre minimum on the ag zone. It was a downzone in the '70s. I mean, somewhere along the line, somebody got downzoned somewhere.

Mr. Walters: And development rights are not a certificate that you have. Development – you could lose your development right tomorrow because of some weird septic rule or something like that, you know? Yesterday it was possible to build your septic this way but today, because of some weird, rule it's got to be bigger and now you can't do it. Development rights are not quite as hard and fast as we've been talking about them in this context.

Ms. Candler: I have a question for Kirk. I remember at one of the meetings not too long ago you were talking about – you know, we were expressing some concerns that the Cities weren't on board and you were saying that, you know, kind of like an if-you-build-it-they-will-come kind of thing that has to be in place. What are your thoughts on limiting it to the – kind of the UGA, like the b, f, and g of that? Is that something that would accomplish that particular goal that you were talking about?

Mr. Johnson: It would – yeah. I mean, I don't know that I want to speak personally, but I would say the a, b, and c were put out there because there was some interest from a Commissioner, from a Planning Commissioner, from the development community. I mean, really, a program like this doesn't work if you don't have people that are interested in purchasing development rights. So but having worked on those 220 noncompliance issues and, I mean, I understand – I think I understand GMA and I think I've heard lots of people – I mean, the Comp Plan amendment from several years ago at Bayview outside of the urban growth area, that was quite contentious and the people who didn't want to see it happen were very passionate about their rural character and the people who did want to see it happen were very passionate about how their property was in this logical boundary. So I understand the concerns on a, b, and c. E, f, and g – yeah, I mean, that still gives you a program. The non-municipal urban growth area expansions are under the County's jurisdiction. So I do think Commissioners – remember Sharon Dillon, who's no longer a Commissioner, saying, I don't want this *just* to be in the control of the Cities. So I think that, you know, maybe if you didn't have a County receiving area of some sort potentially then, you know, that might diminish some of the reason for having the program. Although there are a lot of – and I'll wrap up here quickly – there are a – I mean, I was reading just the other day ten cities in the Puget Sound region that have agreements with counties to transfer development rights. So I mean, I think there're definitely models where you have a county that has a program that doesn't have receiving areas. I would say the rural residential upzones is – I mean going back to Commissioner Dahlstedt. He's the one who's really stated firmly, you know, that there should be some contribution to conservation when those happen. So I guess I would want you to at least have the discussion about d before just jumping to e, f, and g.

Mr. Greenwood: The problem I have with d is that it's like a capital gains tax, and if you like capital gains taxes this'll really fit well with this type of program, where you see someone who might benefit from – and there's a proposal that has to go through. There's steps. You don't just get to amend the Comp Plan. There has to be justification, reason for. Usually it's on the edge of something and maybe they put the line in the wrong spot in the first place. We're pretty critical of that when we look at those upzones. But to just say, Somebody's going to benefit from it; therefore, I want some of that? I have a hard time with that.

Chair Axthelm: Although I could see that being a good thing in ways. Like if you have – again, the situation where you have several 1-acre parcels and one 10-acre parcel setting next to them all or in the middle of them, is that that should be an opportunity for them to go in and say, Hey, all these parcels are developed around me at 1-acre, why can't I develop my parcel at 1-acre or 2-acres?

Mr. Greenwood: And if it's justified, they should be able to do that. But whose money is it, then, that you're taking when you're capturing that? It's a tax. It's a fee. It's an assessment – whatever you want to call it – and then you're taking it and then using it for your own purposes. Or you're – you know, you build a dam and then they come back later and say, Hey, go buy some conservation land to pay for that or you've got to take your dam out. Well, it's the Baker Dam. So, I mean, it's not like you're going to just uproot, so you're kind of held hostage at some point. You do it or you don't. And if you want to have any return on your proposal, we want some of it. It just seems like we want some of it, and then we want to do something else with it than what the landowner wants to do with it. Maybe he's – you know, we heard from several people up at Bayview when we were looking at lines – I've got this farmland. It's not very good. It's for cattle. And I just want to be able to pass something on to my kids. And so they want to be able to parcel it up a little bit, make it a little bit smaller, and maybe have a development on part of it. So they've got purposes in it. They're not just looking to, you know, move to Hawaii necessarily. Everybody who's got a Comp Plan amendment isn't making a killing on it.

Chair Axthelm: But do we need the development program to do that?

Ms. Mitchell: No.

Chair Axthelm: That's what I'm saying. We don't really need it because we can do that through the zoning.

Ms. Mitchell: Exactly.

Mr. Walters: Well, yes, but the whole purpose of the program – and Commissioner Dahlstedt's point – is that upzone from 10 acres to ten 1-acres or whatever the hypothetical is, represents a tremendous increase in value to the property owner. The property owner is not doing it just because. He's doing it to obtain that value increase. And if – under this program, the County gets like half of the value increase. He gets the other half, so it's sort of a split the difference type of thing.

Mr. Greenwood: But, why does the County get any of it?

Chair Axthelm: Yeah, exactly.

Mr. Johnson: Well, the County doesn't get it.

Mr. Walters: Hold just –

Mr. Johnson: Okay.

Mr. Walters: So let me finish my thought there. The reason is because the County is giving the development right.

Mr. Greenwood: Because the County has the keys.

Mr. Walters: Yes, but also in the alternative model, which is the one that we are currently using, we are simply requiring all property owners in Skagit County to just send us dollars. That's through the Conservation Futures tax, and we use that money to purchase properties through the Farmland Legacy Program. But that's not optional. There was no increase in value that the property owner got. There was no splitting the difference. It's just a mandatory fee.

Mr. Greenwood: Well, then let's put that on the agenda for next year then, too. Maybe we should review that with CaRDs.

Chair Axthelm: But I disagree with that that they're giving it to them, because they're paying for the rezone; they're paying for the fees on the Comp Plan amendments; and then they're also going to pay the taxes based on the fact that now they have ten lots.

Mr. Walters: They're not going to pay the taxes. They're going to sell them off. That's the reason to do the division.

Chair Axthelm: Yeah, but still somebody's going to pay the taxes. So either way the County's going to get money. I just – I have a hard time with somebody – with the development rights, it's his work. I think he should be able to keep it.

Ms. Lohman: You could really be indignant about the County giving something away and be silent on when the County takes something away without paying for it. So to me it's not a – I have a hard time when you only look at one side of the ledger.

Mr. Walters: No, what I have said repeatedly is that that development right is very theoretical until it is exercised. You can take a moment in time, look at a piece of property, and be able to determine the development rights and do an appraisal. But you don't really know how many development rights will actually get exercised on that piece of property until that happens.

Ms. Lohman: But there is not anything that is called – quote/unquote – rural residential. So I'm assuming that you mean something in a Rural Village, something in Rural Intermediate. Is that correct?

Mr. Johnson: For rural residential?

Ms. Lohman: Yes.

Mr. Johnson: Well, the way it's written in the policy and code is a Comp Plan amendment and rezone that increases the residential development potential on the property. So an example I like to use is your Rural Reserve, when one house on 10 acres you get added to Rural Intermediate. Then you have gained three additional lots, and those lots may have a market value of \$20, 30, 40, 50,000 each. So, I mean, you may or may not like it, but the whole way that a bonus density program works is that the value of the property – the development potential increases and the program provides something of benefit to the owner, but it also retains something that's used for conservation of land elsewhere. I want to read something from – I think Commissioner Del Vecchio in one of her first meetings may have read this article, but it's in the Journal of American Planning Association, "What Makes Transfer of Development Rights Work? Success Factors From Research and Practice" – just two sentences: "Dozens of the 191 TDR programs in our national database have failed to preserve much or any land because the community offers developers opportunities for additional development without having to comply

with TDR requirements.” And then they say – for instance, they allow bonuses for clustering without purchasing TDRs. They do this or the other thing. At the furthest extreme are communities that have TDR ordinances on the books yet do not require TDRs when they approve upzoning. So you may or may not like this idea, but if you’re going to have a TDR program you have to make that the way that people can obtain additional development potential on their property. The County could say, We don’t want to do that in the County; we want the Cities to do that. But I guess I will go back to Commissioner Dahlstedt, who’s been the most outspoken on this. On the one hand we’re purchasing development rights with public funds – and he supports that program. It’s not meant to be critical of that – and yet we’re making zoning decisions that increase development potential elsewhere. And other than the \$5000 application fee, the property owner of that – the County makes a decision and the owner reaps the financial rewards.

Mr. Greenwood: I see that. I just see that, you know, the role of government is one to reward good behavior, punish evil behavior, and protect innocent people. And I’m just wondering where we categorize development. We want to put development in the evil behavior and we want to penalize you so that we can do the right thing, which is to conserve somewhere else. So we’ve – somehow we have to put those people in a place where we think what you’re doing is bad so we’re going to penalize you for it. Maybe that’s an overgeneralization.

Ms. Del Vecchio: I think if you’re – the other way to look at it is that we’re trying to incentivize people to be developing in certain areas, which means this is not – this is something that we want.

Mr. Greenwood: By charging them money? How do you incentivize people by charging them for –

Ms. Del Vecchio: But in exchange they’re able to do something with their property that they wouldn’t have been able to do otherwise.

Mr. Meenaghan: And they’re going to make a lot of money at it.

Ms. Del Vecchio: And they’re – yeah, they’re doing it and, like Ryan said, they’re doing it because – not across the board, but for the most part they’re doing it so they can make a profit off of a portion of their property or their property. And I think that if it’s done in the appropriate places then that takes away the villainization of the development. What we’re saying is development in these places is good. We want to encourage it. We need places for people to live. We need –

Mr. Greenwood: But we’ve already identified those areas in the cities and the urban growth areas, and so if we expand this – especially as it’s presented – if we expand it to these other places that we went to that are talking about I want rural character, and you’re going to have this incentive program. We call it purchase of development credits.

Ms. Del Vecchio: And I agree. I mean, that’s a separate discussion of whether that is an appropriate place. I mean part of what we’re talking about is do we want to be encouraging the development in the rural areas. But that’s different than are we – two different issues.

Mr. Greenwood: But we’re reaching out into these upzones. We’re not even talking about the – so we’re talking about receiving areas not in the urban growth area now because we’re talking

about d, the upzones from Comp Plan amendments. So it might be at Bayview Ridge. It's not an urban growth area and somebody's looking to subdivide a little bit.

Chair Axthelm: And I think that could be the exception to it, is that you have urban growth areas but then you also have other areas like the Bayview Ridge, which is an area that's desirable for more growth. Is that – you know, that there are certain areas that are areas we want to have – see more growth in. So that wouldn't – you could take and say urban growth areas, but then you also say areas that have a subarea plan.

Mr. Greenwood: And that's a difference.

Mr. Walters: No. No, no.

Chair Axthelm: Something that specifies more density.

Mr. Walters: Yeah, I sort of see where you're going; however, the Bayview Ridge Subarea Plan –

Chair Axthelm: Not blanket subarea.

Mr. Walters: Right. The Bayview Ridge Subarea Plan is – that boundary is coextensive with the UGA boundary. It's one and the same. You could not do urban levels of growth outside of a UGA, so I don't want to go there.

Chair Axthelm: I'm not saying urban growth levels of growth. I'm just saying for these –

Mr. Johnson: It gets – I totally admit to this – it gets complicated or confusing when you're talking – I mean, within a GMA context within a city, where development is to be encouraged, I think it makes sense to some people – certainly not to everybody – but you can do four units per acre or you can buy credits and do six units per acre, and the credits might be worth \$20,000 to a developer and he may be able to buy them for \$10,000. So that's – yes, it costs something, and some of the value increase is retained for some other purpose – public purpose – but the developer wouldn't do it if it wasn't a good step financially for him or her. And I live in a city and I have a PUD – planned unit development – next to me that used development credits, and I think it's a great neighborhood. It has lots of really nice cars and really nice looking houses, so I'm not afraid of that, you know, as someone who lives in an urban area – as long as it's done well. But then is it different – I mean, it is a little weird for a rural upzone to call that a Development Priority Area, other than the fact that it's been carefully scrutinized and it's been determined that it *is* compliant with the designation criteria for that higher value zone. So in some ways you've decided, Well, yeah, it's okay. It meets the Comprehensive Plan designation criteria and the Growth Management Act. And then you're just saying, Does that same concept that applies in the urban area apply there, that, you know, you have one lot and now you've got four lots, and each of the three might be worth on the market \$20 or 30,000? Is that a comparable situation to the urban one or is it somehow entirely different?

Ms. Lohman: But you're getting into a value judgment call there, and this is about land use planning. And so there's a lot of scenarios and the challenge is it is dang hard to be fair to all property owners because the map isn't fair, if you will. So for every scenario that you can think of to rationalize why you shouldn't require all these extra hoops, like Keith was suggesting, you could find some parcel that because you really don't want him to change it from Rural Reserve down to Rural Intermediate or anything smaller that you want to kind of make barriers to that.

But there's other property that you maybe want to have it so that it does change, so why would you throw a barrier for that? So I don't know what I think about number d because I'm mentally driving my pickup and looking at stuff and I'm conflicted on d, because you like to use the Bayview – it's not part of the Bayview Ridge, but kind of on the back side of Bayview Ridge –

Mr. Johnson: Yeah.

Ms. Lohman: – the property that the Planning Commission –

Mr. Johnson: Yeah.

Ms. Lohman: That was a property that you felt that the Planning Commission gave away as giving these people extra valuation and extra ability, and the Planning Commission felt that, really, the line was in the wrong spot originally, when the map was drawn. And so I can see a lot of tension. The other thing is we've gone to an awful lot of work on writing our code and our Comp Plan for our rural areas and our Rural Element and our rural lands, and I'm struggling with d when I *know* that we have a fairly robust Comp Plan Rural Element – all of that stuff. And so I don't know what to do with d.

Chair Axthelm: Kathy?

Ms. Mitchell: I've got a comment to tag onto that. I struggled with d for a little bit and I've decided in my mind to chuck it out, and the reason is this: I really do think we need to focus on the Development Priority Areas to be the UGAs, but something even more simple that I'd like to throw out to everybody else. This is obviously a very tough subject for us to struggle through. But one of the things that I truly believe is that all three County Commissioners have charged every single person they put on this Commission to use their own minds, read, assess, suss out, and figure this information out for us to come before them with our recommendations as we see fit for what we know for today. And regardless of what each of the Commissioners – County Commissioners – say later, they're going to do what they choose to do based on information that we give them. And so it's not that I want to disregard any wishes that a County Commissioner would have, because I believe they trust us to make a good decision. But knowing that, I think we should choose and develop the policies and turn in whatever we feel as a body is the best recommendations for what we have, not what we think somebody thinks/wants us to say. Does everybody else agree something along those lines?

Mr. Meenaghan: Yes.

Ms. Mitchell: Okay. Then, you know, from that standpoint I think we can make our own decisions and roll through this and understand that we are working for the County Commissioners ultimately, but go ahead and move forward and make the decisions as we think we understand now.

Mr. Greenwood: Well, we were appointed by them to help them make decisions, right? I mean, we don't *work* for them.

Ms. Mitchell: Right.

Mr. Greenwood: Because they don't pay us very much.

Ms. Mitchell: Right, and they trust our judgment. You can talk to any one of the three of them. They trust our judgment collectively – individually and collectively.

Mr. Meenaghan: It doesn't mean they're going to follow our recommendation.

Mr. Greenwood: No.

Mr. Meenaghan: But they trust our judgment.

Mr. Johnson: In quoting or paraphrasing a County Commissioner, I was not trying to say, You have to do this. I guess I feel like part of the staff's job – having gone through this process, having worked with the Advisory Committee – is to try to put out there the rationale for why you *would* do this, but not to tell you you *have* to do it. And if you, you know, hear that and say I'm not comfortable with that, that's – yeah, that's your role. So I was not paraphrasing Commissioner Dahlstedt to try to say, Well, he's already made his mind up so you just need to go along.

Mr. Greenwood: No, no.

Ms. Mitchell: Those comments were not directed at you, by the way. That's just a general thing. We are struggling with this enough.

Mr. Johnson: Okay. And in response to Commissioner Lohman, I think at the docketing level we were not supportive of that particular Comp Plan amendment. My recollection is that when it was moving forward our recommendation to the Planning Commission was to approve it. So I don't think there was the tension there that you recall.

Chair Axthelm: I probably should leave it alone, but the issue I'm seeing with it: When you say that the County doesn't get any money, they get the \$5000 for a zoning change. And I disagree, because I think that the County does get money. They get the – for the rezone, then they get the taxes, and then when you go to develop that property you have impact fees. You have – whether it be traffic or schools or sewer or whatever it happens to connect to. So all of those things that they receive services for they are paying for. They should be.

Mr. Walters: I actually think every one of those is wrong. It may be a little blunt, but there are no increased taxes, simply by virtue of the subdivision, with very few exceptions because the tax –

Chair Axthelm: If you have ten buildable lots versus one?

Mr. Walters: Right.

Chair Axthelm: No increased taxes?

Mr. Walters: The new *construction* will result in increased taxes, but the subdivision itself – so the rezone – doesn't result in increased taxes. Also, the application fee – the \$5000 processing fee – is not a net benefit to the County because it just covers the cost and it's required to be set to only cover the cost of processing the application. And there are no impact fees. The County doesn't levy a roads impact fee and it's not collecting any other impact fees outside the UGAs except for schools and those don't go to the County either. So there really is not any benefit to the County government except new construction sales tax and eventual new construction property tax, if the development occurs.

Chair Axthelm: So no impact fees on roads?

Mr. Walters: No. The County does not levy a roads impact fee. In the UGAs, the Cities do.

Chair Axthelm: But you'd be required to do certain road improvements.

Mr. Walters: You may need to do road improvements. Generally it's road improvements interior to the development.

Chair Axthelm: Okay. I just – I have a hard time with them taking, because basically you're taking those development rights and then putting them on – so the County's still not getting money from it, because the County's taking that and putting it somewhere else. So the argument that the County's needing money from it, the County's not getting any money anyway.

Mr. Meenaghan: Nope.

Mr. Johnson: And if it's a private market transaction, the person who – well, I guess it would be the landowner getting the upzone. They're purchasing a development right from a resource landowner and so the monetary transfer is from one individual to another. It doesn't go through the County at all.

Chair Axthelm: Okay.

Ms. Lohman: Maybe we should set it aside and move on.

Mr. Meenaghan: I sense a concern about making anything that is rural a Development Priority Area. I think that's what I'm hearing. Why don't we simply – or could we – take those three out and just simply go with e, f, and g? And I guess my question then would be, Does that give enough space to pile a bunch of development priorities into?

Ms. Candler: Well, and I don't know if this is where Amy was going, but at some point you do have to draw the line in the sand, right? I understand Kirk saying that you have to have developers willing to work with this program or the program doesn't work. But to a certain extent, I mean, why do they care if they're building a – I mean, maybe it's more expensive. Maybe there's a less profit margin. But if they're building a two-story building in town or a two- or three-story apartment building, they're just making their money in a different way.

Mr. Meenaghan: And, frankly, that's where we want it.

Ms. Candler: And that's where we want it and at some point you do have to draw the line and say, This is where it's going, or it's never going to go there until you're in Tokyo.

(laughter)

Mr. Walters: If the –

Ms. Candler: Because there's no land left!

Ms. Del Vecchio: Wow – we just went from Skagit County to Tokyo!

Ms. Candler: Well, you've got to – I mean, that's what it looks like, right? I mean, you can either – I think that might be what I mean to talk about, the line in the sand. You're either going to develop all this land or you're not. And if you're not you have to go up because you have to plan for 3,000 new residential units in the next 20 years, or whatever it is.

Mr. Walters: If the County limited the program to just e, f, and g, it would likely sit idle, which would be no problem for anybody because if it – I mean –

Mr. Greenwood: It'd keep the cost down.

Mr. Walters: Yes. Yes. I mean, there're essentially no costs for an idle program; however, it would be there and ready for when there's a gigantic UGA expansion.

Ms. Candler: Well, what about – I thought we had one or two Cities that were willing to kind of look at this. Like, why can't we start there? Like, work with those Cities, start going up, and see what happens. I mean, I know you've then got issues with views and this and that, but...

Mr. Johnson: So when we – well, when we started the project, Bayview Ridge was a residential urban growth area and Burlington – so, as you'll see in the response to comments memo, when we started the project in 2012, the County entered into an interlocal agreement with Burlington that the Mayor and the City Attorney signed, and they designated the Planning Director to be their representative to sit on the TDR Advisory Committee, and they accepted the County's generous offer of \$50,000 in planning funds to help them do a commercial redevelopment analysis, which they did. And what they agreed to do in return for that was agree to consider how the City's Agricultural Heritage Density Credit Program might relate to a County program. Now it sounds, based on what we heard from the Mayor two weeks ago, that the Mayor has either changed his mind or I – you know, you heard what the Mayor said. So that looked – and actually the Mayor doesn't set policy and the Density Credit Program is in City code, so to get rid of that the City Council would have to go along with that. They may well do that. So I guess I would say from what we heard from the Burlington Mayor, the Mayor's not interested and the City Council may or may not be interested. I don't know. But it's currently on the books and if they increase the area around the downtown that can allow multifamily development and they don't change the code, that would be a significant expansion of where that program could operate. So that's – you know, that's kind of a question mark.

Anacortes is looking at – well, they're definitely looking at infill, redevelopment, having more happen in their downtown, and they're looking at whether TDR could play a role in that, whether there's enough – whether the economics would work out. So we don't know what their answer on that is yet.

And then Mount Vernon basically has a program that has worked in the past, has some development credits that are out there –

(some laughter)

Mr. Johnson: Am I doing something wrong?

Mr. Greenwood: No, I just wanted him to have control of his meeting.

(laughter)

Mr. Johnson: Okay. And they've said, We'd kind of like to see those development credits used before we partner with the County, but we're not closing the doors to them. So that's kind of the current state of play with the Cities at this point.

Chair Axthelm: Okay. Amy?

Ms. Hughes: Okay, thank you. I wanted to highlight that Anacortes and Mount Vernon both sent us letters saying that they're going through the process, and so I think we need to be patient for the Cities to do their due diligence on this issue. And as I was talking to people in the community meetings – and they were really supportive of this CDI program – and I pointed out to them, well, at this point it will be going into the rural area because the urban areas aren't ready for it, they said, No, that's not what we're intending. So I think that if we work on the program and we model it, it's possible that it will all come together. Because I feel – I'm being positive now – I'm feeling Skagit County is dedicated to its rural standards. I feel that we're all realizing that the urban areas are nice places to live and urban redevelopment is happening all over the nation. And Skagit County, if it gets the proper support from the County and the citizens, we can redevelop our cities. And then we have baby boomers that are wanting to downsize. Me, number one! And I just see all those places in the rural communities that our generation thought were wonderful that we're looking at our big old houses right now saying, What were we thinking? So there's going to be a transfer around, so I don't see giving up on this program. I think there'll be some action. One question I want to ask, though: Are there no non-municipal UGAs in our county?

Mr. Walters: The non-municipal UGA that we have is Bayview Ridge, and I haven't seen it in any of the CDI materials, but I think it's important to point out that prior to last year when we decided to go in a different direction, Bayview Ridge was a *residential* UGA and Bayview Ridge had a provision in the Comprehensive Plan that said that you had to purchase Farmland Legacy Program credits – which was not really defined – in order to obtain two additional units per acre in the Bayview Ridge Residential zone. Now there's a proposal right now before the County Commissioners on which they need to make a threshold decision whether to docket that would return some residential acreage to the Bayview Ridge UGA. So if the Board moves forward with that, then we're going to have part of the Bayview Ridge UGA possibly be residential again. We'll have to rewrite the Subarea Plan to accommodate that if they move forward with that, but assumedly we would pick up what we had before, which was a requirement for density credits in order to obtain the six units per acre in the Bayview Ridge UGA. So right there if you just rolled back one year we would be where we were at with a requirement to participate in what is essentially a TDR or a density credit program in order to obtain those extra two development rights per acre. So there's very much a possibility to see this program used in the Bayview Ridge UGA or maybe in some municipality's UGA. But those – it was almost there until we changed direction last year and went more industrial with Bayview Ridge.

Ms. Del Vecchio: And if we don't have the rural outlets, maybe there'd be some additional motivation to figure out how to bring the Cities onboard and really work with them. I know we've had ongoing discussions, but maybe if that's what we have then there's a motivating factor to figure out how to make it work. I'll go ahead and finish and then I'll just shut up. The only other thing that crossed my head is I – one of the – I think a legitimate concern that was raised by the Burlington Mayor was the affordable housing issue. And my understanding – I'll let you correct me if I'm wrong – but the Cities still have – I mean, they'd accept the terms of how these development credits are used. So if they wanted to waive the requirements to purchase credits if you're building affordable housing, they could do that. I mean, we're not restricting them from – either you buy affordable housing or you buy development credits or –

Mr. Walters: Correct.

Ms. Del Vecchio: So there's still – okay.

Mr. Walters: And they can subsidize impact fees for affordable housing. There are lots of things the Cities can do for affordable housing if they want.

Ms. Del Vecchio: Right.

Ms. Lohman: And the Housing Authority, they can almost do what they want, correct?

Mr. Walters: They need the consent of the jurisdiction, but, yes, that's a pathway.

Chair Axthelm: Okay, so let's get back to this Development Priority Areas. And look at your Goal 2H-3 – is it 2H-3? So based on what we've said about those – which ones we take in and take out – what do we want to do to change that? Or should we let the County decide how they want to phrase it or change it? I mean, here's your opportunity to direct it.

Mr. Meenaghan: I think, based on our discussion, they could probably take a, b, and c and fix those for us.

Ms. Del Vecchio: So Goal 2H-3 – and this is maybe a disconnect – is rural Development Priority Areas, so it sounds like maybe we're just nixing that whole thing.

Chair Axthelm: Or we're nixing rural.

Ms. Del Vecchio: So doesn't that whole section –

Mr. Greenwood: It's like a big yellow X.

Mr. Walters: Well, and I think I would encourage you just to go through the list and then we'll – because there're many different things that have to change in the text of the policies to accommodate what it is you want to do.

Ms. Del Vecchio: Yeah. So we would just have to change that to – now it's – it would have to be completely reworked.

Mr. Walters: But you don't have to wordsmith it. I _____.

Ms. Del Vecchio: Yes.

Chair Axthelm: But it's showing as Development Priority Areas.

Mr. Johnson: Yeah.

Chair Axthelm: So basically we take out rural and then we still have areas in there like it says on b – is it **2H-3(2)(b)**? I don't know. Yeah, urban growth areas. Is that –

Mr. Johnson: Yeah, although I think urban growth areas are – I think they're picked up in 2H-4 – elsewhere.

Chair Axthelm: Okay. Okay.

Ms. Del Vecchio: Or maybe that would be limited to the non-municipal UGA expansions? But anyway, it seems like that – it could be all merged.

Chair Axthelm: So we still want e, f, and g.

Ms. Mitchell: E, f, and g, and then nix the others. Is that right?

Chair Axthelm: Nix the rest of them. So general consensus? With the exception of like a – how would you – oh, that'd be non-municipal, would be the Bayview Ridge.

Mr. Johnson: Just something to throw out there, and it's not about bad and it's not a part of the proposal, it can't be a part of the proposal, but I think Commissioner X was starting to go down this route: Well, what if we did a subarea plan for a Rural Village and it was an inclusive process and we decided that within that Rural Village some infill was maybe appropriate. And I think you were going down that path. And I actually recall from this report saying probably the most viable place for rural receiving areas would be an area where there had been a subarea plan if it reached the conclusion that some additional infill or whatever made sense. Because then that really does become more of a Development Priority Area. I'm not saying make it a part of the recommendation. It wasn't part of the proposal. I'm just –

Ms. Candler: Are you saying that kind of maybe a catchall letter that would allow the policy to say maybe there would be some other areas?

Mr. Johnson: No. I'm not even suggesting that. I just wanted to throw – you know, ten years from now.

Ms. Del Vecchio: What you're talking about there, would that potentially rise to the level of a non-municipal UGA?

Mr. Johnson: No.

Ms. Del Vecchio: Okay.

Mr. Johnson: No.

Chair Axthelm: Okay, my reason for that would be like, Annie, you mentioned Edison, for example. They wanted to retain their rural character. What happens if Edison wanted to build their community up a little bit more? What avenue do they have to build that up a little bit if that's the desire of those people out there to add a few more residences, make it more a viable community, which it may have been at one point?

Mr. Walters: And I think that makes sense and would be perfectly legal and you could then have an Edison zone. So you wouldn't be dealing just with *all* Rural Villages. You wouldn't be saying Rural Villages across the board. You'd be saying the Edison zone.

Chair Axthelm: But it's planned. It's planned. It's not – and that's what I'm saying is it's not – it can't just happen there. It has to be a plan and say, Okay, we've got a subarea plan. This is what we desire.

Ms. Lohman: I went to the Fidalgo community meeting. They want to re-engage on the subarea plan process again. So it isn't just necessarily a Rural Village scenario that does subarea plans, and I don't think Alger specifically was limited to just a Rural Village subarea plan. Is that correct? It was a larger community, if you will.

Mr. Pernula: We also have a subarea plan for Guemes Island, as well, which is a larger area.

Ms. Lohman: Right.

Mr. Johnson: Actually, most subarea plans that have been done say we don't – well, actually the Alger Subarea Plan did add a few parcels to Rural Intermediate and added a few parcels to the Rural Village. But I don't want – I'm almost reluctant that I mentioned that because I'm not trying to steer you in a direction. I was just – you know, just food for thought.

Ms. Del Vecchio: Could – I would be interested in maybe seeing some proposed language, as a matter of fact, as long as you're drafting stuff up for us. If we had something to look at next time for the next deliberations and just see what would this look like. Because it sounds like it's maybe a tweaking of some of what we have – what we just discussed.

Ms. Mitchell: Do you want it more specific?

Ms. Del Vecchio: Yeah.

Chair Axthelm: If the community *wanted* to develop. You know, the community as a whole.

Ms. Lohman: Yeah, but that's really almost a separate – I mean, while you can acknowledge it – that communities are citizens, if you will, have that right – that's almost beyond the scope of what we're doing here.

Mr. Johnson: Yeah. I mean, it could come out of the subarea planning process as well. It would need to be –

Mr. Greenwood: And it may or may not require a development purchase of development rights.

Mr. Johnson: Right. Right.

Mr. Greenwood: It may just be a zoning issue.

Ms. Lohman: Well, and I don't view saying no or striking things as being permanent either. Sometimes it's a placeholder for the future. But I just object to putting handcuffs and cement shoes on people when you don't know what the future is.

Mr. Greenwood: Especially when the river's rising, like today.

(laughter)

Ms. Lohman: You're going to throw me in, aren't you? But I want to address – there was a citizen that sent in a letter whose property is in Urban – URR –

Mr. Johnson: Urban Reserve Residential.

Ms. Lohman: There you go. I didn't dive in on the map to see – that's attached to Mount Vernon, so is that a municipal UGA?

Mr. Johnson: Yeah.

Ms. Lohman: It's not the equivalent of the County URR on the other end of Mount Vernon, when we were talking about marijuana, over off of Memorial Highway?

Mr. Johnson: So he's right along Highway 9, right nestled – there's sort of a pasture and then forested land, and he wants – he's farming and doing some forestry and he wants to continue doing that and would like the program – would like to, if the program is created, to be eligible to sell his development rights through the program and conserve his land. And that's the one that the City of Mount Vernon letter said, We would be – and I brought that specific property to their attention. They said, We would be willing to entertain that possibility – you know, talking about the urban growth area in terms of areas that we don't see as in the path of development in the foreseeable future. Because again, that idea of working with the Cities in the urban areas –

Ms. Lohman: But wouldn't that be something that he could work out with Mount Vernon outside of this program? And the City can choose to possibly reach out to the County then. But I guess what I'm having trouble with is it goes back to the Rural Reserve when you had it as both – they get both sides of the apple, if you will. And I – here we've said we want density in the UGA. We want to concentrate growth in cities. And now all of a sudden we're saying but, oh, we're going to set aside this and we're going to set aside that, while there's arguments saying there is properties that you might want to do that. I'm having trouble with that.

Mr. Johnson: Well, probably what ought to happen with that urban growth area that the City is saying, We can fit most of our growth for the next 20 years within our city limits, they probably should roll that back. But I think, from what I understand, their attorney has said there could be some real legal issues to doing that. So you actually have somebody that's in a limbo situation that may not even – you know, even if they wanted to, may not be able to develop for 20 or more years. And he doesn't want to develop; he wants to farm. So you could see this as a way if the City's in agreement and the County's in agreement that that's really not a prime piece of land for Mount Vernon urban development – that allowing it to participate in this program could help him out without violating the City's future plans or the County.

Ms. Del Vecchio: But right now, unless we were to expand, say 3E, on the Key Issues list – so right now in order for him to participate maybe he wouldn't even be eligible for the Open Space Tax program. Either he would have to be Urban or Rural Reserve parcels eligible for the Open Space.

Mr. Johnson: Yeah, I guess I hadn't thought – somehow I thought he was, like, Rural Reserve but somehow in the UGA. But, yeah, _____. Yeah.

Ms. Del Vecchio: Yeah, but if he's Urban, then he's just not going to fall into any of these categories. So if that's something that we were wanting to do then we would – and that seems like that would have to happen.

Mr. Johnson: It'd be kind of the same language as is in for the urban growth areas for Development Priority Areas. It would be Conservation Priority Areas, you know, to be determined or negotiated between the County and the City.

Ms. Lohman: I was under the impression that under GMA that Cities aren't – if you have, say, an ag land that it can't be ag land if it's in a UGA. Is that right?

Mr. Johnson: It can if the City has a TDR program to transfer the development rights off the – yeah, it can't bring prime ag land into the city for something other than farming it.

Mr. Walters: But I think the opposite: You could bring it into the city but keep it in farming?

Mr. Johnson: Right.

Mr. Walters: Yeah.

Mr. Johnson: With a TDR program

Mr. Walters: There would be the question why you would do that.

Ms. Lohman: I don't know why you would do that.

Mr. Walters: Right.

Mr. Johnson: I think –

Ms. Lohman: All right. Sorry.

Mr. Johnson: I think his parcel – I think his land probably was zoned Rural Reserve rather than ag, so that's why that wasn't going to happen – before it went into the urban growth area.

Chair Axthelm: So we're at quarter-after-nine. We have some questions left. Do we want to continue to address any of those?

Several Commissioners: No.

Chair Axthelm: So is there any other general comment or general things you want to see the the Planning Department after next time?

Mr. Greenwood: I just wanted to give to each of you something to look at – just a list of some findings, some points that seemed pertinent based upon the months and months of public meetings, workshops, and comments. I did read the 22 pages this afternoon. Just a few things to consider and Dale could look at those too. Maybe it boils some of the thought processes down a little bit. I don't know. You can throw it away if you don't want it.

Ms. Mitchell: Thank you.

Mr. Meenaghan: Thanks.

Chair Axthelm: So do I have a motion for deliberations to end?

Mr. Meenaghan: We don't need one. We can just go to the Department Update.

Chair Axthelm: So if everybody's okay with that, we can move on. Okay. So we'll go on to Department Update and hold the deliberations for next time.

Mr. Pernula: Okay, I'll make it real short. First of all, I just wanted to point out that last Tuesday night we held one of those community workshops on the 2016 Comprehensive Plan Update in Edison. I thought it was one of the larger crowds, although it was still small. I think we counted 23 people there who weren't either staff or Planning Commissioners. But I think it was very good participation by the residents of Edison. It was a very good meeting. I think we got a good idea of what kinds of things that the local people are looking at there.

Tuesday morning at 8:30 the Board of County Commissioners is going to deliberate, perhaps take an action on the 2015 docketing issues. And your next meeting is December 1st and it'll be a continuation of tonight, and hopefully we'll get through the recorded motion and make a recommendation. That's it.

Mr. Meenaghan: Do we have anything else planned that night or is that it?

Mr. Pernula: No, that's all you have right now. It'll keep you busy. It's plenty. If others of you have any questions about the 22-page document that you just got today, let us know and we'll try to answer those for you.

Mr. Greenwood: I will say I found it helpful. I appreciate the effort. I think it was really helpful. A lot to go through for you folks, too.

Ms. Lohman: I do have some things. Ellen gave us this thing. It says "urgent." Who is this from?

(unintelligible voice in the audience)

Chair Axthelm: So it's from anonymous? All right. Anything else?

(silence)

Chair Axthelm: Okay, the only thing I have is we had these lists of questions today and I was just trying to keep it rolling but also let everybody just kind of have an open discussion on it. I think we need to be a little bit more careful on how – making sure that everybody gets an opportunity to talk. So I'm trying to get it there, but it's not easy to control all the time. So I hope everybody had an opportunity to talk and you felt like you did. And if you don't, speak up.

Ms. Candler: We could go back to Robert's Rules where we _____.

Chair Axthelm: Yeah, maybe that's what we should do more of that.

Ms. Lohman: But then how do you have a discussion?

Ms. Del Vecchio: Yeah, discussion is hard if you're not allowed to talk until it comes your turn and then – and then, of course, this is from a very vocal person, but...

Mr. Greenwood: Well, maybe we could look to the Chairman to acknowledge us before we speak.

Chair Axthelm: And the hard part, too, is that with these discussions it's easy – and it's easy for me, too – to go off topic or maybe go a little deeper than you really needed to. And that's where we just have to stay pretty shallow on this stuff. Although I thought the hard part is getting deep on some of it is real important to understand it. So it's where do we get the balance. So please help me on that. I'm trying to keep it that way.

Ms. Lohman: But the devil is in the detail.

Ms. Candler: I think that without having some of these ideas being talked out we wouldn't really know the will of the Commission as far as making our recommendations what to do with _____.

Chair Axthelm: Okay, so if everybody's okay with it then _____.

Ms. Del Vecchio: I think it went really well.

Ms. Mitchell: I thought it went well, too.

Chair Axthelm: Okay. Okay, good.

(several Commissioners speaking at the same time)

Chair Axthelm: If everybody's done, the meeting's adjourned (gavel).