Skagit County Planning Commission
Continued Deliberations: Proposed Shoreline Master Program Update
June 7, 2016

Commissioners:	**Josh Axthelm, Chair**
	Annie Lohman, Vice Chair
	Tim Raschko
	Martha Rose
	Tammy Candler
	Kathy Mitchell
	Amy Hughes
	Kathi Jett
	Hollie Del Vecchio (absent)
Staff:	**Dale Pernula, Planning Director**
	Ryan Walters, Assistant Planning Director
Public Remarks Commenters:	**Ellen Bynum, Friends of Skagit County**
	Carol Ehlers

Chair Josh Axthelm: It's Tuesday, June the 7th and we call the – welcome to our Planning Commission meeting – and we call this meeting to order (gavel). Are there any changes on the agenda?

Dale Pernula: Josh, I have a suggestion. Did you want to have a Director's report or a Planning Commissioner's report for the end?

Chair Axthelm: Yes. Yeah, that'd be great. From your standpoint?

Ryan Walters: We inadvertently left those off the agenda because our staff assistant was on vacation. We're going to prohibit her from taking vacations in the future.

Chair Axthelm: That's fine. And then also we talked about the contact information so I just wrote that for the end of the agenda, as well. Talking about people wanted to contact us.

Mr. Pernula: Okay.

Chair Axthelm: So I just added an item to the agenda from my standpoint, was we've been getting some calls on people wanting to contact the Planning Commission, so we can discuss contact methods at the end of the meeting. Okay. So being it's the first meeting of the month, we'll open it up to Public Remarks.

Ellen Bynum: Good evening. Ellen Bynum, Friends of Skagit County. I'll be really brief. I wanted to thank everybody in the room for their hard work in the five-hour meeting which was one of the longest meetings I've ever been in. Obviously you put lots of time and effort into it and some of you have expressed and lamented that you didn't have enough time or you couldn't get certain

things done, but I just have to say, you know, we started with a really good Comprehensive Plan and you made a minimum amount of adjustments to it and staff brought in the legal changes and the other changes that they wanted to recommend and you dealt with those. So I just want to say thank you from the citizens.

Carol Ehlers: Carol Ehlers, west Fidalgo Island. I'd like to encourage you all to listen when you find time, which will be not for a bit, to the presentations in this room this morning. The one at 8:30 that dealt with the issue of private property – and I'd like to point out that last week when Mr. Pernula said that there actually was an application plan for trails in the Planning Department, he gave it to me. The application form for a trail, as well as for a building code, requires that you say you own the property. You can't build something on somebody else's property, and that's been one of the issues in the trail arguments all these years. So as far as Planning Department's concerned, you have to own the property. But in that really good chart the folks started, trying to coordinate one year, six years, eight years, and 20 years, which they got a long ways in, thank you, it doesn't include a permit. So when they get there.

Later in that same presentation, Forrest Jones gave an excellent presentation about bridges. I wish I had learned it years and years ago because it was an eye opener in terms of what bridges we have and how you look at a bridge and how you tell the difference between a bridge that's in good shape and difficulties. This is the Upper Finney Creek where it's still one of the main timber-cutting areas of the county. When it was built in '52, that is the size of truck it was built for. This is what's up there now. It gives a good idea of how things have changed in the last years.

I gave you all something so that you would have it whenever you got a document that had a chart that went from green to red through yellow. This one that I've given you is from the Puget Sound Water Quality Authority, the Puget Sound Action Team. Green is good, red is not. They explain exactly what they mean over here on the right. They explain it again down below. When you read that chart you know exactly what you're looking at and how this one compares to that one.

This is from the Watershed Company. God help you – you can't tell. There is no legend in that document. I know from the cites that green is good and red is not, but if it goes from one to five and five is good, then three ought to be close to good. But over here it's green which means it's good, and over here and here it's not good at all. So there needs to be some kind of consistency and some kind of explanation so that anyone reading it knows what anyone else reading it thinks they're reading. The whole question of due process, which has been part of the great argument for the last number of months, is also reading things in the same way through the same set of criteria. And I gave this to you because it's two clear-cut examples, one of really good and one that isn't. So good luck to you.

Chair Axthelm: Thank you. Anyone else? Okay, with that we'll move on to the Continued Deliberations on the Proposed Shoreline Master Program Update. Dale or Ryan, do you have anything you want to share with us?

Mr. Pernula: Just a real quick point and that's that two of the three people who worked on the Shoreline Master Program from the staff standpoint are not available for the time being. So Ryan, who's also been working on it, is probably the primary person who has the most in-depth knowledge so we're going to work through it the best we can but we are short-staffed right now.

Mr. Walters: So we sent you out Supplemental Staff Report #3 on this project and we tried to organize things for this meeting a little bit differently than you had previously organized them in order to accommodate what we were able to have ready, and by "we" I mean "me" because we don't have anybody else now.

So the topics that we'd identified for this meeting to go through are potentially brief, but the last one is Ecology's comments, which is of significant length. Basically we are suggesting we talk about monitoring of enhancement projects, structure size for redevelopment versus lot size, regulatory flexibility, and then Ecology's comments. And we took some time in the memo to address those first three and then Ecology's comments we took sort of a broad brush to them because Ecology is the entity that has to approve this plan. We suggested that we think we should take all of Ecology's comments and adopt them except for the list of things that's in the memo. But what I think we ought to do is step through every single one of Ecology's comments and make sure that you're comfortable with that or identify places you're not. And then we're hoping that at the next meeting we can do Lake Cavanaugh and docks – which are sort of very related – and then the comments on the other specific code sections. I am somewhat concerned that comments on other specific code sections could be a lot of material to cover and Lake Cavanaugh might get somewhat involved, but I'm hoping that we can get through that at the next meeting.

So to jump into the memo then, the first topic, Monitoring of Enhancement Projects, the County got substantive comments on this from a couple of commenters. Skagit River Systems Cooperative, I think, opposed the requirements in the proposed plan for some extended monitoring of shoreline enhancement projects. And the reason for that is because shoreline enhancement restoration projects are usually done with grant money. Grantors don't usually pay for monitoring. But staff felt that if you don't monitor you don't really know if the project worked, so we need to require it. And I think WDFW agreed with our position, although I haven't read that comment recently. So that was definitely something that the commenters – or one commenter – wanted changed, but we don't think that we should change that part of the proposal so we don't have a recommended change here.

Chair Axthelm: Okay.

Mr. Walters: Shall I move on to the next topic?

Chair Axthelm: Do we want to go ahead and address each one they go down or do you just have him read through? Okay. So let's – we'll address it and then come back and then get the next one from you. Or would you rather just go through them all?

Mr. Walters: No. No, I was just looking at this point for whether – I mean, our proposal is to require the monitoring and if you don't disagree then there's nothing to put in your recorded motion.

Chair Axthelm: Okay.

Mr. Walters: If you agree with the comment that we should *not* require monitoring, then we can put something in your recorded motion about that.

Tim Raschko: When this came up several meetings ago, I thought there was some validity to one commenter's concerns that the cost of monitoring might cause good projects to be passed

up because of the cost. But reading your comments and how you treated it here, you know, that concern to me has been pretty well addressed.

Chair Axthelm: Okay, Martha?

Martha Rose: I was going to agree with your comments that it seems logical if we have this no net loss rule you have to monitor to track it. So I would agree with the staff report on this.

Chair Axthelm: Okay. Any other general comments on it? Do we have any motion to make any changes?

(silence)

Chair Axthelm: Okay. Ryan? Good.

Mr. Walters: All right, the next topic then is the question of structure size for redevelopment versus lot size. And this was a concern of one particular Planning Commissioner, so if anyone wants to speak up on this particular topic that would certainly be okay with me. We don't have a recommended change here. The question – as I understand it, because Jill worked on this – was with respect to shoreline residential structures and the proposed SMP does include some special treatment of existing, pre-existing, legally constructed residential structures constructed prior to the effective date of the SMP, and that's by direction of the statute.

So Part VI, Legally Established Pre-existing Uses and Structures, contains those special rules for residences, and a landowner who wanted to expand or rebuild an existing residence within the shoreline buffer could do so but they would need – they would be limited by what's allowed in Part VI.

Chair Axthelm: Okay.

Mr. Walters: Is there anything that we have *not* addressed on that topic?

Chair Axthelm: No, I think we're okay there.

Mr. Walters: All right then, moving on to the next question: Regulatory Flexibility. This was maybe sort of a general comment but also there were some specific comments suggesting that the SMP Update imposed some one-size-fits-all approach. And what we tried to lay out in the staff report is that there are a variety of mechanisms by which the SMP really is *not* a one-size-fits-all approach. And actually what we did not cover in the staff report is that the Shoreline Plan also provides for conditional uses, so a specific process for addressing uses that aren't addressed – unusual uses or uses that just aren't talked about in the plan – and variances so that you can vary from the requirements, the dimensional requirements of the plan when you don't have property that can achieve those requirements and that problem with your property is by no fault of your own – sort of the standard variance criteria.

The ways in which the SMP provides something other than a one-size-fits-all approach are several. First of all there are some uses that just have exemptions from the general rules. So, for instance, agricultural activities: There's a broad – really quite fairly broad exemption for that. Existing aquaculture also has some significant exemption in here. As you may recall, there are shoreline environment designations, so each piece of shoreline is designated with one of those environments and each environment has different rules about what can go in it. We also have

special rules for pre-existing structures and uses that were legally established prior to the date of the plan. And we include some Guemes-specific conditions and maybe next meeting we may be talking about Lake Cavanaugh-specific conditions.

So just the basic structure of the plan tries to achieve something other than a one-size-fits-all. It's really not one-size-fits-all to begin with. And then we have these other things that help back out some of the one-size-fits-all requirements.

Chair Axthelm: Any questions or comments there?

Tammy Candler: Just I think we're going to be talking about this when we get to Lake Cavanaugh even more, so I'm not sure what value there is – I mean, unless somebody has a specific motion right now. I don't have anything.

Mr. Walters: Yeah, and I would definitely holding on to Lake Cavanaugh till next meeting.

(sounds of assent)

Chair Axthelm: Yeah, because we don't have all the information on that anyway. There's new information that's coming out for that.

Mr. Walters: All right, so – what's that?

Chair Axthelm: There's new proposals coming out for that that we haven't seen.

Mr. Walters: Yeah. All right, well, that brings us to the end, which is maybe the entirety of the meeting, which is Ecology's comments. And Ecology's comments are somewhat lengthy but they are very straightforward in that they quoted exactly the sections that they are commenting on. So I can bring those up on the screen and we can work through them so that we see them all at the same time. They begin on page 103 of your Public Comments document, and Bob Fritzen, who is the Ecology project officer assigned to us, has provided these comments. He's also provided these little comment bubbles along the side that help explain the purpose for his comments and what he's trying to get at. We have been calling these "Ecology's comments," but I understand these will not be the only comments from Ecology. After we get done with this round of edits and the Board approves it preliminarily, we will send it off to Ecology and then we will get more comments from Ecology – the real comments maybe. I don't know. I think Bob Fritzen here has tried to help us out by pointing out things that he has seen, but he's not the lead on each of the little divisions of Ecology that's going to review it. So we should anticipate more comments much later on in the process, maybe four, five, six months from now. But at this point, we definitely want to address Ecology's comments because if he's flagged these things then we know that we're going to have – at least have a discussion about them. We think that there are a couple of areas – and they're highlighted in the memo – where we can explain some of the differences between our plan and what Ecology might expect, and maybe not implement exactly what Bob has suggested here. But it is going to be definitely worth our while to carefully go through each of these.

So generally we agreed with all of his comments except for the ones that we've backed out here in the memo. So starting with the first one, he suggests that page 5 of the plan – and this is – I believe this is in the Read Me section at the very beginning of the plan – he suggests that conditional use permits should be characterized a little bit differently. We had said "not specifically allowed by this SMP" but what he would prefer is not "classified by this SMP," and

he has a comment bubble explaining that there. That's apparently the term they would prefer to use. I don't think we have a problem with that.

And then the next one there, Variance, he specifically says variance does not "comply with the specific use or dimensional criteria" and he struck "use." We definitely agree with that. Variances are for dimensional criteria and not for uses. Conditional use permits are for uses. So that's just an error and we think we should definitely make that change.

Further on on the same page of the plan, he says that we need to make a change. First of all, he would like us to say "exempt from the SMP" instead of "exempt from the SMA." That's maybe a quibbley difference. I think we understand where he's coming from so we think that makes sense – "exempt from the SMP." We can't exempt things from the SMA, even if they are exempt from the SMA, the Shoreline Management Act. We have no control over that. So we'll just write it in as exempt from the SMP.

And then he goes on to say – where we said "A few activities are completely exempt," he wants it to say "may be exempt." And he points out that some existing ag activities are still regulated by the Shoreline Management Act. And we'll get to the specifics of that later but it does appear that he is correct, and this line here is not much of a difference in effect. It's not even in the goals, policies, or development regulations. So we're okay with this change, but we have some other ideas when we actually get to the agriculture section.

So moving on to page 2 of his comments, we didn't note this one, I don't think, in the memo, but he thinks we should change "insure" to "ensure." That would clearly be grammatically correct; however, it is a grammatical error in the statute so we don't think we should fix the statute. And that's why it has "sic" after it there.

The next one, "Commercial forestry may be allowed in the Natural environment" – this is on page 14 of the plan, 6B-3.5. Betsy has maintained and we have tried to push this idea of commercial forestry we should not be requiring shoreline permits for, because you have to get forest practice approval and that should be handling the permitting requirements. We think – first of all, the WAC appears to just outright require this, so where he says it should have to have a shoreline conditional use permit, I'm not sure that we are going to win that battle. However, this only applies to the Natural environment so it's only one of the shoreline environment designations where the shoreline conditional use permit would be required. And I think later on when we start talking about forest practices in general I believe forest practices are going to be not substantial – shoreline substantial development. So although forestry would be required to get a shoreline substantial development permit, the requirement for the permit would be backed out by virtue of the fact that it's exempt from the requirement for a shoreline substantial development permit. And I'm actually not 100% sure on that so I'm going to look that up right now. The list of things that are exempt from shoreline substantial development permits are at the very end of the Shoreline Master Plan document in the Appendix 1 that lists – and this is just taken directly from the statute in the WAC – the lists of activities that are exempt from a substantial development permit. And if anyone sees it there –

Kathy Mitchell: Is your screen different than ours?

Mr. Walters: I have two tablets. I thought you might not want to see all the scrolling.

Mr. Pernula: It'll give you vertigo.

Mr. Walters: Well, I don't find it in that list. But if we were to look at this WAC – 173-26-211, which he cites here – it doesn't appear we have much choice on the requirement for a shoreline conditional use permit.

Annie Lohman: But is it just lumping forestry in with just commercial uses in general?

Mr. Walters: That WAC?

Ms. Lohman: Yeah. Is that what you're getting at?

Mr. Walters: Well, let's –

Ms. Lohman: No, never mind. It is. It does say. It says –

Mr. Walters: Are you looking at the WAC?

Ms. Lohman: – "may be allowed as a conditional use," and then it goes on to say as long as it meets the conditions of the state Forest Practices Act.

Mr. Walters: Yeah, there it is there, (d). So we believe that it does need to be included here. It needs to be listed as a conditional use, but at least Betsy was saying that she should be able to – we should be able to find some other provision that mitigates the effect on forest practices without requiring. In this case the conditional use would be required but without requiring shoreline substantial development permits. I think there's something later on in the document that will hit that further.

He recommends in the policies and then elsewhere in the document that we change from "agricultural activities" to "agriculture" and we agree with that change. "Agriculture" is more broad than "agricultural activities" because "agricultural activities" is a defined term. So we think it makes sense to call those sections "agriculture" instead of "agricultural activities."

In section 6C-4, he wonders why we separate breakwaters from jetties and groins, and we looked at that and we also wondered why, so I think that it would probably be fine if we just combined those sections, breakwaters and jetties and groins, in the policies all together. In the development regulations they are all together, so we think it makes sense for them to be all lumped together in the policies as well.

The next section there, I think the policy is – as he has modified it inserting the word "community" – is also consistent with what we wrote in the development regulations and the WAC. It's not required that it be public. It can be community. So we think that that change makes sense.

The next one, Residential Development: This is a policy in our existing SMP. It says "Recreation-oriented developments should provide adequate, diverse recreation opportunities," and it's in Residential Development. It's not in Recreation. It's in the Residential Development section. And we surmise that this existing policy is about developments of recreational lots, which we don't do anymore. We have some developments like this with very small lots that didn't permit real houses. They permitted RVs, that kind of thing. They were supposed to be just for recreation. Those have turned out to be significant problems because people put RVs on them and they quickly become permanent and they're subject to a number of code enforcement issues as a result, because the permanent structures on those lots get us in trouble with the

National Flood Insurance Program because these lots are usually along the river. And the reason that they never permitted normal houses in these structures was because they were along the river. It was some recognition of that. So we're not sure that we need to even retain this policy at all because under Residential Development there really aren't recreationally-oriented residential developments that occur anymore. So we didn't mention it in the memo and he doesn't specifically say what to do here, but we think it probably should just be deleted.

Under (Circulation) Location, he has stricken letter a., which says that comp plans and shoreline master plans may not preclude the siting of essential public facilities. That sort of goes without saying because it is a statutory requirement. So it's not really necessary, but he suggests that we just add some language to b. and I don't really care. I don't think it really changes the effect either way.

Ms. Lohman: Do you have to say it at all?

Mr. Walters: I don't know.

Ms. Lohman: Because there's already RCW as well as code that allows it.

Mr. Walters: Right. This is talking about a central public facility so we have a whole chapter on that. We also have Comprehensive Plan policies about essential public facilities so it's kind of all over the place. He specifically inserted "state or regional transportation facilities." Maybe that matters to him. His comment didn't really explain it. But that's one of the listed essential public facilities in the statute, so maybe that one's important. In shoreline jurisdiction you could end up with highways or ferry terminals or bridges – things like that. So maybe that's important to the state that that be highlighted in shoreline master programs.

Chair Axthelm: Well, it looks like he was just trying to combine the previous paragraph is all it was. That's why the state or regional –

Mr. Walters: And that's possible, too. Otherwise, I would suggest we could just strike a. Or we could leave it alone. I don't get the impression that he cares that much about this one, especially because it already mentions state or regional transportation facilities. Do you have a preference?

Chair Axthelm: _____. Any preference ___?

Ms. Candler: Yeah, my preference would be to strike a.

Mr. Walters: To strike a.?

Ms. Candler: To go with the comment. It's a little shorter.

Mr. Walters: Yeah. Fewer words is better.

Chair Axthelm: Any objection to that from the Commission?

(negative sounds from several Commissioners)

Chair Axthelm: Now "essential public facilities": Do we have a definition of that?

Mr. Walters: There is a definition in the statute. I could look quickly here to see if we have a definition in the plan, but the plan incorporates the definitions from 14.04 and I feel – yeah: "Essential public facilities in the plan are defined in 14.26.430, Commercial Development. Because essential public facilities are regulated the same way that commercial development is.

Chair Axthelm: Okay. The reason I mentioned it is we had a project a few years back. We had an issue with the – it was a dike district and they had a building right up next to the dike. In a flood event, that gave them a facility to operate so they could get onto the dikes and had _____ there. When we tried to rebuild it, they told us we had to build it way away from the river in another piece of property. So we ended up building it there. We finally got it pushed through. But is that considered an essential public facility, like a dike district?

Mr. Walters: What particularly was the – what was the thing you were trying to build?

Chair Axthelm: It was a dike district building that housed their equipment and their emergency – it was their office but it was really kind of emergency kitchen and services when they do sandbagging and stuff like that in the flood event.

Mr. Walters: So a storage shed? The definition of "essential public facilities" in the Shoreline Plan simply refers to the definition in RCW 36.78.200. I don't think it would include that type of use. It's typically airports; state education facilities; state or regional transportation facilities; regional transit authorities; jails; solid waste handling facilities; inpatient facilities, including substance abuse facilities, secure community transition facilities. So it's not – dikes and schools are another notable exception. They're not essential public facilities. They're something else.

Chair Axthelm: Okay. So I would think that would be a good thing to add, is to have the ability to have – so that they could locate next to the shoreline because that's what they serve. I don't know if any other industries would be the same way.

Mr. Walters: Yeah. Well, let's bookmark that and we'll look up how that would be treated in the plan and get back to you at the next meeting.

Chair Axthelm: Okay.

Mr. Walters: All right, so the next comment then is on 14.26.130, the beginning of the development regulations. This is the section on jurisdiction. I don't think we have a problem with his introductory phrase that says "Except when specifically exempted by statute." But we had included in our text a line that says "But see the exemption in…14.26.410" for ag activities, and he suggested that that's unnecessary, but in our memo we said we recommend retaining that cross-reference. It's just a cross-reference. It doesn't try to do anything here. It just says go there, and we think that useful cross-references like that should be retained.

Ms. Lohman: Maybe if you reworded it without the "But see" in the beginning.

Mr. Walters: It says "But see" because that's how lawyers write in citations like that.

Ms. Candler: But now it'll be consistent so the "But" would be if it were inconsistent. Are you talking about having –

Mr. Walters: That's a good point. Yeah, we can –

Ms. Candler: So now _____ "see" _____ if you're going to include the first part that he put in there.

Mr. Walters: Yeah. Well, and we might move the cross-reference to the beginning: "Except where specifically exempted by statute, for example, 14.26.410."

Chair Axthelm: And that's what he proposed.

Mr. Walters: Well, he proposed just striking the cross-reference. We're okay with adding that introductory clause but we want – we would –

Ms. Lohman: But we wanted it for our local circumstance.

Mr. Walters: Right. So his next comment on subsection (3) here has to do with federal jurisdiction, and I would say we don't completely understand why it's necessary to include this language about the Coastal Zone Management Program because that section of the WAC says just this. We believe how we had phrased this section of the SMP, where we're talking about federal lands and federal activity on federal lands and federal activity on non-federal lands and non-federal activity on federal lands – we thought we had laid that out pretty clearly, and he didn't edit any of the rest of it. But we said that federal development on land that is owned or leased by the federal government does not have to comply with this SMP. Where the feds are operating on their land and doing a federal activity, they don't have to do what this SMP says. But the WAC says that those activities do have to be consistent with the Coastal Zone Management Program and the SMP. If we went to that WAC, we could see what that WAC said. And so it's maybe sort of a fine point, but I think we sort of presumed that he's right. This WAC is titled "Applicability of Chapter 90.58 to Federal Lands and Agencies" and it specifically says – where was it here? What was that reference?

Ms. Candler: It's right there in (1) – "shall be consistent to the maximum extent practicable."

Mr. Walters: Yes. And then it goes on here: "The Shoreline Management Act is incorporated into the Washington State Coastal Zone Management Program and thereby those direct federal agency activities affecting the uses or resources subject to the Act must be consistent to the maximum extent practicable." So we – this is beyond my understanding of how the Coastal Zone Management Act and our Coastal Zone Management Program works and how federal jurisdiction works here, but apparently this WAC makes the SMP applicable. And it specifically says "Regulations adopted pursuant to the Act and the local master program." So we suggest we go with Ecology's language here.

Chair Axthelm: Okay.

Mr. Walters: His next change on page 59, 14.26.310, Dimensional Standards, we did add a line in this section that says buffers are measured from the Ordinary High Water Mark, which is important because we need a place to measure buffers from; however, there are buffers for critical areas other than lakes, streams, and marine shorelines. There's wetlands, geological hazards. Those aren't measured the same way. So he inserted those words. It's lakes, streams, and marine shorelines that the buffers are measured from in that way and we agree. We think that's – it's not self-evident, but it's self-evident that we need to include that.

Now his next one here –

Ms. Lohman: Wait. That's not what you said on your memo.

Ms. Candler: Yeah.

Mr. Walters: Yeah, that refers to the next comment in the same section. Sorry about that. The next one here, his next comment – number (14) – suggests that we add this percent area outside the buffer to the table for the Hard Surface Limits. And in the memo we said we believe this proposed change would have the opposite desired effect, and that's the one – number (14) – that we were talking about there. Remember this table says how much hard surface you can have within the shoreline jurisdiction, and then it breaks it out into a couple of different uses. And he suggests that we add percentage of the area outside the buffer in the caption. But if you were measuring only the percentage of the area outside the buffer, you would end up with a smaller – you would begin with a smaller amount of area to work with and then if you said percentage of *that* area it would get much smaller. And in shoreline jurisdiction, in some cases the buffer extends to the edge of shoreline jurisdiction so we don't think that really makes sense in that instance.

Chair Axthelm: Anybody see that any other way?

Mr. Walters: And I may not be explaining that the way that Betsy explained it to me, but she seemed confident at the time.

Ms. Mitchell: I'm sure they'll correct us if they think differently.

Mr. Walters: So the next one, page 60, this is one of the General Provisions that are applicable to all development upland of the Ordinary High Water Mark, as opposed to the general provisions that are waterward. And he suggests that we add in the "or as allowed by mixed-use regulations." We don't have anything called "mixed-use regulations" so we don't know that this would – we presume that this would really not be beneficial because it would insert another term that we don't have defined or really use. So we don't think that we should include this language. It's possible that later on when we have more in-depth conversations with Ecology they will explain more about exactly what it is they mean.

Ms. Candler: Because he actually references allowances elsewhere in the SMP so I don't know what he's – I'm wondering what he's referencing.

Mr. Walters: Yeah. Yeah, we're not clear on that either.

Ms. Lohman: So, Mr. Chairman? Maybe we should put on number (3) and number (4) of Ecology – well, on this page those two things we just did, maybe we should put a star by them and revisit them again?

Mr. Walters: The comment (14) and (15)?

Ms. Lohman: The comment on that dimensional table that we just were looking at.

Ms. Mitchell: Yep, that's (14).

Ms. Lohman: And then the one that you just did – the mixed-use. I think we should flag things that we need to come back to.

Chair Axthelm: If we're not quite – if you're not sure what it is or why they made that comment, then maybe clarification from the DOE will help out.

Mr. Walters: And maybe I can give them a call and we can talk about it at your next meeting as well.

Chair Axthelm: Yeah.

Mr. Walters: So number (14) and number (15). Also a minute or so ago we flagged something else to follow up on. What was that?

Ms. Mitchell: The cross-reference?

Mr. Walters: What was it?

Ms. Mitchell: The cross-reference one, was it?

Chair Axthelm: The essential – essential public facilities.

Mr. Walters: Oh, that was it. Determining how the dike storage building would be treated.

Chair Axthelm: Yeah. Well, it could be dike or it could be something else that has to do with the flood control or shoreline.

Mr. Walters: Okay, flagged those two things.

Here on this next comment he points out that we had the wrong term here. We said "Water-enjoyment, water-related, and nonwater-dependent," but it should be "nonwater-oriented" because the definition of "nonwater-dependent" includes water-oriented and water-related so that the wrong, very confusing term was used in the draft.

The next one here, comment number (17) on Public Access, you have already recommended a different approach to fixing this provision, which is basically to delete this, so we think we should go with that.

Down here, this is the Shoreline Use matrix and it provides what type of shoreline review is required for each use in each environment designation. And he would like ag activities, facilities, and accessory uses – that label there in that first row – to be rewritten. We had written it "other than those that are exempt," but he would like it to say "other than those that are existing on Ag land at the time of SMP adoption." And I think the basis for that is that he doesn't believe that agriculture is actually exempt, that "exempt" is a little stronger word than Ecology would use. And, actually, if you go back and look at the statute, the statute doesn't have that word. It doesn't characterize it as just wholly exempt, so I guess that is right. We may need to change how we've written this here, but we're not entirely comfortable with all the changes that he proposes to the Ag section. But we think that there's probably some third way to write it that is maybe a little bit – maybe we went too far in saying that it's wholly exempt, but it almost is, so if we can get the words just quite right I think we can thread that needle. So here in the memo we said we believe this section – actually, no, we didn't say anything about the table. It's the next section. So we're okay with the changes here to the table, although that one – that caption on agriculture – maybe gets reworded a little bit.

The next comment is on agriculture. So first of all, he wants to change "Agricultural Activities" to "Agriculture" and we think that makes sense. It's a little bit broader. It is a superset of agricultural activities. All agricultural activities fall under agriculture. So that makes sense to me.

Ms. Lohman: Wait. There was more in that table.

Mr. Walters: Yes.

Ms. Lohman: So are you just jumping to the ag and then you're going to jump back to the table again?

Mr. Walters: No, but we – maybe we should go back to the table. I maybe got a little ahead of myself on the agriculture a bit. The other changes in the table – Agriculture, for instance, under Natural, he says that the WAC allows only low intensity agriculture consistent with the natural environment. We think that that should say "See Agriculture" – see that section, because we're not going to be able to sufficiently explain it in that box. And then we need to explain it someplace else.

Ms. Lohman: So you'd footnote it? Instead of putting the SD/E you would put a footnote there?

Mr. Walters: We haven't quite figured that. The original version of this table way back when had 25 footnotes and I think we got that down dramatically by saying go read about this someplace else in the document instead. So I don't know exactly how we would address it but we agree that we need to address in the Natural environment how that works.

Ms. Candler: Well, you have "see aquaculture" so it seems like that would be consistent if you said "see agriculture."

Mr. Walters: Yeah. In that cell there in the table, agriculture in the Aquatic environment *is* aquaculture, so it makes sense to refer back to or refer to a different aquaculture section. In the first cell where he's highlighted that we need to change that SD/E, maybe we'd say "see 14.26.410," or maybe we would say "SD/E" with a footnote. A footnote is a possibility. Then we'd have a couple of footnotes, so it wouldn't be the end of the world. We've just tried to avoid footnotes.

On his comment (20), he says the WAC there requires a conditional use permit for breakwaters, jetties, and groins, so again that is going to require some kind of footnote or something because it can't just say "CUP" because then it would be required all the time. So we're going to have to do something with the table there to address that comment. But we agree with the comment.

Chair Axthelm: See, I would think a footnote would be – I mean, that's how the – like the Building Code reads – same thing. They have a little (1) or (2) on there and then you go down to the bottom. That way if there's an exception it's specific to that item.

Mr. Walters: Yeah, and that's one way of doing it.

Ms. Lohman: Well, it might be just plain unavoidable.

Chair Axthelm: Mm-hmm.

Mr. Walters: Yeah.

Chair Axthelm: In that case.

Mr. Walters: And then Forest Practices there – this is consistent with the policy change that he suggested before. In the Natural environment, a conditional use permit is required.

Ms. Candler: And you agree.

Mr. Walters: Yeah, for the same reason we agreed with the policy change.

Ms. Lohman: But you said – you had a little more than just saying yes, you agree. You said, though, that you contemplated not requiring a substantial development permit.

Mr. Walters: Yes, if it doesn't qualify for a substantial development permit or is otherwise exempt from a substantial development permit. Because everyplace where it says "substantial development/SD," it says "/E" because you might qualify for one of the exemptions. But I can't tell you at this moment exactly how it would qualify for the exemption. But I could add that to the list of things to get back to you on.

Ms. Lohman: I think you ought to revisit that, too. I just want to be cautious that we don't do things we don't intend.

Mr. Walters: So the next one here after the title of the section – we had characterized in this draft the treatment of agriculture as having two different exemptions. We included this paragraph at the beginning to talk about the exemption from having to get a substantial development permit – differentiate that exemption from the exemption from having to follow any of the rules. Because just because you're exempt from a substantial development permit doesn't mean you're exempt from the rules of the SMA. But agriculture's exemption goes further than that. It's not *just* an exemption from the permit requirement. It's also an exemption from the *rules* of the SMP. But, as Ecology points out, it's not really a wholesale exemption from the rules. First of all, it's limited to ag – to existing ag – and the flow chart helps us get to when you qualify for this exemption. And then, as he says, it's not completely exempt because – and it might help us here to jump to the statute that provides for this. The way the statute is written, it has this broad exemption – which I'll keep calling it that because I don't know what else to call it – for ag activities, but then it backs it out by saying that you can maintain, repair, and replace agricultural facilities – and agricultural facilities are part of the definition of agricultural activities, at least maintaining, repairing, and replacing them is – but the replacement facility cannot be any closer to the shoreline than the original facility. So I think we understood that that rule existed, but what Fritzen appears to be saying here is that that really means it's not wholly exempt. And if you read the statute, it says "The guidelines adopted by the Department and master programs adopted by local governments may not require modification of or limit agricultural activities occurring on agricultural lands." It doesn't say they are exempt. It says we may not modify them. I think of that as almost a distinction without a difference, but they apparently disagree so I suggest we find a way to reword this such that it more closely matches what the statute says and doesn't just call it an exemption.

Ms. Lohman: What if you said "may not be limited"? Just use that phrase.

Mr. Walters: Yes, and he says – his proposal here is to say "an exemption from modification or limitation," but maybe that's really not what we ought to write. Maybe we ought to write something that is much closer to the statute, because the statute doesn't use the word

"exemption." The statute says "may not require modification of or limit agricultural activities" so I think I would prefer to use those words. So I have not proposed here how to rewrite this to match that but that's the direction we would like to go. So it would be somewhat different than his exact strikethrough and underline but it would try to get at that. And he says also that we need to point out that it's for agricultural activities on agricultural lands. And each of those words is defined in the statute so we should probably do that as well. And the flow chart gets at that at some level because it first of all says "Is it an 'Agricultural Activity'? – with reference to the statute. So if you qualify for that then the question is: existing as of adoption date of this SMP. And then you can follow along with the flow chart. So we think that those tweaks to more closely match the exact language of the statute will improve this and make it pass muster without really having a substantive change and effect.

Ms. Lohman: I was too slow. What was the second tweak?

Mr. Walters: The second one is this highlighted here where he adds these two words for the agricultural activities on agricultural lands. And that's from the first line of the statute there where it says should not require modification of or limit agricultural activities occurring on agricultural lands.

Chair Axthelm: So what is considered agricultural lands? So before he's using "agriculture," which keeps it broad. "Agricultural lands" – does that limit it?

Mr. Walters: "Agricultural land" means those specific land areas on which agricultural activities are conducted.

Chair Axthelm: Okay, so you have Ag-NRL for starters, but what about some of the rural designations?

Mr. Walters: Not limited to our zoning because the Shoreline Management Act doesn't make reference to our zoning.

Chair Axthelm: So it's reference to uses, not necessarily –

Mr. Walters: Right. Uses, not zoning.

Chair Axthelm: – to zoning. Okay. I didn't want it to exclude those.

Mr. Walters: Right. So then he says – the next comment is, How can the CAO apply? Because if you follow the flow chart it says you may get one of these exemptions or whatever we're calling it now through the Shoreline Master Plan. But even if you are exempt there, you still have to follow our critical areas ordinance, and our critical areas ordinance for agriculture is a very hard-fought, major, major thing that we have spent millions of dollars and 20 years figuring out, or more. So the critical areas ordinance for agriculture allows on Ag-NRL and Rural Resource-NRL agriculture that exists to continue without any kind of critical areas review. It does require agriculture to comply with certain watercourse protection measures, which are listed, and those are basically restricting livestock crossings to the time necessary for watering, or livestock access to streams for the time necessary for watering or crossing; some limitations on – temporal limitations on manure spreading and distance from streams – those kinds of things. With the exception of the livestock one, really no one has ever complained about our watercourse protection measures, but they do establish some base level of stewardship.

From our policy perspective, we really, really want the CAO to continue to apply, even in shoreline areas because shoreline areas are the places where the CAO really matters anyway. And Fritzen here asks, How can it apply because it no longer regulates in shoreline jurisdiction? There is a state law that provides that as we are operating under right now, critical areas regulates in shoreline jurisdictions. But once we update our Shoreline Plan, critical areas won't regulate anymore; you'll rely on the Shoreline Plan. And that makes some sense on some level because you have to protect critical areas within shoreline jurisdictions, and shorelines themselves are critical areas. So the state wants all of that integrated together in the Shoreline Plan; however, if that also means that you can't regulate critical areas outside the – inside the shoreline jurisdiction, even through your critical areas ordinance, then that may create a problem for us because we have this very tenuous situation right now where we have a critical areas ordinance for agriculture that is more or less working, and if we delete it for the purposes of shoreline jurisdiction I'm not sure how that situation continues to hold together.

Ms. Lohman: What if you – because it is a separate subchapter in the critical areas ordinance –

Mr. Walters: Right, 14.24.120.

Ms. Lohman: Instead of just saying "CAO," what if you put the "Ag CAO"?

Mr. Walters: I would be in favor of that. I don't know if that –

Ms. Lohman: Because it is a standalone. Well, it isn't standalone. That's not –

Mr. Walters: It's not completely standalone.

Ms. Lohman: I don't mean it quite like that.

Mr. Walters: But, yeah, it is more or less self-contained.

Ms. Lohman: Yes.

Mr. Walters: Yeah. I have no problem with that. I don't know if that resolves Fritzen's question. But that is the policy – I have been working on this issue for the entire time that I've worked for the County – some nine years.

Ms. Lohman: Well, I wonder if, though, if he's thinking of the CAO in its entirety and not the way *we're* thinking about it.

Mr. Walters: Possibly, and he may not fully understand this question or the significance here because he does shorelines and that's separate from the landmark decisions on agriculture and critical areas that have resulted from Skagit County's experience in this area. We actually did try to get a conference call together with him but I failed because other things came up and there was a vacation or something. But we do want to engage with him on this topic, so we do not want to – I mean, I think that change from CAO to Ag CAO would be fine. That still gets at the point here – but we don't want to go in a completely different direction and just completely ignore the Ag CAO in the large areas where it has the most value, which are our shorelines.

Ms. Candler: Do you think he's suggesting that it be adopted as part of the SMP? Is that what he's getting at?

Mr. Walters: Well, the CAO really *is* being adopted as part of the SMP. I think what he's saying is that if you are exempting agriculture you can't then back in the requirements for the CAO.

Chair Axthelm: Just add that to the list – clarifications for him.

Ms. Mitchell: Is that number five?

Chair Axthelm: Yeah.

Mr. Walters: I only have four. I only have four so far.

Chair Axthelm: I don't think we have any big issues with it. It's just a matter of getting clarification.

Mr. Walters: So, yeah, we'll add that to the list and talk to him about that as well and include some notes on that in the next memo.

Here his next comment – I've lost one of my windows. Just a moment, please. His next comment refers to, I think, just some formatting here. It's sort of hard to see because of the big jump in the pages, but he says that (iii) does not apply if you're SMP-exempt, but (iii) says the activity still needs to comply with the CAO. He suggests changing the format so that (i), (ii), and (iii) are (b), (c), and (d). So this (i) here – this (i), (ii), and (iii) would be elevated to this level (b), (c), and (d) and I think we're fine with that.

His next comment there is he just wants to change SMA to SMP.

Ms. Lohman: No. That's not going to work. Is it? Because you also had a little (b), a little – you already have a different little (b), don't you? Well, maybe I'm –

Chair Axthelm: No. So that's kind of different because he has SMP-exempt activities, and then when you take them and put them out as (b), (c), and (d), well, then it takes them out from underneath that heading.

Ms. Lohman: Can you look on page 87 of our draft? Because don't –

Mr. Walters: Yeah, I'm looking at that over here.

Ms. Lohman: Because he's copied excerpts and I just want to –

Mr. Walters: So he's talking about moving Romanette (i), (ii), and (iii) – which currently we have listed under SMP-exempt activities – and making them (a), (b), and (c).

Ms. Lohman: But you already have – so scroll down onto page 87. You already have a little (b).

Mr. Walters: Yeah. We wrote it this way because we think it makes more sense this way because all of those activities are supposed to be ones that are SMP-exempt, and then the next grouping are ones that are just permit-exempt. They have to follow the rules but they don't have to get a permit to check to see if you're following them.

Ms. Lohman: What if you made it a capital A and a capital B to make them – or would that work? Well, no, you can't because you _____.

Mr. Walters: Yeah, we couldn't do that because that's not consistent with the numbering scheme.

Mr. Raschko: I think you should just leave it alone.

Ms. Lohman: I think our – the way that we have it written makes sense –

(sounds of agreement)

Ms. Lohman: – for our local circumstance.

Mr. Walters: Well, or maybe not even for our local circumstance. Just generally it may make more sense. I think I agree. I don't feel strongly about it but it probably has more clarity the way it is. Maybe we'll leave that one.

Chair Axthelm: Are you addressing that in your comments? I'm looking for that.

Ms. Lohman: It was in this one.

Mr. Walters: Okay. In the next one, he wants to change "SMA" to "SMP," and I don't quite see how his comment relates to the edit that he made there. But the edit I don't have a problem with.

The next comment, 27, I am really not sure how that *new* construction got into that list there because I don't see any support for that in the statute.

Ms. Lohman: I believe what we were trying to do was when you're replacing something existing, you're replacing it oftentimes with something new.

Mr. Walters: Oh, so maybe this is a reference *to* replacement.

Ms. Lohman: Right. Yes.

Mr. Walters: Okay. So we can probably reword that to address his comment.

Ms. Lohman: Because I remember talking with you about we are allowed to modernize and replace something obsolete.

Mr. Walters: Yeah. So then let's reword that. So address his comment number 27 with some rewording. What we would be addressing there then is replacement of existing facilities, including new construction that replaces existing.

Ms. Lohman: See, I think we didn't complete the thought is what happened there. We knew what we were talking about because we're too close.

Mr. Walters: Okay, so I think we can address that one.

Ms. Lohman: Does everybody think that's all right?

Ms. Mitchell: I remember that conversation.

Chair Axthelm: Yep, yep. Okay. That's fine.

Mr. Walters: So now he gets back to this question of agriculture – ongoing agriculture in our 14.24.120, Ongoing Agriculture CAO, and it's possible here that he's providing us a way to make this work, and we haven't talked to him about it so we don't know for sure. But I think we've expressed what it is we would *like* to do here, which is maintain the status quo. I think that there are many places in the document where we talk about Skagit County Code 14.24 but this is the place in the document where he highlighted it as, Well, jeez, you shouldn't talk about it that way. I guess elsewhere in the document we have said Part V, Critical Areas and Part V, Critical Areas then incorporates by reference 14.24. So I think this is one where we would also like to explore with him on the phone exactly what he's getting at.

Ms. Lohman: Ryan, can we jump back up to what we were just on for a second?

Mr. Walters: 27?

Ms. Lohman: Modernization could also be something new.

Mr. Walters: And modernization is in the list.

Ms. Lohman: Right, but –

Mr. Walters: And 90.58.065, the statute that talks about this exemption, does provide –

Ms. Lohman: Modernization.

Mr. Walters: Well, actually I don't find the word "modernization." I don't find the word "modernization" in that statute, but he didn't seem to have a problem with it.

Chair Axthelm: It makes sense. I mean, you have a structure that – the old barns used to have multiple columns in them and you can change it to a clear span.

Ms. Lohman: We wanted that distinction for our – to make sure that we were covered here.

Mr. Walters: And I suspect that really the important thing will be (i)(D) here because the statute calls this out: "replacement of agricultural facilities closer to the shoreline than the original facility." So long as they are not closer I think that they're not going to have a problem with it. And that is the major limitation on this exemption.

So his next comment references page 88. Under Development Standards, he wants that changed from 14.24 to Part V. And I don't see a problem with that because Part V is our critical areas part that then adopts the 14.24 rules.

Ms. Lohman: Does that contradict his earlier comment?

Mr. Walters: Which? Well, up above he didn't quite make the same tweak. He said SCC 14.24 and Appendix 2, but Appendix 2, Part V is, I think, probably the preferred way of referencing this. Because if you look at Part V Critical Areas, what it says is that – also it's 3, Appendix 3, not 2 – but Part V says the copy of 14.24 that is in Appendix 3 is – oh, no, wait; there's a problem. Part V says Appendix 3. The appendix list says Appendix 2. So we should definitely fix that. In any event, I think Part V and the appendix that corresponds to that – whatever number

that is – is the appropriate way of referencing that, rather than 14.24 and Appendix 2. So I'll include a note here to change the reference in Part V to Appendix 2 instead of Appendix 3, and use consistent references to Part V instead of 14.24.

Okay. So his next comment is on our standards for docks section and we may end up with some changes to this anyway, but he points out several relatively small edits here and we don't disagree with any of these. We didn't get into detail on the ramps thing because we think we're going to be coming back to this next week. But unless you see something here that is odd that doesn't make sense to you, we would try to take his comments into account as we formulate some new dock standards for next week.

Ms. Lohman: So that's added to the list?

Mr. Walters: Well, we're generating a whole other memo on docks for next week anyway. Yeah.

Ms. Lohman: Okay.

Chair Axthelm: Yeah, because we talked about the width issue, too.

Ms. Lohman: Mm-hmm.

Mr. Walters: All right, so here's where he gets a little bit more into forest practices. He says – we put in our draft that "All other forest practices are regulated by the Forest Practice Rules and" shouldn't really require shoreline review. And shoreline review, remember, is defined as a shoreline permit or an exemption. And for context here, this section on page 118 – actually 117 – in the document talks about which forest practices this section does not apply to.

So his edits want us to include this reference to selective removal of timber harvest on shorelines of statewide significance. We already have a line right above that – do you want me to put that on the screen?

Ms. Lohman: Please. Because remember we had a memo, a work session on that so it changed from that draft.

Mr. Walters: What's that?

Ms. Lohman: We had a work session in January on that section that changed that a bit.

Mr. Walters: That resulted in this draft, right?

Ms. Lohman: No.

Ms. Mitchell: Maybe.

Ms. Lohman: Maybe. We don't know.

Mr. Walters: So his comment here was that we should include this text about implement the provisions of 90.58 regarding selective removal of timber. If you look in our draft, we already have the section on timber cutting on shorelines of statewide significance and the standards here should be identical to what's in the statute. So we don't think we should put this again down below. We don't think that that part of it makes sense. And then the rest of this text, I'm

not sure what the point of it is. Like, "The Shoreline Management Act is implemented by the Department of Ecology and the applicable local governmental entity." This is text, I believe, from maybe this WAC, 173-26-241. Let me take a look at that real quick.

Mr. Raschko: Do they define "substantial development" somewhere?

Mr. Walters: "Substantial development" is defined, and we could take a look at that in a second if you'll hold that comment for just a second. Yeah, this text is – if I recall correctly – from the Forest Practice Rules. Yeah, here you'll find it: "The Shoreline Management Act is implemented by the Department of Ecology. A substantial development permit must be obtained." So that makes sense. I just – I mean, it's directly from the WAC but it's also not text that we need to put in to this document right here because it is very general, applies to everything. So we don't agree that that comment should be included there. And the provision about the selective removal on shorelines of statewide significance, his suggestion is that exceptions to this standard shall be by conditional use permit only. For shorelines of statewide significance, our program is actually more restrictive than what the state law would allow because it wouldn't allow a conditional use permit for a harvest that is greater than what is allowed by default by statute. And Betsy didn't think that we should allow a greater harvest on those shorelines of statewide significance than is allowed by the statute. So you see in the memo that we don't think that we need to make this change here.

Chair Axthelm: See, I would think you would still allow for some conditional uses because there are situations where it may be the exception to the rule. If you take it out, you wouldn't have that exception.

Mr. Raschko: Would you say that again, please?

Chair Axthelm: That there are some things that are exceptions to the rule, so if we take out – you're saying to take out the conditional use option.

Mr. Walters: Well, we didn't include it in the first place. Ecology is suggesting that we could include it there. But this limited timber harvest thing only applies to shorelines of statewide significance, and the shorelines of statewide significance in Skagit County are Skagit Bay from Brown Point to Yokeko Point and Padilla Bay from March Point to William Point. So it's a very limited portion of the county.

Chair Axthelm: Okay.

Mr. Walters: Now the other question that Commissioner Raschko just had, though, was, Is there a definition of "substantial development"? There is. "Substantial development" is defined in 90.58.030 and also in our Shoreline Plan to match the statute's definition. It's a development of which the total cost or fair market value exceeds $5000, but not really because that threshold increments each year. And it explains how it increments. If I recall correctly, we tried to address that threshold in the definitions here.

Mr. Raschko: Well, that answers it sufficiently enough. I don't need to understand the mechanism at this point.

Mr. Walters: I was hoping to be able to tell you what the dollar value is right now.

Chair Axthelm: It's interesting they picked dollar value instead of, like, board square feet or something.

Ms. Mitchell: Yeah. Mm-hmm.

Mr. Walters: But I don't have the dollar value right now. Anyway, within the definition, I don't find an exemption for forest practices but I feel like there may be one, so that would be one of the things I would like to get back to you about next week.

Mr. Raschko: One last question then. The second to the last sentence has "shoreline" in parentheses – "as those terms are defined in the Shoreline Management Act." So how is that defined in the Shoreline Management Act?

Mr. Walters: Right. So remembering that this text – or actually this text here is from the Forest Practices WAC, 222-50-020, and the Shoreline Management Act at 90.58 has its own definitions, and the definitions of – what were the two terms? – "shorelines" and "substantial developments." The definition of "substantial developments" is relatively straightforward. Right here "substantial development" means any development of which the total cost or fair market value exceeds $5000, and that value has been incremented and increments each year, or every five years, and they talk about how that's done here. And then, though, this definition goes on to back out a bunch of things: provides an exemption, a categorical exemption from that definition; for normal maintenance or repair of existing structures or development; and on and on and on. Those things don't qualify as substantial development. So that's sort of how that definition operates, and you can look through the list. And then the WAC expands on the list that's in the statute and we included the WAC exemption as Appendix 1 of the Shoreline Plan. "Shorelines," though, is here. "Shorelines" – and that's different from "shorelines of the state" and "shorelines of statewide significance." Those are all different terms. "Shorelines" means all – I'll highlight it – means all of the water areas of the state, including reservoirs and their associated shore*lands*. So "shore*lines*" includes the water areas and shorelands. "Shore*lines*" does not include shorelines of statewide significance. It also does not include shorelines upstream of a point where the mean annual flow is 20 cubic feet per second, and shorelines on lakes less than 20 acres. It is from all these mangled definitions that we get our statement of jurisdiction for the Shoreline Plan.

Mr. Raschko: Would you roughly equate that with our shorelines that this Master Plan oversees?

Mr. Walters: Yes. Yes. That's where we are getting those jurisdictional statements at the beginning.

Ms. Lohman: Can you go to 90 – the RCW where you're talking about timber cutting – 90.58.150?

Mr. Walters: 150. So this statute applies only to shorelines of statewide – this section applies only to shorelines of statewide significance, which we read a minute ago is a fairly limited set of shorelines, and it allows selective commercial timber cutting but only selective commercial timber cutting. And it explains that means no more than 30% of the merchantable trees in any ten-year period.

Mr. Raschko: Well, I read through all this stuff today and read all these various acts and stuff and I'm now more confused than ever. I guess it all hinges on substantial developments, and I can't remember what that big, long – can you put that definition up once more, please?

Mr. Walters: So it starts here.

Mr. Raschko: So road construction would be a substantial development. And the way I read this if it's on shoreline that means anything within the Shoreline Master Program.

Mr. Walters: Well, we're not even talking about the possibility of it being a substantial development unless it's within shoreline jurisdiction.

Mr. Raschko: Right.

Mr. Walters: Things outside of that aren't shoreline substantial development. Road construction, I think, should be a shoreline substantial development except that, for instance, construction and practices normal or necessary for farming, including agricultural service roads, are not. So there are things that are backed out here. Also, this is the statute's definition. There's also a WAC that expands on this list.

Mr. Raschko: Can you scroll down a little farther, please? Okay.

Ms. Lohman: Is that the end of it?

Mr. Walters: I think *that's* the end.

Mr. Raschko: Okay, still within – oh. Okay, it's only shorelines of statewide significance is area limited to 30% of the volume every ten years.

Mr. Walters: Right. Yeah. That limitation only applies to shorelines of statewide significance.

Mr. Raschko: So on the rest of this, you can clearcut.

Mr. Walters: What's that?

Mr. Raschko: It's under Forest Practice Rules.

Mr. Walters: Right, it's under Forest Practice Rules.

Mr. Raschko: DNR rules. All right. I'm sorry for the delay here.

Chair Axthelm: That's fine.

Ms. Lohman: No, _____.

Mr. Raschko: Well, I agree with the staff. The way you had it written was perfectly fine.

Chair Axthelm: Are you talking leaving the notes in there or –

Mr. Raschko: Yeah, and that's what you recommend as well, do you not?

Mr. Walters: What's that? We recommend just leaving it the way we had it.

Mr. Raschko: The way you had it. Yeah. I'm good with that.

Mr. Walters: All right, so the next one here, although he doesn't indicate it, page 131, Development Standards – this is under Shoreline Habitat and Natural Systems Enhancement. Here in our proposal we said a minimum of three years long-term maintenance and monitoring, but he is saying that in section .480 – and he has a typo there. He says Title 16 but he means Title 14 – in .480, which is on structural shoreline stabilization so on a different topic, but in that different topic we required five years. So he suggests that we be consistent and do five years in both places. Also, I think there is someplace else where we said five years. And for these habitat enhancement projects, we really thought that five years was what we should be trying to obtain, and that's what we discussed earlier at the beginning of this meeting on the requirement for monitoring. Three years is maybe more standard, but we think five years is better.

Ms. Lohman: I can't get my code to come up on my – so 14.24.540: Is that the critical areas?

Mr. Walters: That is critical areas. That's our existing critical areas code. It should be Fish and Wildlife Habitat. Actually .480, that's – wait a minute. Where – oh. 14.24.540, yeah, is Fish and Wildlife Habitat Performance Standards, and section (3) – yeah. So in our existing critical areas ordinance, which we've had for a while, it includes a requirement for five-year monitoring and maintenance not when you do habitat enhancement but when you reduce a buffer. So his suggestion here seems to just be use one consistent time period. He's not suggesting, evidently, it's required or anything. But we like the longer time period anyway.

Next, on Shoreline Stabilization he wants to insert the word "primary" and we looked at that WAC and agree that that should be primary.

Ms. Lohman: But didn't it also go on to say "or legally existing use"?

Mr. Walters: Which?

Ms. Lohman: I pulled that WAC up. It's more than just the primary structure. It's also – it's "primary structure or a legally existing shoreline use." So I guess what I'm saying (is) we want to make sure that we're not limiting it only to the – a structure.

Mr. Walters: Yeah, that's a good point. Let's ask him about that one, as well. Because I thought we had figured out that yeah, we really needed to require that, but maybe that's not correct.

Ms. Lohman: Well, maybe we need to fix ours to broaden it to the use, too.

Chair Axthelm: Mm-hmm.

Mr. Walters: Yeah, I'll ask him about including any legally existing shoreline use. All right. And then here he suggests that we add, simply based on best practices, ten years for woody vegetation. So this would be a difference from our five-year requirement for monitoring and maintenance. It would expand that to ten years if we're doing woody vegetation. And we have really no opinion on that.

Mr. Raschko: That one's not required by statute, I presume?

Mr. Walters: Apparently not.

Chair Axthelm: I'd say keep consistent with the five-year then.

Mr. Raschko: I would, too. You know, once you have a woody plant in the ground for three years they pretty much survive. It seems to me excessive.

Ms. Lohman: And you go on and you have performance standards at intervals.

Ms. Mitchell: So just leave it out?

Ms. Lohman: I think we should leave it.

Chair Axthelm: Mm-hmm.

Mr. Walters: All right, I've noted that one as a do-not-change.

The next one, for critical areas he wants to insert the words "and this shoreline master program," which makes sense because, as we've just seen, there are specific places in the master program where it says specific time periods. So we agree with that change.

Now here in 14.26.520 he inserts a bunch of language about wetlands that does not need to be inserted because we just made all these changes as part of the Comp Plan Update. Ecology has a new manual for doing wetland identification and delineation and we addressed all of that in the critical areas code when we did our Comp Plan Update, which will be adopted before this is adopted. So we don't need to insert it specially here.

Ms. Lohman: But weren't you going to do the same thing for the two other reserved ones too?

Mr. Walters: The what? The two other what?

Ms. Lohman: .530 and .540 right below it on page 150. Weren't you recommending striking all of those placeholders?

Mr. Walters: Oh, right. I follow you now. Yes, and we're going to make those changes. But even if we – regardless of whether we were making those changes or not, he said we need to have this language, but we don't have to have the language in the Shoreline Plan because it will be in the critical areas code. So we will be using the latest wetland identification manuals no matter what. So yes, yes. I had forgotten about that but, yeah, all of these special, weird, little code sections' additional provisions will go away.

Chair Axthelm: So we just strike that?

Ms. Lohman: Yep.

Mr. Walters: Now here, page 153/154 regarding Pre-Existing Single-Family Residences and Appurtenant Structures, we get into some – some maybe more disagreement about how it is we want to handle this.

Chair Axthelm: Hey, Ryan? You were saying to strike that language in the previous one – sorry – on .520?

Mr. Walters: Yeah. Yeah, because we won't even have that section number anymore and all of those wetland classification things have all been done as part of the critical areas code.

Chair Axthelm: Okay, but you didn't address that in your Ecology comments, I don't think.

Mr. Walters: No, I think we skipped over that. But, yeah – I mean, we will in fact have accommodated that change. We don't disagree with the fact that we need to address the latest versions of those manuals but it just won't happen here.

So this next one has to do with pre-existing legally established structures and specifically this section is single-family residences. Now the first comment, (3)(a), I don't think we have a problem with it. It changes some of the verb tenses.

Mr. Raschko: I have a question about that one, just out of curiosity. What it's saying is that if there is a pre-existing structure and it's bigger than allowed, right?

Mr. Walters: Or in a place where it wouldn't be allowed today or something like that, yeah.

Mr. Raschko: But you can make it bigger as long as it doesn't become more too big than it already was.

Mr. Walters: Yes.

Mr. Raschko: Does that make sense?

Ms. Rose: I can see how that would be. Because if you're – let's say you have a one-story structure and you want to keep the same footprint and make it a two-story structure, so it's already – it's not encroaching any more into the area it wasn't supposed to be. That would be an example, I think.

Mr. Walters: And it's still under the height limit, or is it's in the buffer – so it wouldn't be allowed to be in there, but it could be maybe expanded to the back. I'm not actually sure that would be an example that would be allowed but –

Mr. Pernula: If that expansion to the back is not in the buffer, yeah.

Mr. Walters: Right. Yeah, that's the example.

Mr. Raschko: I was inferring it was just talking about footprint. Okay.

Mr. Walters: Yeah. I think not exclusively. So we're okay with that change. Here this is more of a substantive change. And these sections here – to give you some context, this is where minor enlargement or expansion would be allowed – it's supposed to be minor – and would be allowed by approval of the Administrative Official, so you don't need a bunch of special permits, but only if several criteria are met, and one of them is that you're not expanding the footprint by more than 200 square feet, you're not extending farther waterward than the existing primary residential structure. And then down here under Romanette (iii) and (iv), we included a couple things in brackets because we talked about this with the Planning Commission before and the Planning Commission didn't really make a decision as to which way we wanted to go so we included both of these options. And one of the recommendations in the memo here is that we do

need to choose one of these at some point because it doesn't make sense to retain both – so keeping in mind that these are restrictions on when you can do these minor enlargements or expansions. Fritzen says that we shouldn't do (iv), that increasing the height, even when it doesn't go beyond the height limit in the SMP, would be an increase in the nonconformity and would need to be mitigated. He said that we maybe could do it but not as a minor modification that the Admin Official would approve but as something more substantial that would require a conditional use permit.

Ms. Mitchell: That seems overly restrictive.

Chair Axthelm: Mm-hmm.

Ms. Lohman: Yeah.

Mr. Walters: Well, one of the options that we had said in these binary options, romanette (iii) is provided the enlargement *doesn't* increase the height.

Ms. Lohman: But what if you need to raise it?

Mr. Walters: Well, it does seem quite likely that in shoreline jurisdiction raising the structure might be the thing you really want to do.

Ms. Rose: It makes more sense to allow an increase in the height than broadening the structure. There's more impact broadening the structure than going up. So I would go for number little (iii) instead of (iv), even though it's against what Ecology is recommending. And I would argue that it is – has less impact than sprawling the structure.

Ms. Candler: These are both the height.

Ms. Rose: Well, but it says the enlargement – (iii) says the enlargement does not increase the height, so how are you going to get an enlargement without increasing the height if you're not going outward? Maybe I'm not understanding it.

Mr. Walters: Well, apparently you could go the opposite direction.

Ms. Mitchell: So they're telling us we could go down.

Ms. Lohman: You could burrow?

Ms. Candler: You could dig a basement.

Mr. Walters: You could expand the footprint but you can't expand it more than 200 square feet. But you can expand not farther waterward than the existing primary residential structure.

Ms. Rose: The footprint. I still say there's more impact expanding the footprint than the height.

Ms. Lohman: But you're still within the height limit in the SMP, so you're not exceeding anything.

Ms. Rose: Exactly.

Ms. Mitchell: So it's overly restrictive to make us do that.

Mr. Walters: Arguably the height limit within the buffer – because that's basically what we're talking about – the height limit within the buffer is zero. Also a third way here might be to say you can increase the height when required for compliance with the flood damage prevention code or for some other flood-related thing.

Chair Axthelm: But that's where it's required to increase the height in that situation.

Ms. Lohman: Because didn't we just talk about that on the Guemes Island thing on the Comp Plan Update?

Mr. Walters: Yes, and there we said we would change how height is measured. But here where you have some existing structure you might need to raise – you might need to have a height that is taller than the existing structure, so it would be a change to the existing structure. It'd be some enlargement to it.

Chair Axthelm: Which way do we want to go?

Ms. Rose: I don't think we want to recommend this.

Ms. Mitchell: I don't either. I don't think we should.

Mr. Walters: So we could go with (iii) or we could go with (iv) or we could rewrite it to be somewhat less than (iv).

Ms. Lohman: I think I kind of like our Roman numeral (iv) because we're still below the height limit. You're within the height limit.

Mr. Walters: Okay.

Ms. Mitchell: I think the same thing.

Ms. Lohman: And isn't the height limit a reduced height anyway, being that it's in the shoreline?

Mr. Walters: In shoreline, the height limit is 25 feet.

Chair Axthelm: I'm still having a hard time seeing why they wouldn't allow the "or."

Ms. Mitchell: Yeah, that doesn't make any sense.

Mr. Walters: Yes, the height limit is 25 feet. Within the buffer, the height limit is 25 feet.

Ms. Candler: So if we argue to leave it in, they could always tell us –

Ms. Rose: Oh, I'm sorry. _____. Is that 25 feet to the highest projection, like the peak of a roof? Or does it differentiate between flat or peaked?

Mr. Pernula: The top of the roof is only applicable for Guemes Island under their proposal. The rest is at the average height of the structure, like if you _____.

Ms. Rose: It's average. Okay.

Mr. Walters: Yeah, there is a definition of "height" in 14.04 that tells you how to measure it. So it's average elevation and it's average roof or midpoint.

Ms. Candler: So what's the Department's recommendation if we go forward just not accepting his strikethrough? What –

Mr. Pernula: To me it seems like if it's got this reduced 25-foot height that's in the buffer area and they can stay within that, I don't see why you couldn't go up. That would be preferable to expanding as permitted with the 200 square feet addition. I don't understand why they wouldn't allow it within the 25-foot parameter.

Ms. Mitchell: Right.

Ms. Lohman: Maybe he didn't see that distinction when he wrote the comment.

Mr. Walters: Well, maybe the clue here is that he says impacts from increased light and noise need to be mitigated. So he's thinking that there will be increased light and noise from the higher structure.

Ms. Mitchell: I think that's overregulating – attempted overregulating.

Chair Axthelm: I'd say we should allow it like it was previously.

Mr. Walters: I'll write down here that we want to retain romanette (iv) and delete romanette (iii).

Chair Axthelm: But why couldn't we have both?

Mr. Walters: They are restrictions so it doesn't make sense to have both, because you only get this special administrative approval if you meet these criteria. So (iv) is less restrictive because (iv) lets you increase it up to the height limit.

Chair Axthelm: But then you couldn't enlarge your footprint.

Mr. Walters: No, there's a –

Ms. Mitchell: We're still keeping (ii), right?

Mr. Walters: Yeah.

Mr. Raschko: Where I see (iii) coming into play is if you have the building that already is excessively high. And I read it to be that okay, that's all right. You just can't go any higher.

Mr. Walters: So it is possible that you would be dealing with a building that is above the height limit. But then if you had (iv) – if we still got rid of (iii) and you had (iv), then the height of the enlargement does not exceed the height limit. That would still be a constraint.

Mr. Raschko: So if you get rid of (iii), what happens to pre-existing buildings that do exceed the height?

Mr. Walters: Well, pre-existing buildings can stay around. They only –

Mr. Raschko: But this is replacement.

Mr. Walters: Yes. This is the section on minor enlargement or expansion. So pre-existing buildings can stay around. They would not be able to add on something that exceeds the height limit, the current height.

Ms. Candler: So if the building was 30 feet, it would only – the enlargement, 200 feet in the back – 200 square feet in the back – could only go to 25, if we take out (iii). But that's true if we ___ (iv).

Mr. Walters: I guess in that situation (iii) would actually be less restrictive than (iv), but I think that – I kind of think that that is less likely of a circumstance.

Ms. Candler: I agree.

Mr. Raschko: Well, okay, in (iii) you cannot put a second story on a house.

Ms. Lohman: Not as an Administrative Official, right? You would have to go to a major –

Chair Axthelm: See, this all depends on the architecture of the building.

Ms. Lohman: Yeah, that's why I like the "or."

Ms. Mitchell: It does say "minor," so why's the – if it says "minor," why are we quibbling about the three choices/options/ways it could be looked at?

Mr. Walters: Well, because if you are not – if you don't qualify for minor then you're major. If you're major, you require a shoreline variance. So that is a significant process and expense that you'd have to go through to obtain that.

Chair Axthelm: I guess I'm seeing it as you take the enlargement is that if you have an existing roofline and you can maintain that existing roofline.

Ms. Candler: If you leave the "or" in, right?

Chair Axthelm: Yeah, leaving the "or" in. And then the one down below, it's the height of the enlargement does not exceed the height limit is that if there's a limit and you can raise your building to add something in or to add additional space.

Mr. Pernula: So you'd like to leave it as the original draft?

Chair Axthelm: Yeah, because it's an "or." It doesn't mean you can do both. It means "or." It gives some allowance for the type of building.

Ms. Lohman: I'm not sure that you need the "or" then. I think – I think the "or" was in there because it was narrative – you know, staff narrative: Do you want (a) or (b)? – but you've laid out a case that we want to keep both as options – independent options.

Chair Axthelm: Yeah, independent options. They're different situations.

Ms. Lohman: But I think – I don't think the "or" is (iii) or (iv).

Ms. Mitchell: So we're saying (ii), (iii), and (iv).

Ms. Candler: I think it is because otherwise if you have a building higher than 25 feet and you want to make your little addition in the back match it, if you don't have the "or" then it can't exceed 25 period – if you don't have the "or."

Mr. Walters: Yeah, this list is a list of criteria that you have to meet all of, because the introductory clause says that you have to meet all these criteria and they're followed by an "and" here before the last item.

Chair Axthelm: So if you have an "or" and it's still meeting all the criteria, you're just choosing between which one you want at the time.

Mr. Walters: If we made that into one criteria. If we combined (iii) or (iv) into just (iii).

Chair Axthelm: Oh, I see.

Mr. Walters: Right, because you couldn't have "or" in the middle of the list unless it's one of the items in the list.

Chair Axthelm: Okay. That makes sense to put them into one.

Ms. Lohman: Can you say that so everybody can hear that idea?

Mr. Walters: We can't have "or" in the middle of a list of items unless it's one of – it's in the middle of one of the items. But even still I haven't really processed this in my own head yet. What you're proposing to say is that number (iii) would say "the enlargement does not increase the height of the existing structure *or* the height of the enlargement does not exceed the height limit."

Ms. Lohman: So how does the guy at the counter going to read that?

Mr. Walters: Yeah, I'm wondering about that. Because when it's a simple list and they're all "ands" I think it's fairly straightforward. What you want to accomplish is allowing for an over-height structure – well, can someone tell me what you want to accomplish?

Chair Axthelm: Well, in the case of an existing structure that is over-height, you can match that roof pitch because it just – it would look funny having a different roof pitch on a building sometimes. It depends. You know, you might *want* a different roof pitch but this gives you the option to have that roof pitch match. And then the second one down, "the height of the enlargement does not exceed the height limit." So if you have an existing building that has height limit and you raise that roof, you can raise it up to the height limit. So it just gives you different options architecturally. A friend of mine had a house on the beach and he tried to match the roof but the roof pitch was just a little bit over – or the existing roof was a little bit over, and he just wanted to add five feet to his house to make his living room a little bit bigger, and he couldn't do it. He'd have had to chop off the top of his addition! It just looked funny. I'd rather have it a little bit of allowance that they could go up – could match.

Mr. Walters: Okay, so then what if we just deleted (iii) and (iv) and in its place put "the enlargement does not cause the existing structure to exceed the height limit, or in the case of an existing over-height structure, the enlargement does not increase the existing height."

Chair Axthelm: Yeah.

Ms. Lohman: There you go.

Chair Axthelm: It sounds good.

Ms. Lohman: Can you show it to us? Is that possible?

Mr. Walters: All right, so this is 14.26.620(3)(b). How's that?

Chair Axthelm: Yep.

Ms. Lohman: Much better.

Mr. Walters: Okay, and we'll see where we get with that. In 14.26.630 here, he first of all says that we should note that this also applies to boat launches and we agree because boat launches are included in the Docks section. And then I think his deletion here deleting "shoreline review" simply would mean that you might need to get an exemption, a shoreline exemption, for this. If we say "without shoreline review," then you don't need an exemption at all because "shoreline review" means substantial development exemption, conditional use or variance. So we didn't have a problem with that change.

Chair Axthelm: Okay.

Mr. Walters: And his next comment, 44, is similar. It's – we were saying that maybe you don't even need an exemption. He thinks that, Yeah, you probably do.

The next section is another one where he suggests some numbering changes and I think that one's made clearer than the other numbering change. Because we do introduce this list with a colon, so pretty clearly (b) and (c) are supposed to be indented. They're supposed to be romanette (i) and (ii) under (a), so we agree with that indent change. But then in (d) he adds additional language. Now this is the section in the Pre-Existing Use section that talks about other pre-existing structures. This part of the code is structured such that first single-family dwellings are addressed because that's the first thing people are going to care about if we put it up front. And then we knock out the other types of things that you might want to repair or replace, including the docks and that kind of stuff. And this Other Pre-Existing Structures comes later. He says that other than single-family homes – which we don't think we really need to address here at all because they're addressed elsewhere. But then he says the replacement cost basically cannot exceed 75% of the value of the original structure. And that is consistent with the WAC; however, we have these other requirements that you see in (a), (b), (c), and we think that those are much easier to implement than the 75% value thing.

Ms. Lohman: It's also replacement cost. It wasn't the original cost of when that structure got built, like he wrote. And I did look that up, too.

Mr. Walters: Oh, yeah.

Ms. Lohman: That's a giant difference.

Mr. Walters: Oh, you mean his wording is also wrong.

Ms. Lohman: Yes.

Mr. Walters: Yeah, yeah, yeah. Yeah. Yeah, obviously. Would you inflate the dollar value of the original – that gets complicated. So we would like to not implement this change. We think that our other constraints make more sense and are more __.

Chair Axthelm: You know, it's kind of funny because here you have you can't replace your home with the same. You can only do 75% of the value.

Mr. Walters: Not home. Not home. This part doesn't apply to homes.

Chair Axthelm: Okay, well, a building.

Mr. Walters: Right. It's something else.

Chair Axthelm: 75% of the value, so let's build something cheaper. You know! You'd think that they would want something more expensive that has some of the more –

Ms. Mitchell: Better quality.

Chair Axthelm: Better quality.

Mr. Pernula: The idea is to extinguish those nonconforming uses.

Chair Axthelm: Yeah.

Mr. Walters: And the situation where it might be less than the 75% is where half of it was destroyed so you're only having to rebuild half, or maybe a quarter and it somehow costs less than 75%. But maybe pretty frequently when you have something that's destroyed, it's probably destroyed by fire, which is – I mean not all the time, but frequently a really significant loss.

Anyway, we have other places in our code throughout – maybe not shoreline, but throughout the rest of the development code that talk about replacement value, and that's always a fight: What's the replacement value? How much was it before? It is just – it's not very workable. If we can do something other than replacement value, we would prefer that.

Chair Axthelm: Yeah, so would I.

Mr. Walters: So finally, and I think – oh, I've got some other stuff. This is the last one in our memo. They want to reduce our proposed administrative variance process down to 25%. In our critical areas ordinance now, we have an ability to reduce the buffer width down 50%. We understand we can't use that process. We would need to make it a variance. But we would like to retain the 50% value, and Fritzen says that it needs to be 25% or less, although his comment says it would be difficult to approve more than 25%, which maybe opens the door to improving it or someone approving it. So I don't really know all the parameters of this but Betsy would really like to continue pushing to, number one, maintain consistency with what we already do with the

rest of our critical areas code, and, number two, retain that flexibility as an administrative variance process.

We don't know that we're going to get that. They may push back on that. It says, their comment says, their best available science says the buffer at its narrowest point should never be less than a 25% reduction, and so we may get stuck on that. If so, we get stuck, but Betsy would like to keep pushing on that.

Chair Axthelm: Rather push than not. Yep.

Mr. Walters: Yeah. All right, so their next comment is that we should make "agricultural products" its own separate definition. I think maybe we didn't do that before because we never use the word "agricultural products." It's only used here in the definition of "agricultural activities."

Ms. Lohman: Well, it's just a continuation of a list.

Mr. Walters: Yeah. We don't really care about this one.

Ms. Lohman: We don't have to.

Mr. Walters: We also don't have to.

Chair Axthelm: Leave it.

Ms. Mitchell: Leave it alone.

Mr. Walters: Okay.

Chair Axthelm: That's what your suggestion was, right?

Mr. Walters: We didn't really make a – we don't really care, but we wrote it that way to begin with because we thought that made more sense.

Chair Axthelm: Mm-hmm.

Ms. Candler: Now I'm struggling with how to make a motion that incorporates your changes plus ours from tonight.

Chair Axthelm: Well, we don't necessarily have to because he's got additional things that need to be clarified, so if we want to wait…

Mr. Walters: Yeah, I think what we would like to do is come back – figure that out, figure out how to write that – because I've taken notes along the way.

Ms. Candler: Okay.

Mr. Walters: Figure that out, just put that into your recorded motion and you'll see that maybe at your next meeting. And then also get the answers to those other things we flagged and we'll revisit those separately at your next meeting. Then we won't have to spend time writing it up into the document right now.

So that final recommended change there you have already dealt with, because that's that one about the over-height.

Okay, so that's everything and it's only 8:30.

Chair Axthelm: I would say just same thing as we did last time. Just make sure we have our – if you have additional recommendations or any – the findings of facts and reasons for action, the sooner we get those in the more we can get this process quicker. Because next meeting would be the final meeting hopefully.

Mr. Walters: Maybe. I'm not very confident in that.

Chair Axthelm: We'd have a better chance of doing that if we had reasons for actions and findings of fact.

Ms. Candler: But I think – are you saying that maybe we're not going to have the Lake Cavanaugh stuff or what are – is that what you're saying?

Mr. Walters: I am the only one working on this at this moment so I don't really know where we're going to be on Friday for the Tuesday meeting. But I would like to have next Tuesday's meeting. I would like to get through as much as we can at next Tuesday's meeting, but I sort of doubt that we will get through all of the rest of the stuff at next Tuesday's meeting, which might mean that there might be a meeting on the 20th – 21st.

Chair Axthelm: But it could be a shorter meeting next week.

Mr. Walters: What's that?

Chair Axthelm: A shorter meeting next week.

Mr. Walters: I don't know. If we have Lake Cavanaugh ready, that might be a long meeting just by itself, or if we have everything ready. I would like to not have to come back for just a meeting on the findings. If we made it through all the substance, I would like to push on and get the findings done, too.

Chair Axthelm: Okay.

Mr. Walters: So if –

Chair Axthelm: So I'd suggest like we did last time, submit your findings to the Department.

Mr. Walters: Yeah, we can do that. When you do that, it would be helpful if they were written in the form of a finding – you know, a single, short statement that supports one of the recommendations. And if you have other things that have come up, separate that out. Separate that into some other list of other things you want to be able to touch on before we finish up, and then we'll generate a menu like we had before. And we'll make sure to generate findings for anything that doesn't get a finding to make sure we have something that supports most of these things.

Chair Axthelm: Okay.

Ms. Lohman: Can we remind you of ones that we know of that you said that you were going to –

Mr. Walters: Yes.

Ms. Lohman: Can I do that now?

Mr. Walters: Right now?

Ms. Lohman: Well, it's quick.

Mr. Walters: Yeah.

Ms. Lohman: You were going to add the designations in the code – Natural, Rural Conservancy, et cetera.

Mr. Walters: Yes. Do we have a recommendation on that already?

Ms. Lohman: Well, you said that at a work session, that we didn't really need to discuss it because you were going to do it.

Mr. Walters: Oh, yeah. Yeah. All right.

Chair Axthelm: That has to do with some stuff that was supposed to be added that didn't get added. Yes.

Ms. Lohman: Because of at one time you thought about striking it all, and then we had a big discussion about it and then you said oh, no. Okay, now we can add it back.

Mr. Walters: Yes. Okay. I'm writing that down.

Chair Axthelm: That's where – let's see, it's April 18th. It says Department is also working on a list of other changes to the proposal Planning Commission has already discussed but did not make it into the final draft. It was one-to-one dock slips, residential units, environmental designations.

Mr. Walters: Yeah, and we think that that is probably a pretty short list.

Chair Axthelm: Okay. Yeah, it's referring to the e-mail that was to Ryan on April 17th from Annie. And you responded at April 18th.

Mr. Walters: Yeah, _____.

Ms. Lohman: I think it was _____.

Ms. Mitchell: Was it from one of the early staff reports?

Chair Axthelm: Well, it was – yeah. It was when the Supplemental Staff Report – I don't know which one it was, though.

Mr. Walters: What we had talked about in terms of environment designations was adding definitions in the code about those environment designations so that when you hit those environment designations in the tables they would light up with definitions and you could click and go to the right section in the code. So when you see "shoreline residential" someplace, there would be a definition of what "shoreline residential" is. Otherwise, you would have to find it somewhere in the code. But it would just be in the Definitions and it would refer to the shoreline residential section.

Ms. Mitchell: That'd be good.

Chair Axthelm: Then we had the one-to-one dock slips for residential.

Ms. Lohman: Instead of 75%.

Mr. Walters: Right.

Ms. Lohman: Or sharing them or something. I don't remember exactly.

Mr. Walters: We'll get the dock slips to dwelling units.

(Commissioners making unintelligible/inaudible comments)

Ms. Mitchell: Could you repeat that, please?

Amy Hughes: Let Annie kind of recall the discussion. On page 131 – and it may have been handled.

Ms. Lohman: That was part of the discussion about monitoring. Okay.

Ms. Hughes: So did you want to include something like that? We had talked about it.

Ms. Lohman: Yeah, we – I can't remember right this second.

Ms. Hughes: Okay. Let's then deal with it another time.

Ms. Lohman: Maybe we can talk offline and figure it out.

Chair Axthelm: Is that it from your standpoint?

Mr. Walters: Yeah.

Chair Axthelm: Dale, you wanted to do an update?

Mr. Pernula: Director's report? Yeah, I've got a few items to talk about. One is the upcoming schedule. You know that next week we're going to be talking about the SMP, but we have a few additional future things to go over. One is that the Board will be holding a public hearing on the Comprehensive Plan Update on Monday, June 20th, at 6 p.m. and they will receive some written comments until Thursday, June 23, at 4:30 p.m. That was a decision they made today. Now the substance of what they're going to be looking at is pretty much the Comprehensive Plan with the 38 recommended changes by the Planning Commission, plus some three adjustments that staff recommended to the Board, and I'll go over those real quick.

The first one was to modify proposed policy 2B-1.3 to indicate Skagit County's intent to continue cooperating with local partners to identify and protect open space corridors, consistent with GMA requirements. And here's what we're proposing. We're not proposing any mention of the Open Space Concept Plan or to implement it. But there is a GMA requirement that says that we're supposed to identify those corridors and we also have to update the Comprehensive Plan every eight years, so we wanted to have some language regarding a process to accomplish that. So what we have suggested the Commissioners consider, and they will be considering it at that hearing and with those comments, is the following: Consistent with RCW 36.70A.160, Skagit County should continue to work with its partners – partner governments, organizations, residents, and property owners – to identify, prioritize, and conserve open space corridors within and between urban growth areas, including lands useful for recreation, wildlife habitat, trails, and connection of critical areas. That's one thing they will be considering.

The second one is to include a provision allowing administrative variances to address up to 100% of bulk and dimensional standards. That's in fact what we're doing now. What we have in the code is some administrative variance procedures that don't have all the necessary standards to grant variances, so we added those back into the code, but we also – one of those standards said that we could only grant those up to 50% of what you're asking the variance for – of what the actual yard is or whatever. And talking to our current planner who deals with these all the time, he said that's not going to help out very much and he suggested we go back to what we're doing now with those administrative variances being up to 100% of those dimensional standards.

The third one is to include some provisions for allowing administrative variances of height limits and setbacks in the Guemes Island Overlay. Now you may recall that Guemes Island has a number of restrictions on height and bulk that are much tighter than most anywhere else in Skagit County. And some of the people who own very narrow lots like 50 feet in width said that these standards would make their lots extremely difficult to build at all. And so we're suggesting that they could get some relief with an administrative variance as opposed to a full Hearing Examiner variance. And those are the three proposals that differ somewhat from what the Planning Commission recommended, but they're going ahead with all 38 of those recommended changes with the exception of they're also looking at the change to the recommendation on open space that I just read.

The third thing – and I think Josh brought it up earlier – is talking about contact information. I got an e-mail from an individual with the Guemes Island group, the GIPAC, asking for all the phone numbers and e-mail addresses of Planning Commission members. I'd really like to discuss that with the Planning Commission.

I don't think it's appropriate to give out your personal phone numbers, so I didn't give that out. I have less of a problem with giving out your County e-mails, if that's okay with you. But what we would like to do is set it up so that it goes through a central location with the County so that we can keep a GMA record of what the questions – what information is being provided by the individuals to the Planning Commission, and we'll have a record of it for GMA purposes. I'd like your thoughts on it. What do you think?

Mr. Walters: Specifically, what he's proposing there is an e-mail address like called "Planning Commission at Skagit County" that would send to all of you at once.

Chair Axthelm: I wouldn't even have an issue with having it be separate e-mails. You know, sometimes there's a question that individuals have with a particular Planning Commissioner, which is fine. It's the County e-mail so it's not a big deal.

Ms. Mitchell: It's public information anyway.

Mr. Pernula: It could be subject to a public records request.

Mr. Walters: But that's why we have your County e-mail addresses for that purpose.

Mr. Pernula: So nobody has a problem with giving out your individual e-mails?

(negative sounds from Planning Commissioners)

Mr. Pernula: Well, we'll set it up so that we can have one address where they can contact all Planning Commission members and we will allow contact to everybody individually as well.

Chair Axthelm: Yeah, and if they want somebody to contact them, they can easily put that in the e-mail – give me a call – and then we can call them from there.

Mr. Walters: And we rely on you guys to tell people that their comments individually to you are not part of the record.

Kathi Jett: If they aren't part of the record, why would we – I guess I'm confused about their comments.

Mr. Walters: Anybody can talk to you.

Ms. Jett: Right.

Mr. Walters: It's just when we advertise a comment period that – those are the comments that are part of the record, they get the responses, they get catalogued, they get sent to the Board. And we can't keep track of all e-mails to everybody so we're fairly strict on this idea that when we create a comment period you need to submit comments consistent within that notice so that we can get these things in one spot.

Chair Axthelm: It's still a public record. It's just not linked to a project or linked to a hearing.

Mr. Walters: Right.

Ms. Jett: Could you have that as part of the e-mail address or could there be some information like that when you set up the –

Mr. Walters: We could put that on the webpage.

Ms. Jett: – on the webpage so that they understand that?

Mr. Walters: Yeah.

Ms. Candler: I have a question.

Chair Axthelm: Tammy?

Ms. Candler: So I'm assuming because of the Open Public Meetings Act these would be informational only and if we were all cc'd on something we would not be able to respond.

Mr. Walters: You can reply but you should not reply to all.

Ms. Candler: You couldn't reply to all.

Mr. Pernula: Individually only.

Ms. Candler: And individually we can reply.

Chair Axthelm: Isn't it up to three Planning Commissioners?

Mr. Walters: Yeah, there's that memo that's on the Planning Commission page that addresses the details of that.

Ms. Mitchell: Dale, did you say you were going to send us that same information that you're going to put to whoever asked for that?

Mr. Pernula: Do what?

Ms. Mitchell: Did you – you said that you would copy us on that so we saw what went out to them?

Mr. Pernula: Sure.

Ms. Mitchell: Okay. Thank you.

Mr. Pernula: We have – I did respond to them. I think I gave them an address that may not work because it's our internal links. So we're going to resend it once we get this new address set up.

Ms. Mitchell: Yeah, if you'll just copy us.

Mr. Pernula: Okay.

Ms. Mitchell: Because, hey, if these guys find it useful, others probably will.

Chair Axthelm: The other one is the Guemes Island. They said because their difficulty to get here to meetings – do they have a community center out there?

Mr. Pernula: Yes.

Chair Axthelm: Has the County looked into possibly a Skype situation? I guess they have the Internet. They can get on the Internet. But it's something to –

Mr. Walters: We're not allowed to use Skype here. But we could look into something like that.

Chair Axthelm: Yeah, because it really is difficult for them because they can't come to all – I mean, they can attend part of the hearing, but not the whole thing and because of that unique situation. Is that the only place that has an issue in our county?

Mr. Walters: Well, there are several places that are very far away.

Ms. Mitchell: Marblemount.

Mr. Walters: Lake Cavanaugh, but you can drive to it at any time of night.

Chair Axthelm: Yeah, and we'll try to accommodate them as much as we can. It's just a matter that if there are situations where they can't be here and they can't comment on something, I don't want to have that issue.

Mr. Walters: Yeah. I would feel pretty uncomfortable setting up for them to be able to comment because I just don't know how well that would work reliably. But – especially because we can't use Skype – but we could examine that. I think what maybe has worked the best so far is to allow Guemes Islanders to comment first. Because if they can comment at 6 o'clock during a public hearing, then they can go by 7. If they can leave by 7, they can catch an 8:30 ferry no problem. And that's a lot simpler for us – and them, probably – for trying to set up a Skype.

Chair Axthelm: And with public comment extending past the hearing – a few days past the hearing – they can still – if they see something they can write it in.

Mr. Walters: Written comment, yeah.

Ms. Candler: I'm still a little bit concerned about the Open Public Meetings Act. What if we replied and that e-mail was forwarded back as a –

Mr. Walters: Yep. That could happen but it wouldn't be your fault.

Chair Axthelm: And then we just get a nastygram from Ryan here telling us don't reply to all and _____.

Ms. Candler: Yeah, but we wouldn't be replying to all. It could still be put back into a – that e-mail could still go to everyone in the next chain, and that is not – that doesn't work.

Ms. Lohman: But that potential is there now.

Mr. Walters: Yeah.

Chair Axthelm: But that's from somebody else. That's not us. So it's *us* responding. Correct, Ryan?

Ms. Lohman: It's *our* initiating and conducting.

Chair Axthelm: We can send to a group of people, but we shouldn't go back and forth. It's just one direction.

Mr. Walters: Yeah. To avoid providing you legal advice here, I refer you to the memo that I wrote when I was providing you legal advice and is on the webpage.

Chair Axthelm: All right.

Mr. Pernula: You know, another alternative for Guemes Island is to call in with a conference call or something like that. Other places I worked, they used that extensively.

Ms. Candler: Has there been some kind of a problem where if they have concerns the Department's not – I guess I'm wondering what initiated this.

Mr. Walters: I understood from the Guemes Island GIPAC – Guemes Island Planning Advisory Committee – that they were concerned about the Planning Commission's level of understanding about Guemes Island. So they wanted to be able to reach out because there's going to be more Guemes issues. After Comp Plan and Shoreline is done, there will be more Guemes things, probably next year as part of the Comprehensive Plan Amendment update process, the annual amendments. Possibly as part of water code updates, so they want you to be informed. They also suggested possibly taking you on an all-expenses-paid tour of Guemes Island, for those that are interested.

Ms. Mitchell: Field trip!

Chair Axthelm: I spoke with them too also. With the Comp Plan Update, we have people come to work sessions.

Mr. Walters: And we didn't have one specifically on Guemes this last year. But, like, if they submit a bunch of amendments to implement the subarea plan as part of the Comp Plan Amendment process this coming – for the coming year, then maybe we would have a workshop specifically on that.

Chair Axthelm: Yeah, and that would get them into that. That's what I suggested to them. Because we have – I mean, when you have other agencies, they have an opportunity to talk. You give Guemes Island that opportunity, not as a hearing but in the work session portion of it.

Mr. Walters: Right.

Chair Axthelm: Okay. Good. And I would suggest the Commissioners to look at the hearing – not hearing – the meeting this afternoon – this morning with – I think it was at 9:30? – that the Commissioners – we got some really good thanks for spending the extra time and working hard on the Comp Plan. And I definitely appreciate it. It was a long process and I appreciated everybody's time and work they put into it. Thank you. I think that was it. Anybody have anything else?

(silence)

Chair Axthelm: Do I have a motion?

Ms. Lohman: I move to adjourn.

Several Commissioners: Second.

Chair Axthelm: Okay (gavel). Meeting's adjourned.