

**Skagit County Planning Commission
Work Session: Rural Forestry Initiative (RFI)
June 20, 2017**

Planning

Commissioners: **Tim Raschko, Chair**
 Kathy Mitchell, Vice Chair
 Kathi Jett
 Tammy Candler
 Josh Axthelm
 Amy Hughes
 Annie Lohman (absent)
 Hollie Del Vecchio (absent)
 Martha Rose (absent)

Staff: **Dale Pernula, Planning Director**
 Stacie Pratschner, Senior Planner

Public Remarks

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

Chair Tim Raschko: (gavel) Good evening. The June 20th, 2017, meeting of the Skagit County Planning Commission is hereby called to order. Welcome, everybody. Has everybody had an opportunity to review the agenda?

(several sounds of assent)

Chair Raschko: No additions, deletions?

Kathy Mitchell: It looks fine.

Chair Raschko: Okay. With that, we will move on to Public Remarks. Anybody who wishes to address the Commission, they can do so for three minutes. Yes?

Ed Stauffer: Good evening, Commissioners. I was going to start with a point of order but I don't think I will. I just want to tell you that at your last meeting I was deeply moved by the members of the Planning Commission, several of you who expressed from your heart your sense of being a member of the rural community and what that meant to you. We hear that rarely in our County government, and it was a feeling of hope for the future and a lot of people I've talked to since that. So thank you.

I also want to welcome again our new planner, Stacie.

Stacie Pratschner: Thank you.

Mr. Stauffer: I've had a chance to look into her background a little bit but I haven't met with her yet. She has a lot of skills to offer, amongst them an association with an anthropology department. So she actually may have a grip on a concept of rural beyond what we normally hear from planners. At least I think she's going to be open to hearing from us about those sorts of issues, which is very nice. So welcome aboard.

Ms. Pratschner: Thank you. Thank you, sir.

Mr. Stauffer: The RFI, I think, is mislabeled. I think a forestry initiative perhaps, but it shouldn't be called a rural. So I'm going to give you the citations. Please look at the Growth Management Act. The very second paragraph of that – the first ordinance – by reason defines “rural lands.” So that's 36.70A.011. Then if you move down to .030 you'll find definitions. In there you'll find definitions of “forestry,” of “forestry of long-term commercial significance.” If you read a little further into .050 and .060, you'll find the categories for definitions of what qualifies as a resource land of long-term commercial significance. So the point I want you, as the Planning Commissioners, to have a firm hold of – and I don't think it gets explained often enough – is that Skagit County under the GMA, which is defined in those ordinances and in our zoning code as well, which is very easy to read, very straightforward, addresses all of the issues that are coming up except perhaps the issue of conversion – that may be a job for you – are all well defined in the Growth Management Act. So my tidbit for the month – maybe for the year; I won't be back for a while – is when they wrote the Growth Management Act, which was adopted in 1990, the majority of it was written by six committee chairs of the state legislature – all women. They were called “The Steel Magnolias.” One of them was a lady by the name of Busse Nutley. She was a legislator from Vancouver, Washington, and she was a certified planner.

(Timer rings.)

Mr. Stauffer: The only planner involved in the Growth Management Act. There were two other planners in the –

Chair Raschko: I'm sorry, Ed.

Mr. Stauffer: So you had company. By the way, Busse Nutley is still in business in Vancouver and has a planning department. She's the one that introduced the bottom-up concept.

Chair Raschko: Well, thank you. Anybody else? Okay.

Carol Ehlers: Could we have the – Carol Ehlers, west Fidalgo Island. What I'm showing you is a document from a big, fat set of laws that I don't believe this group of Planning Commissioners has ever been told anything about, and that is the Natural Hazard Mitigation Plan, a federal law that was implemented about, I think, 2002. We were the sixth county out of 3,000 in the United States to get it done, and I was on the committee because I've always been forced to pay attention to hazards where my father bought property, and my inclination.

In the '90s and '00s when Skagit County wrote code we completely ignored fire, forest fire. It was an act of faith that there were no forest fires in Skagit County. There was no hazard. We didn't need to pay attention to it. The man who did this map and the other one has never been forgiven by some people for demonstrating that not only were there fires but there were areas where they were concentrated. Now in terms of this map, my only success on the Planning Commission in getting the consequence of it implemented was on the Guemes Plan. As you may see, Guemes and Lake Cavanaugh are the two highest hazard areas in Skagit County, and

I insisted that in the plan it be recognized as such. As a result, Public Works Department repaired the two roads that led to Holiday Hideaway, which they had not bothered doing for years. And that is what I think of as one document leading to another document leading to the kind of action that makes it safer for people who live.

I showed this to you in the Fidalgo Plan information because Fidalgo Island, the southern part, is one of the highest hazard areas of Skagit County, and so far sometimes the Planning Department and the Public Works Department cooperate with the fire department and sometimes they don't bother. And it's a good fire department. It's active, it's successful, and we like to support it. And we want the County to support it, not just in the Fire Marshal's office – now that you have a good one again – but in the codes that you write and the decisions you make. For example, in CaRD: The CaRD ordinance was written assuming that there was no fire hazard at all in having things dense, in having woods right around it, in the whole presentation of how it was done. Oh, there's no fire out here! For Fidalgo, not only do you have an island that is largely covered with conifers but it's full of hills –

(Timer rings.)

Ms. Ehlers: – and down at the bottom of the hill are a lot of people like Carol.

Chair Raschko: You can finish your thought, please.

Ms. Ehlers: And the houses are charged a fortune in taxes. So we would like you to think in this ordinance of us and anyone in the forest where you're going to put a house. Make sure there is enough distance, because having the sprinkler in the house doesn't do a thing when there's a fire around it.

Chair Raschko: All right, thank you.

Ellen Bynum: Good evening, Commissioners. Ellen Bynum, Friends of Skagit County, 110 North First, Mount Vernon. I wanted to call your attention to an e-mail that I sent to you regarding the comments that we made on the reintroduction – I'm going to say the *introduction* of grizzlies, because I haven't seen any evidence that we had grizzlies before. One of the things that we're researching and learning about is how much we've already spent on fish recovery in Skagit County. And grizzlies hibernate and they come out in the spring and they eat things, and we have two spring runs where there are 50 fish in one run and 150 in another and they've been recovered. But if you had a bear that came out in the spring and saw those fish, you could pretty much decimate those runs in a little while. We spent – the Skagit Watershed Council has spent 91.2 million dollars to recover salmon. Some percentage of that was spent on those two runs at some point. It seems like we ought to be thinking about: Do we want to throw away the tens of millions that we've spent on fish in order to reintroduce a specie that we don't even know was here without adequate information about food or range or the science of the interaction with people that are denser than the 7 or 8 people per square mile that exist in Wyoming and Montana? So that's one piece.

Second piece is Mr. Stauffer kindly reminded me that in the Sharpe's Corner roundabout determination of nonsignificance, which has just been issued – comments are due on the 29th – the Department of Natural Resources has long reported to the Board of County Commissioners about the existence of the marbled murrelet in – at the nesting habitat on Blanchard Mountain. And in this DNS that was issued by the Washington State Department of Transportation, it says there are no marbled murrelets for 18 miles. I think it's a little closer than that. So if you had to

make only one comment back into WSDOT, you might want to tell them to check with the DNR about their biology because I don't think it's accurate. Thanks.

Chair Raschko: Thank you. Anybody else?

(silence)

Chair Raschko: Okay, we'll move on to the Rural Forestry Initiative, a presentation by staff. And before you begin, I'd like to ask, Would you prefer that people ask questions as they arise or wait until your presentation is completed?

Ms. Pratschner: Well, you know, I'll run through the presentation – that might make it go a little faster – and then we can do questions at the end, if you're comfortable with that.

Chair Raschko: That's fine. Thanks.

Ms. Pratschner: Okay, great. Thank you.

All right. Well, good evening, Planning Commission members, members of the staff that we have here this evening, members of the community that are here this evening as well. Thank you for having me here tonight. This will be my first presentation to the Planning Commission and the public since joining Skagit County Planning about a month-and-a-half ago. So thank you in advance for your patience as I learn everyone's names, learn your specific procedures. I will catch on. I know sometimes it can be hard for folks back here to hear folks that are up here. If you have any problems hearing me just get my attention. I normally do use my outdoor voice. That *is* my indoor voice. But I can raise it up a little more if I need to.

The purpose of today's informational workshop is for us to discuss proposed code drafts to the County's Unified Development Code to assume regulatory authority from the Washington State Department of Natural Resources for Class IV forest practices; to also discuss the establishment of permit thresholds for clearing and grading activities. This is defined in your code – our code – as land disturbance or land-disturbing activities. And also to introduce what I think might be a third attempt in the ten years since the concept was originally conceived to codify what has been called the Rural Forestry Initiative.

The Department this evening requests feedback and guidance from the Planning Commission on the direction that these drafts should take in order to best implement both our mandates to adopt regulations for these phases of forest conversion, and also how best to codify the RFI request.

This workshop only represents the very first initial step in the process in development of the subject codes this evening. As you move forward through this public rule-making process, the County will undertake an approximately five-month legislative process to review and adopt any changes to the existing development regulations. This review includes a SEPA threshold determination and comment and appeal period for the public and our partner agencies. That includes state departments, the affected tribes, and other community stakeholder groups. In concurrence with that environmental review there is also a 60-day review by the Department of Commerce for evaluating the draft code's compliance with GMA, the Growth Management Act. Through this five-month process we will also have review by the County's legal counsel and eventual additional meetings and public hearings with both the Planning Commission and with the Board of County Commissioners. First things first, though.

Both the Forest Practices Act, per the Revised Code of Washington, and the Skagit County Comprehensive Plan mandate that Skagit County assume jurisdictional authority over Class IV-General forest practices. These are forest practices where land is being converted to a use other than forestry – this often means residential, or in some cases commercial development – because the development of the property is going to preclude that land from being reforested for additional timber harvesting or future commercial forestry.

As we continue to collaborate on this draft code to assume authority, staff will be working with the Department of Natural Resources in partnership with the Department of Ecology. Both of these agencies are going to act as technical advisors to the County in acceptance of jurisdiction. This process is completed by the review of both our existing codes and also these proposed codes going through the legislative process, making sure that the County has provisions in place for the protection of critical areas, the protection of cultural resources, and also a procedure for reporting the approval of these Class IV activities to the DNR. This review of jurisdiction will be done through the completion and submittal of the local government entity, or the LGE – lots of good acronyms this evening – Transfer of Jurisdiction Worksheet, and that will facilitate our assumption of that authority.

In order to comply with the Forest Practices Act and also to implement the goals of the Comprehensive Plan, the County is proposing a new chapter in Title 14, SCC chapter 14.22, which will be named Land Disturbance and Forest Practices. The draft code that is attached to this evening's memo provides a jumping off point for us to develop a new Level I permit application for a variety of clearing and grading projects. The County currently processes a grading permit application. This grading permit is administered pursuant to Appendix J of the International Building Code, the IBC. The goal as we work through this new Level I permit is that we harmonize requirements for clearing and grading with the requirements of the IBC, all the requirements of Title 14, including stormwater regulations; and also providing very clear descriptions of what constitutes exempt land disturbing activities – activities that would not require a permit from the County.

The provided code draft for the RFI represents somewhat of a milestone in a project that began in 2007 and has been the focus of research and work – by my count from the records – of at least two planning directors; at least three senior planners/long-range planners; and multiple members of the Forest Advisory Board, the Planning Commission, and the Board of County Commissioners over these last 10 years. With this weight of history, I tried in my memo to provide a synopsis of the RFI's inception from when it was first proposed by the FAB – Forest Advisory Board – in 2007, then moving on to the work that was done by staff in 2008 and 2009. This was the time when there was a draft memorandum of agreement that was done to facilitate the transfer of jurisdiction of the open space tract from the County to the DNR. There was also development of model code at this time and also the receipt of community stakeholder input. And that was pursuant to the RFI being put on the annual Comprehensive Plan docket in 2009. Reviewing the paper trail here at PDS, it's my understanding that the project was then put on a hold by the then-planning director in either late 2009 or early 2010, and work appears to have ceased on the project for approximately six years.

Now we fast-forward to 2015, and staff was directed by the Board of County Commissioners to keep working on the project in tandem with these mandated updates for clearing and grading regulations in the Class IV forest practices. 2015 to March 2017 saw continued research by the long-range planner that was here at the time; legal analysis from the County's attorney; and also staff outreach to surrounding jurisdictions.

The RFI is a proposal to apply the Department of Natural Resources critical areas standards instead of County critical areas standards for wetland and wildlife habitat protection to open space tracts created for the purpose of future non-conversion forest practices through the CaRD, the Conservation and Reserve Development clustering land division process. That's a mouthful. An application for a cluster subdivision like a CaRD permits the total density available on a piece of property to be clustered through the creation of lots that are smaller than would typically be permitted in that zone. A tract is then created in concurrence with those lots and that tract will contain all the land that you have saved pursuant to the clustering. That tract has no remaining density on it.

Skagit County Code currently allows for two options for this tract that's created through the CaRD. The plat can be recorded with the tract remaining as permanent protected open space. In other words, it's protected in perpetuity from any future land disturbance. Or the tract may be noted on the face of the recorded plat as a natural resources land easement, or a NRLE, where ongoing mineral resource extraction, timber management, or agriculture continues to take place. No critical areas review takes place on the tract when it's put into the protected easement. Since there's no disturbance that would ever be permitted, there are no impacts to evaluate at that point. The NRLE, however, does require a full critical areas delineation to provide protection for wetland and habitat in anticipation of future land use impacts.

The intent of this first draft of code put in front of the Planning Commission and the community is a proposal to allow a submission of a DNR- and County-approved Forest Management Plan in lieu of a wetland delineation for the open space tract, which we're referring to in the draft code as the Open Space Forestry Tract. We really had two goals in proposing this requirement for the FMP. The first is in acknowledging our responsibility as the local land use authority in creating the forestry tracts. Per my conversations with the DNR, the FMP acts as a guarantee from the DNR that the land is indeed eligible for future commercial forestry.

The second goal is really to put into the public forum the question that's been asked since 2007 when the RFI was first conceived, and it's a question that we'll be working to answer through this process: What appropriate level of critical areas identification, classification, and protection that's required in the tract created through the subdivision process, but which is only going to be eligible to support those Class I, II, and III forest practices that require approval from the DNR but which would not require review or approval from the County?

In preparing these materials tonight, I did reach out to the DNR, to the Department of Ecology. I've collaborated with our legal counsel and also talked to our permitting team, because they're the folks who are eventually going to be responsible for administering these codes that we work to develop over the next few months. I definitely put the administrative team to task as I had them digging up records from many years ago – any e-mail they could find, any record at all – in trying to understand specifically the RFI project. Obviously we still have a lot of work to do. You guys have a great team here at the County. They have made my job easy over these last few weeks.

With that, I'm going to stop talking. I'm going to go sit down over there, and let's talk about some code. Thank you.

Chair Raschko: Thank *you*. Is it fair then now to open this up for questions?

Ms. Pratschner: Absolutely.

Chair Raschko: All right.

Ms. Pratschner: Questions, comments.

Chair Raschko: Who would like to go first?

Ms. Mitchell: I've got a basic one. One of the early parts of the memo it said that in order to comply with the Forest Practices Act, et cetera and so forth, what we were going to do ___ disturbance. Is there any way that we're not complying with the Forest Practice Act now? Or –

Ms. Pratschner: The requirement for adopting provisions for the Class IV forest practices, I believe that came along quite a few years ago. So I'm not sure I can 100% answer your question, but right now I would say I don't believe we're not in compliance with the current Forest Practices Act Class IV conversions. Those are the kind of activities that are – that generate the requirement for local land use development permits. We have our opportunity to review at that point. The other classes of forest practices, those are in the DNR's jurisdiction and we are reviewing those, as far as I know.

Ms. Mitchell: Okay. Thank you.

Ms. Pratschner: Thank you – good question.

Chair Raschko: Could you clarify for me when you talk about the Class IV? There's Class IV-Special and there's Class IV-General. Are you referring to both of those or just the General?

Ms. Pratschner: Oh, I'm sorry, Dale. Yes, just the General. Thank you.

Chair Raschko: Okay, so you would not look for jurisdiction in Class IV-Special.

Ms. Pratschner: No, we've not proposed that.

Chair Raschko: Okay. I have another question in the 43-page handout.

Ms. Pratschner: A few attachments in there. . .

Chair Raschko: Yeah. I apologize for not having this thing out. I think it's on about page 12. Okay, excuse me – page 14.

Ms. Pratschner: Thank you.

Chair Raschko: Under number (3). It says that Skagit County has jurisdiction over the following forest practices, and in (c) below it says Class II, III, and IV-Special forest practices located outside UGAs.

Ms. Pratschner: Oh, okay.

Chair Raschko: Now is there a typo or a mistake in that?

Ms. Pratschner: That probably isn't absolutely – it wasn't my intention to include those Special forest practices.

Ms. Mitchell: So which part would we delete?

Ms. Pratschner: We're looking on page 14 of 43, and this is section (3)(c), Class IV-Special forest practices.

Chair Raschko: Well, how about the II and the III? It has all three listed as -

Ms. Pratschner: Let me go back into the – yeah, let me make sure I get myself oriented here.

Chair Raschko: And then in (d), as well, it lists Class IV as outside of UG – Class I, excuse me – outside of UGAs, which is surprising because on the next page it seems like the table, in my mind, would be correct.

Ms. Pratschner: It was probably me not being very conscientious of where I was putting my headings and descriptions, so thank you for pointing that out.

Chair Raschko: Another general question –

Ms. Pratschner: I'll make sure that gets fixed in the next draft.

Chair Raschko: I appreciate that. Is there a particular reason why RFI needs to be included with land clearing ordinances?

Ms. Pratschner: That question, I think, I will defer to the Director this evening. I have listed that history on the project. I can certainly give you my understanding that since we are taking over for the Class IV-Generals and those conversion activities that the request for the RFI really almost forces us in the position of answering that question of jurisdiction, and I believe that's what I wrote in the memo. But if the Director has more feedback on why it's been included. . .

Dale Pernula: That's pretty much it. You know, once you're into the forest practices you need a clearing ordinance because that's what's occurring. Prior to development.

Chair Raschko: Prior to development. Okay, I understand. So it's a Class IV-General _____ want them to go that next step. Okay.

Ms. Mitchell: I've got another basic question for you when you _____.

Ms. Pratschner: Yes.

Ms. Mitchell: It's kind of like a housekeeping kind of thing.

Ms. Pratschner: Sure.

Ms. Mitchell: In the handouts that you gave us there was a section in there where you can clearly see pieces of _____ King County because it has "King County" at the top, but there's other parts of scanned in – it looked like scanned in code but I couldn't tell where they came from.

Ms. Pratschner: Oh, yes. That – those were originally attachments to the letter that was submitted by Mr. Chamberlain from the Forest Advisory Board.

Ms. Mitchell: Okay.

Ms. Pratschner: Those had been attachments to that letter. I'm not sure if those attachments of those codes in 2007 really add to the discussion this evening. They probably just serve to put extra pages in your memo! Thank you for pointing that out.

Ms. Mitchell: And with the stuff – so the stuff that's been included for suggestions from King County would then just be those short couple, three pages or so. Is that right?

Ms. Pratschner: Yes, yes. Staff has reached out to King County. It looks like that outreach began – what I can tell from the e-mail correspondence – starting in 2015, 2016 because they have a program where they require that Forest Management Plan in lieu of – or I won't say in lieu of, but they require that Forest Management Plan as they are doing these cluster subdivisions. I would just qualify that statement that King County – it's my understanding that they also have established their own best available science, though, for critical areas, so that's something to keep in mind as we're looking at comparisons between the two codes.

Chair Raschko: If I may, I'd like to go back to my prior question again.

Ms. Pratschner: Oh, yeah.

Chair Raschko: Just a comment, not a question so much. But it just seems to me that a forest practice is that, and if you do a forest practice on a conversion I would think that the clearing and grading permit or land disturbance permit would be more associated with the necessary permit to do whatever construction or conversion that follows. And I still see that – I think it would be cleaner way to do it to not have all of these things lumped together into one attempt. And the word "harmonize" is used here. I can see what the intent is in that word but I think it's an awfully difficult task to do that in one little piece of code.

Ms. Pratschner: Do you think you would give us guidance to – so we're creating the land disturbance chapter and then – so separate that out from the assumption of regulatory authority for the forest practices? I'm just trying to get an idea if you think there's a better way to organize.

Chair Raschko: Well, typically the way this has been done, in my experience, is that if somebody wants to do a conversion they have a forest practice first. That conversion may not occur for quite some time. And so you have the forest practice application permit and you do it. And then when you want to do the actual land use change, whatever you're going to do – subdivide, plat it, whatever – at that point in time all the other permitting comes into play, but it separates it. And the way this is written you need to get a clearing and grading permit every time you want to log or harvest the timber.

Ms. Pratschner: I understand. Okay. That's a great suggestion.

Chair Raschko: Thank you. Anybody else? Okay.

Ms. Mitchell: A lot of the questions are just basic ones. Stacie, if you could help bring me up to speed understanding some of this.

Ms. Pratschner: Right.

Ms. Mitchell: So the e-mails at the end where Kirk had interaction with the DNR folks – the very end of – oh, I would say it was the last two pages of the whole thing.

Ms. Pratschner: Yes. Yeah, the final attachment.

Ms. Mitchell: So the conversation goes back and forth. Could you explain that a little bit? As a lay person, I don't know if I'm understanding –

Ms. Pratschner: Sure.

Ms. Mitchell: – very well, but it appears to me that part of the discussion was saying that Whatcom County keeps their hands off on certain things but Skagit County doesn't have that philosophy.

Ms. Pratschner: Right. Right. I think that's a good sum-up of the discussion. I do need to go back and have further discussion with Whatcom County. I'm not sure what provisions they have right now for cluster subdivisions in their forestry zones, so I'll go back and get an answer for you for our next meeting. But that's also the impression I get from the e-mail correspondence as well, is they're taking a more hands-off approach whereas our approach seems more hands-on.

Ms. Mitchell: Why would that be, too? I'm curious.

Ms. Pratschner: Probably another question for me to defer to the Director, if there's been a historical –

Mr. Pernula: I don't know much about what Whatcom County does at all. I couldn't assume.

Ms. Mitchell: Well, I mean for us. I mean, why would we have a hands-on approach? What's the intent behind?

Mr. Pernula: Having a hands-on approach?

Ms. Mitchell: Mm-hmm.

Mr. Pernula: I don't know that I can answer that question very well for you. I think I'd defer to probably John Cooper to answer that question. He's the person who's the hands-on person. They have practices that they've been working out with DNR over the years and I don't know why.

Ms. Mitchell: Okay.

Mr. Pernula: We can bring John to the next meeting.

Ms. Pratschner: Speaking of Whatcom County, I also did reach out to some other surrounding jurisdictions. I reached out to King County again, Clallam County, Snohomish County just to get a feel for how they review cluster subdivisions in their forestry areas. And they all take the approach that – or a very similar approach – that we currently have codified, which is you create an open space tract that will remain for natural resource extraction commercial use. But you're going through the full-fledged delineation at that point. They take the same tack with their open space protected areas since they're not anticipating any future land use on there. There isn't

any review at that point. It's just put in that conservation easement or native growth protection area and it stays that way in perpetuity.

Ms. Mitchell: Okay.

Chair Raschko: I'd like to make another comment. Page 4, right on the top is the source. And I can't find it right now – I apologize – but I think somewhere in here it stipulates that this'll be allowed on lots of a minimum 20 acres. And if you read a lot of the code which suggests that a goal is for the healthy existence of the forest industry. I'd first like – really likening it to farming. You don't have farming unless you have processing plants and products and you can ship to market. You can have all that farmland out there but it becomes open space without the ability to market it. What you have here is a lot of mills closing because of the lack of adequate supply. And there's now one major mill that dominates the whole place. But if the supply of wood becomes small enough that that is not feasible or financially stable it goes away also. And then all of a sudden you have a whole lot of open space in this county and not a lot of ___ tax. So my point is that we should be trying to maximize the amount of land that is suitable or considered forestland. And I think having a minimum lot size of 20 acres then deters many people from keeping these spaces that they would otherwise use for that purpose. And then at the top of page 4 when it says that stating – the DNR stating “the determination of whether property is forestland and eligible for an FPA may be compromised by the property's proximity to adjacent residences and agricultural land.” And I would argue that being adjacent residences or agricultural land should have no bearing on that decision of whether it's appropriate for timber management.

Ms. Pratschner: Yeah, that point that I had made, that was really from reading through the e-mail correspondence that Kirk had had with Marc Ratcliff. On page 43, “The statement that DNR views the non-converted area as possible forestland is true. If the landowner submits an FPA for the remaining 3 acres,” the “DNR would evaluate that based on if” it “meets the definition of forestland and if the activity is on-going forestry. In some cases, due to the proximity of adjacent residences/ag land, DNR may determine that it does not meet forestland.” So I was just trying to draw attention to that language that I had seen in that correspondence from the DNR.

Chair Raschko: Okay. I would just offer that I did this for 42 years and you would have conflicts sometime –

Ms. Pratschner: Absolutely.

Chair Raschko: – *but* whether you want to use your land for forest production is *not* a decision that DNR ever made – whether you could have an FPA. Matter of fact, they *wanted* you to have the FPA rather than just go out and cut your trees.

Mr. Pernula: So this talks about adjacency to residences and agricultural land. Those seem to be two totally different kinds of uses. Perhaps agriculture, there may not be as much of a potential conflict as you would if you've got a lot of houses in the vicinity.

Chair Raschko: Right. You know, it isn't infrequent at all. Just go talk to the people that – at Sierra Pacific. People buy small lots on the edge of the forest. Suddenly everything that goes on for a couple miles above them becomes their concern. And in handling conflicts or the fears of people is a constant job for a professional forester. I mean, it just is. Not everybody likes what is taking place. A lot of it is aesthetics. A lot of it is fears. A lot of it might be legitimate concerns over possible unstable slopes and that type of thing. But I guess my point is just that by

somebody looking at a map and seeing that there's four houses adjacent to another thing, the DNR has no right to say you cannot have an FPA and it's not suitable for forest production.

Ms. Pratschner: But one of our goals with the development of the code is – as we acknowledge our authority as the local land use decision-making authority – is how the County goes about determining if we allow the creation of an open space forestry tract pursuant to the CaRD, how do we – or what serves as the nexus and what serves as the guarantee that that land is indeed eligible for forestry? So then we can say we made the responsible decision in designating it thus. And so the proposal for the Forest Management Plan is just a first idea on how that determination can be made.

Chair Raschko: The management plan's a very good idea as long as it's appropriate.

Ms. Pratschner: As long as it's appropriate. Right. Yep. And we definitely still have more work to do on some of the details of that Forest Management Plan. King County takes the approach where they have determined the metrics for that plan. Obviously there's already a Forest Management Plan in place and that's done through the DNR. It's not something that's created by the local jurisdictions. Just something to get the conversation started!

Ms. Mitchell: If you don't mind following up? So what do you guys have in mind for the forest plan now? What's that going to look at?

Ms. Pratschner: The Forest Management Plan – I have a copy of it. In the memo, I went ahead and took the language directly from that language in the Forest Management Plan. And the idea behind it is that it's able to serve the landowner as well as fulfilling the requirement in the County in determining that the land is eligible for ongoing commercial forestry. I'm sorry. Just one second. I'm going to find the language I used here and that'll help me. That'll get my brain –

Ms. Mitchell: And tell us what page you're on, too.

Ms. Pratschner: I am on page 3 of 43.

Ms. Mitchell: Thank you.

Ms. Pratschner: Okay, correction. I'm on page 4. So this is language I took from the DNR directly. "The plan assists the landowner in meeting their individual ownership objectives for the forestry portion of their property by protecting, improving or restoring the health and productivity of their timber resources." So part of the Forest Management Plan includes just having the applicant think about the long term plan for the property. And, of course, we as planners always appreciate that because we're supposed to be thinking about cumulative impacts and thinking long range about these things. It does provide an opportunity for applicants to identify what sort of forest products they expect from their land. If they know of any critical areas onsite – when I say "critical areas" I'm including wetlands, steep slopes, habitat areas, et cetera – also the identification of cultural resources.

Ms. Mitchell: Good. Thank you.

Ms. Pratschner: Yeah. I hope that answered.

Ms. Mitchell: Yeah, I was hoping it was going to be along those lines and not something – you know, how detailed. It could go from very general, which is kind of what the forest – the DNR deals with this now.

Ms. Pratschner: Right.

Ms. Mitchell: You've got more of the general stewardship type plan.

Ms. Pratschner: Right.

Ms. Mitchell: You can get *really* detailed or not.

Ms. Pratschner: Sure. Well, yeah, and that's definitely something we want to keep working on with this code, you know, and that's something I need to understand from the DNR, as well – is just exactly how deep does the Forest Management Plan need to go. What I do understand from Marc Ratcliff at DNR is that that FMP does not need to be prepared by a forester. A landowner can prepare it. So, I mean, obviously you can hire a professional if you want to to fill it – or to do it – but you're not obligated to.

Ms. Mitchell: Do you have a sense of how much it's going to cost the landowner to do one, assuming that they're not trained? And there are a lot of people that are trained, but the ones that are not?

Ms. Pratschner: Right. I'll find that out for our next meeting.

Ms. Mitchell: Thank you.

Ms. Pratschner: Thank you.

Chair Raschko: I'd just like to make a comment again on that.

Ms. Pratschner: Yeah?

Chair Raschko: I think it's a very good idea to have a Forest Management Plan. And the detail that goes into it is a very indicative of somebody's commitment. What I would warn against, though, is getting to the point where you are asking for studies and that type of thing that would be big dollar items when you might be 15 or 20 years away from this thing actually happening and having any cash flows to recover the 15 or 20,000 dollars it might cost you for those.

Ms. Pratschner: Right.

Chair Raschko: So basically the Forest Management Plan should be a well thought out example of your intent, but when it comes to actually delineating unstable slopes and studying that stuff, as well as looking at wetlands or things needing buffering where you need to bring in professionals, that can be done at the time of the application. And the DNR does have – they're not to the same extent that the County's critical areas are treated. But still there are a list of things that you come across – unstable slopes is one of them, endangered species. I'm sorry. I just can't pick it all off the top of my head. And if those are found to exist on the property then it becomes a Class IV-Special application and suddenly SEPA review is kicked into place. So it is very rigorous, and most forest landowners would rather not even go there and just leave the timber in those areas rather than go through all of the cost and the hardship of a Class IV-

Special application. So then my point is just that by having what you might call a more generic management plan in the beginning at the time the conversion is – not the conversion – that the designation is made does not indicate that once a forest practice is actually applied for it will not be very, very rigorously examined.

Ms. Pratschner: Right. That's what I understand, especially for the Class III forest practices, because then the DNR also involves DOE. They involve the local jurisdiction at that point as well.

Chair Raschko: Fish and Wildlife.

Ms. Pratschner: Yes, Fish and Wildlife. Yeah. Okay.

Mr. Pernula: Okay, totally separate from the forest practices issue, if we're creating these residential lots – four or five lots – and we see a geohazard that may affect the subdivision or where the subdivision may affect that geohazard, we're going to have it examined pretty carefully before we allow that conversion. So and that's really – even though it's related to the Rural Forestry Initiative, it happens now and it happens regardless if we adopt this Rural Forest Initiative because we want to make sure that there's no geohazards that are going to affect or be affected by the subdivision.

Chair Raschko: Anybody else?

Ms. Mitchell: I still have questions.

Chair Raschko: You still have questions?

Ms. Mitchell: Yeah. This boils back down to some basic understanding. I'm going to read a piece to you that Kirk had said in one of the transcripts when he was giving a presentation. And he said it basically boils down to two things. And I'm thinking back to – I was having such a difficult time reading through this and understanding what the concepts were and where we were going –

Ms. Pratschner: Right.

Ms. Mitchell: – compared to what I had read before.

Ms. Pratschner: Right.

Ms. Mitchell: And so the purpose of this is just to have you distill it in simple layman's terms for all of us.

Ms. Pratschner: Okay. Okay.

Ms. Mitchell: He said at one point when he was describing what we were going to be doing, he said, "It kind of boils down to two questions and one is, Is land that's placed into a permanent Open Space Forestry designation per the proposal not a conversion to a use other than commercial forest product production?" Because if it's not a conversion then you go back up above. It says a local jurisdiction can't regulate that under its land use regulatory authority. And so I'm getting all confused again.

Ms. Pratschner: Okay. It's been an adventure trying to understand this project – you know, just – it has, definitely. What I think it boils down to – I'm going to try not to use planner-speak here and try to speak like a human being instead. So the appropriate content of any – since this is the focus of our discussion this evening – of any wetland regulation, it's a balance of science. It's a balance of policy. It's a balance of community values. So if we go from that determination, what the RFI is proposing is what was put forward by the Forest Advisory Board and then what was also later said by the Forest Advisory Board in 2009 when they sent their letters to the Planning Commission: that it was their understanding that the act of forest conversion only applied – and I'm just speaking here what's said, not to be taken as Stacie's personal opinion or anything like that – that the act of forest conversion, the Class IV, only applied to the lots that were being created in the subdivision process that would support public and private improvements – that the act of conversion did not include the creation of that Open Space Forestry tract.

Now there's, you know, as Dale and others who I've worked with have worked with legal counsel on this question. It was a question that Kirk was also working to try and answer because, of course, that begs then the second question: If, through a development permit process, the creation of that tract is indeed a conversion, just as the installation or construction of public and private improvements are a conversion, then what is the County's responsibility as far as critical areas regulation? That's how I understand it, and I understand the fundamental question that we're trying to answer. Did that –

Ms. Mitchell: That helps a lot?

Ms. Pratschner: Did that help? Okay!

Ms. Mitchell: That helps a lot, yes.

Ms. Pratschner: Okay, that's why I'm understanding it. I'm glad Dale's here this evening. He has so much more depth in the project than I do. So if you have something else to add to that understanding, please do.

Mr. Pernula: No, I think that's a good answer. I think Kirk's answer that he is posing – whether or not the taking of those development rights and clustering them in one area means that the larger area – the Open Space Forestry area, which can't be further developed or can't be developed beyond the forestry practices – whether that's a conversion or not. That's the fundamental question of RFI.

Ms. Mitchell: Okay. And since you brought it up – and if we can't go there yet just say so –

Ms. Pratschner: Okay.

Ms. Mitchell: – but I realize that we keep touching on the legal questions and the legal issues. What do we know about that at this point that's applicable?

Ms. Pratschner: I'll again defer that question to the Director. He's been working with legal counsel on that question.

Mr. Pernula: I don't think that we have a clear call one way or the other – at least I haven't heard a clear call – and I don't know that we're going to get one because I don't know that there's a lot of other jurisdictions that are doing something just like we are proposing.

Ms. Mitchell: Okay. And have you guys heard back from the FAB on this specific that's come out yet, or are you still waiting to go to them and other people?

Mr. Pernula: Well, we've proposed earlier phases of this proposal and we got some comments back, but nothing specific yet.

Ms. Mitchell: Okay.

Mr. Pernula: Dave Chamberlain was at a recent meeting and he had a lot of comments, however. And some of those would open it quite a bit broader than what we're proposing.

Ms. Mitchell: Okay.

Chair Raschko: Anything else?

(silence)

Chair Raschko: This might be a difficult one, but I failed to hear.

Ms. Pratschner: I'm ready.

Chair Raschko: When you were talking about NRLEs, "requiring" and then I wasn't able to hear clearly what you said – if that's an easy thing to go back to.

Ms. Pratschner: Oh, certainly. Yeah. Sure. I spoke with the team supervisor for the current planning department prior to our meeting, and when a natural resources land easement is created through the CaRD subdivision it is subject to the entire provisions of chapter 14.24. That's our critical areas chapter.

Chair Raschko: Okay. Thank you.

Ms. Pratschner: Thank you.

Chair Raschko: Nothing else from anybody? Well, I think you certainly had a daunting task assembling this, and thank you very much for your effort and your good presentation.

Ms. Pratschner: Well, thank you guys for having me here this evening. It is definitely my pleasure and privilege. I think I have some work to do, though, before we meet again.

Chair Raschko: Okay. So if there's nothing else on the subject, we'll move on to the Department Update.

Mr. Pernula: Okay, not a lot to comment on. One thing is that we have been in the process of hiring lots of additional staff, three of which affect the Planning Commission. You've probably had correspondence from Kathy Jewell. She's the replacement for Linda, who left. Of course, Stacie, who's been speaking all night. She is a new long range planner. We also have a current planner that's in a new position helping Brandon Black get permits out. Most of the other people that we've recently hired in the Department – and there are nine of them – are replacement positions. We had a number of retirements – four of them, I believe. A couple of people moved on to other positions. And, as I mentioned, we had one new position and another position that

we created where we transferred the responsibilities from another department to our department. So anyway, there's a huge staff change for our department over the last two months – nine people. So that's the main thing we've been working on. We're right at the peak of the building season right now so the office is very, very busy – lots of permits coming in, quite a few going out. And so that's what we're spending a lot of our time on.

Chair Raschko: I think it also appears you're repairing every road in the county.

(laughter)

Chair Raschko: Sorry!

Mr. Pernula: At least tearing them up!

Chair Raschko: Okay, we'll turn now to Commission Comments – Commissioner Comments and Announcements. Anything, Tammy? Kathi?

Kathi Jett: I was wondering – Hal Rooks wrote a memo addressed to each of the County Commissioners. Or – yes, Commissioner Wesen, Dahlstedt, and Janicki, and copied the Planning Commission on this memo. Did any of the other – I mean, has anybody read the memo and, if so, what are we going to – how would we respond or – how do you feel about it? I mean, I think it's in – it's (an) attempt to be constructive criticism of how the public perceives this Planning Commission and I think it's important and I don't think we should ignore it and sweep it under the rug.

Chair Raschko: My personal feeling is that I'm not going to ignore it nor sweep it under the rug, but I'm not prepared tonight to comment on it. Perhaps I will at another time.

Ms. Jett: No, I didn't ask people to. I just want to know how Commissioners feel. I'd like to talk about it.

Chair Raschko: I think it shouldn't be swept under the rug.

Ms. Jett: Okay. Well, then I would like to request that a future – in a near-future meeting we discuss it. You know, Commissioners read it, write down their comments, if they think they're justified or not justified, and look at the code that covers the Planning Commission.

Chair Raschko: Okay. But I will also say that my feeling on it doesn't speak for the rest of the board.

Ms. Jett: No.

Chair Raschko: And I'm not saying that we should not do as he suggests. I'm just saying that I think there's more voices to be heard than my own.

Tammy Candler: Okay, can I just make a point?

Ms. Jett: Sure.

Ms. Candler: It's not really addressed to us. We were cc'd and it's addressed to the Board of County Commissioners.

Ms. Jett: Correct. But it's *about* us.

Ms. Candler: Right.

Josh Axthelm: I'd like to address something on it, and just generally, not necessarily on the letter itself – is that, you know, as Planning Commissioners we come from many different backgrounds. You know, we come and be a volunteer and it's – we listen. But listening is not all we do. We have to read. We have to understand. And there are situations when we make decisions that to the general public or even a special interest may not be in their direction. We have to make a choice. And sometimes those choices – I mean, even personally I've come across things that I've voted on that were against what I believed. But yet there's a right way to do things sometimes. So it's a hard decision. I mean it's not really addressing it but it's a hard decision to – it's hard to make decisions sometimes with the Planning Commission. And just because it doesn't go your way doesn't mean that it's not the right way. How does that – _____ real good? We have to speak for a lot of different things, and we have to speak – you know, we speak for the county in a lot of ways. We speak for the people of the county and the general good of the public, and we speak for private property owners. And we have to consider all those in those actions. You know, what's good for one may not be good for another. And just because a majority wants something doesn't mean it's the right thing to do. On the other hand, just because a minority or a special interest group wants to do something doesn't mean it's the right thing to do either. So I think we have to make a judgment call and sometimes that's not – it's *always* not easy to make.

Chair Raschko: I'd like to elaborate a little bit on what I said. I said I don't think it should be swept under the rug. I also do not believe that it should become a public debate and just empower this type of response. I think it's worth looking at the points in it and evaluating them, and perhaps talking to our Commissioners about those points, and make sure they understand that we did what we did – it was for a particularly good reason. But, personally, I'm not interested in having a debate about the thing. But, as I say, other people have other feelings.

Ms. Mitchell: I'd like to know what Dale advises. And when I was working whenever you were cc's that meant it's for your information but you do not reply.

Mr. Pernula: I think that you can have a discussion among your – amongst yourselves if you think that it would be constructive in helping you in the future to make – to come to decisions. I think that may be helpful. I don't know that it's necessarily something that should be discussed and forwarded to the Board of County Commissioners but it may be something that you – that may be helpful for you to improve your actions.

Which brings me to a question for the Board. Only two of you are here, but four of the Planning Commission members went on a tour of Guemes Island with some of the same people, and at some future meeting when all four of those members are here I'd like to discuss it and see what their opinion was on that particular matter. And also they've invited other members of the Planning Commission to go on that same tour later in this year. Maybe that discussion can be at that time.

Ms. Mitchell: Three of us are here, Dale.

Mr. Pernula: Oh, you went too? Okay. I was thinking – okay.

Mr. Axthelm: That was great for them to set up. I was not able to make it. I had a family commitment that I had to go to.

Mr. Pernula: Well, would you like to discuss it tonight or you want to put it off until more people are here?

Ms. Mitchell: That'd be great to hear what Hollie says.

Mr. Pernula: Okay. Also I do have a question: Do you want to bring this – put this on a future agenda? Or some issue? What's the role of the Planning Commission?

Chair Raschko: Well, we can go around the table. I would say no.

Mr. Pernula: Okay.

Ms. Jett: I would say yes.

Chair Raschko: Any other feelings?

Ms. Candler: I would say that I *think* that I understand the role of the Planning Commission. If the Commissioners think otherwise and feel that we need some training, then that should be addressed. If we do not need training in that exact area, maybe it should be addressed in a different way to, you know, the authors or some other way. But, you know, I didn't agree with that aspect of the letter, so if I'm wrong we should have training.

Ms. Jett: My concern is that I think that at least the public perceives and I just – just my observations – I've only been on the Planning Commission for a year, but my observation is that I don't think that the public written and oral input is given the weight that it should be given. I think a lot of the decisions are based on what Commissioners personally think and not what the public that's being specifically affected by – let's say P-7, how that affects Guemes Island and the residents of Guemes Island. I don't think that their hard work and research and opinions even – let's say it's not 100% but it's by far the vast majority, how they feel. I just don't think the Commission is giving proper weight to that and that's why I bring it up.

Chair Raschko: Okay.

Ms. Candler: I kind of think that's the same thing that I'm talking about.

Ms. Jett: That's right.

Ms. Candler: If we – I don't agree with the letter that we don't – that we didn't consider those things that were said at the public hearing which we listened to, the public comments that I'm sure we all read – so obviously I don't agree with that. But if that means that the Planning Commission can do nothing other than agree with a proposal that's unopposed, we would need to know that because that's *not* my understanding.

Ms. Mitchell: I think there's another piece just to some of the basic function for – I believe I understand what the Planning Commission's roles are. We know what the bylaws are. We've been experiencing an awful lot of things. We get direction. If we were ever to be stepping over the line for legal issues, that's one thing that Dale and staff have in the past before told us or warned us about. So we know that. So we know we've not broken any state or Skagit County

Code whatsoever. One of the things that a lot of people don't know about Planning Commission members is that people come from a wide variety of backgrounds. Most of the people live in places where they've talked to people, know things, have experiences, read information, have all kinds of input that cumulatively come to where they are. And that's one of the reasons the Commissioners chose each of us. They had candidates that came through for different reasons, different times, different places. You never (know) who you're going to have one particular time or another. And so it's the County Commissioners' discretion on who they choose and why they choose – and usually it's because of experience and background to fulfill the needs or the balance of the Board. The Board of County Commissioners was with us not – what was it? – a couple sessions before that saying how well balanced they thought the Planning Commission was and is. And I think an awful lot of the public don't understand what the responsibilities are, what people are supposed to do. The kind of information that they take in is not relegated to only what comes from staff, who always do a very good job with putting a lot of information out. It doesn't always come from what public input is. I think the Planning Commission routinely and has always considered everything that comes in. Everybody I know reads everything and looks at everything every chance they can get. So the thing is is that nobody lives in insulation. You have information and conversations and background, contacts of all kinds, things that people know of. So when you put all that together, there's an awful lot to it. So from that point, I would say similar to what Tammy said. If the Board of County Commissioners feels that the Planning Commission is lacking training or lacking some area then great, let's go for it.

Mr. Axthelm: I will say one thing. Is it at – you know, as we make these decisions, you know, we come across the findings of fact and the reasons for actions, and those things are important for us to express how or what reasons we made those actions. And in situations where, you know, something passes or something doesn't – let's say something doesn't – there is an opportunity to see our reasons for action and to make a change and to present that again. And that's – I think that's just part of the process and that sometimes things have to come back and go through a few times. How long did it take – when you look at Shoreline how long it took for those things to go through. There's some things that take years. You know, how long this has been going through the process for the Forestry Initiative. And it changes as it goes. So that's part of our deal. And I personally try to consider everything in my decisions, you know, as we read and as we go through the facts, as we go through the information, as we go through opinions and the public. It's very important. And to say that we don't consider that, to me it's shortsighted. Because we're here volunteering and I think that, you know, it's important to consider what we're doing, and we'll do our best to stand up for what we believe and what we feel is the right way to go.

Chair Raschko: Thank you. Any more comments?

(silence)

Chair Raschko: Okay.

Ms. Pratschner: Commissioner Raschko, could I just follow up on – just hearing you have this conversation, I guess it just highlights to me as a planner the – I mean, really the beauty of the public rule-making process because that is the opportunity, as everyone at this table has said, to take in comments and evaluation from the public, from stakeholders, from our partner agencies. None of these decisions get made in any kind of vacuum. And also as a follow-up to that, if there's anything more that staff can do to make the process more clear or easier – I don't know if it *ever* gets easier, but at least to be more clear – please let me know. Please let us know.

Mr. Axthelm: Thank you.

Ms. Mitchell: Thank you.

Chair Raschko: So is everything – questions are answered?

Ms. Jett: Yes.

Mr. Pernula: I think it was a good discussion.

Chair Raschko: Okay. I will make one last comment and that's that, you know, right in this notebook I've got names of people who got up and spoke on that issue. And one thing I've really found in this Commission is how important the public input is. And it was really interesting – maybe I'm going a little far here but I was on the – an elected Commissioner for Skagit Valley Hospital for 15 years. And when people made public input most of the time the business was so complicated that they didn't know what they were talking about and were way off the mark. So I was really pleasantly surprised the first time I heard public comment. I thought, Boy, you better sit up and listen because these people have some points of view with which you may not be familiar with and you haven't heard. And so I consider that very important. But the other side of it is that I don't consider that the number of comments pro or con on a thing is really a good measure of how the population at large feels. It's easy to have a grass roots organization get the people out and everything else. Well, another large portion that doesn't even know what's happening, they're sitting at home. And so I think you have to take the information and you have to look and consider all things, but I don't think that you can consider the referendum just counting up the yeas and nays in the public comment.

So, with that, is there anything else?

Ms. Candler: I don't think we've settled whether –

Mr. Axthelm: Stacie said one thing in her presentation and it was something about balance of science, policy and –

Ms. Pratschner: Oh, yeah. Well, you know I get excited when I get to quote from some of the nerdy books that I read in college, so let me give you a reference for that article! So the – there was an article written in the University of Puget Sound Law Review in the early '90s when these questions of local wetland regulations were coming into play. And one of the statements in it that always stuck with me is "the appropriate content of wetland regulation is in the end a balance of science, policy, and values." I'd be happy to give you the exact citation if you want to read the entire article. It is from 1993 so a lot of things have changed since then, but –

Mr. Axthelm: No, I like that.

Ms. Pratschner: It still makes for good reading.

Ms. Mitchell: You'll send it to everybody. That'd be great.

Mr. Axthelm: Thank you.

Ms. Pratschner: Perfect. I will.

Ms. Axthelm: That's it.

Chair Raschko: That's it? All right. Do I hear a motion to adjourn?

Ms. Mitchell: Motion to adjourn.

Mr. Axthelm: Second.

Chair Raschko: All in favor?

Multiple Commissioners: Aye.

Chair Raschko: So we adjourn. Thank you.