

Skagit County Planning Commission
Public Hearing: Preliminary Subdivisions Code Amendments
January 23, 2018

Planning

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

Staff: **Stacie Pratschner, Senior Planner**

Chair Tim Raschko: (gavel) Good evening and welcome to the January 23, 2018, meeting of the Skagit County Planning Commission. We need to review the agenda because I noticed offhand that we need to have elections tonight and that has been omitted. So if somebody would make a motion to – unless there are other changes to the agenda that people have.

Tammy Candler: I'll move to amend the agenda to include elections.

Amy Hughes: Second.

Chair Raschko: It's been moved and seconded to amend the agenda to include elections, so all those in favor, say "aye."

Multiple Commissioners: Aye.

Chair Raschko: Opposed?

(silence)

Chair Raschko: All right. So we'll move to elections. We need to elect both the Chairman – is that what we call the chairman? Is it "Chairman"? – and a Co-Chairman. No, not a Co-Chairman. A Vice-Chair. So I'll open the floor for nominations for Chairman.

Martha Rose: So I nominate Tim to repeat his year as Chair, and Kathy as Co-Chair.

Ms. Candler: Second.

Chair Raschko: Does anybody please have any other nominations?

Kathy Mitchell: Operative word: please!

Chair Raschko: I believe we should do these separately and do the Chair first and then we'll do Co-Chair.

Ms. Rose: Are you going to open it for discussion?

Chair Raschko: We'll open the –

Ms. Mitchell: She wants to have discussion.

Chair Raschko: We will open the nominations for discussion.

Ms. Rose: So I re-nominated Tim because I think that by the time the year goes by and you're just catching on to what the program is, so I think a second year is beneficial for all of us. And that's the logic behind re-nominating him or nominating him for a second term.

Josh Axthelm: I'll second that.

Ms. Hughes: I concur also.

Ms. Mitchell: Same.

Chair Raschko: Okay. That being said, is there any more discussion?

(silence)

Chair Raschko: If not, all in favor of me being Chairman, say "aye."

Multiple Commissioners: Aye.

Chair Raschko: Does anybody oppose?

(silence)

Chair Raschko: All right. Thank you. Are there further nominations for Co-Chair? I mean for – excuse me – Vice-Chair?

Mr. Axthelm: I'll nominate Kathy for Vice-Chair.

Chair Raschko: Okay, we have one nomination for Kathy.

Ms. Rose: Second. Yeah.

Chair Raschko: Okay, so for all those in favor of Kathy Mitchell for Vice-Chairman, please say "aye."

Multiple Commissioners: Aye.

Chair Raschko: Opposed?

(silence)

Chair Raschko: So congratulations. You get to be Vice-Chair.

Ms. Mitchell: Likewise for Chair.

Chair Raschko: And that will conclude the election of officers for 2018. We'll move on to a public hearing. The purpose of the Public Hearing is to receive testimony and written correspondence regarding a proposal to amend the number of plat extensions permitted in Skagit County Code Title 14. Please limit your comments to three minutes so that everyone has a chance to speak. Special interest groups, associations, those representing others are encouraged to designate one spokesperson for your group. Before you testify, clearly state your name, spelling your last name, and your address. There will also be written comments accepted. They can be placed in the box in the back. The written comment period is open until Thursday, January 25th, at 4:30 p.m. It'll close.

So before taking comment, we'll have a presentation by staff.

Stacie Pratschner: Thank you, Planning Commission, and Happy New Year to everyone. Thank you for members of the public who are here this evening.

So today we are holding the public hearing for proposed amendments to Skagit County Code chapter 14.18.100. The purpose of these amendments is to provide additional time for short plats and plats to reach final approval that are currently not able to obtain water pursuant to the 2013 Supreme Court decision, *Swinomish Tribal Indian Community v. the Washington State Department of Ecology*. Today's hearing is being held subsequent to a workshop that was held with the Planning Commission on December 5th to present the proposal and also draft code.

The subdivision of land is governed by both state law and also by local ordinances. A short subdivision in Skagit County consists of four or fewer lots. Subdivisions – sometimes they're referred to as longer, formal subdivisions – contain five or more lots. The short plats and plats are the maps themselves that show the subdivision, the division of land, and then all of the associated public improvements – roads, dedications, easements, et cetera.

Subdivisions have a three-step approval process prior to when the lots are actually created and sold. There's the preliminary plat approval, which is either given by staff or the Hearing Examiner. That's the approval of the general layout of the streets, the lots. That's also when water availability is verified, verification that there will be sewage disposal, fire department approval, and then the other performance standards of Title 14 can be met.

The next phase is construction plan approval, which is the approval and then the actual onsite construction of improvements, and that's including but not limited to clearing and grading for building pads, stormwater facilities, your streets, waterlines, and again those sewage disposal systems.

When all of the improvements have been completed or bonded, at that point the final plat document is then recorded and the lots are then created and are eligible for use, development, or sale.

So within the county, in Skagit County Code 14.18.100, through a combination of preliminary approval timelines and also our available permit extensions, the County currently permits a maximum total of nine years for short plats to get to their final approval, and then there's a maximum of 12 years for plats to obtain final approval. Tonight's hearing concerns amending

that code section in order to provide an additional five one-year extensions for short plats and plats that did obtain preliminary approval but did obtain preliminary approval with the use of groundwater wells, but then that well use was later invalidated by the *Swinomish v. Ecology* decision. Now this was the ruling which the court held that Ecology did not have authority to reserve out-of-stream, year-around water use that would impair the minimum instream flows that were set in 2001.

The Department has identified two land division projects that have been identified by this 2013 ruling. There is the Theodoratus short subdivision, which is a four-lot plat in the Rural Reserve zone, and then the Madalyn Estates subdivision, which is an 11-lot plat in the Rural Village Residential zone. Both plats have been granted preliminary approval and that approval was granted with water verified. An installation of improvements has taken place on both these projects.

I would like to note a correction in the report for the Madalyn Estates plat. The applicants have completed nearly 90% of the construction for their water system in addition to the installation of the road to access lots 11 – pardon me, 10 and 11, which is noted in the report.

So both projects at this point have exhausted their administrative timelines and their allowed extensions, and so this proposed code amendment would grant additional time for the applicants to work with Ecology and obtain legal access to water.

Subsequent to today's hearing, the Department is not in any receipt of any agency or public comments concerning this code amendment, and that's pursuant to both the SEPA threshold determination and the public noticing that was completed in late December. The Department of Commerce has granted an acknowledgment letter of review. In addition, as was already mentioned, the public comment period for this code amendment is open until this Thursday, January 25th, at 4:30 p.m. Staff has determined that the proposed amendment has met the procedural requirements of both state and local code, and therefore the Department recommends that the Planning Commission issue a recommendation to adopt the attached code amendment. Thank you, and I'd be happy to take any questions at this time.

Chair Raschko: Are there any questions for staff?

(silence)

Chair Raschko: No comments? Thank you.

Ms. Candler: Well, we did ask – if I remember right, we asked to follow up on if we know for sure that these are the only ones affected or something – at the last meeting.

Ms. Pratschner: Yes, thank you. Yes, staff has gone through and run a report in our Permit Plus system, which is our permit tracking system, and these are the only two we've identified. Thank you.

Mark Lundsten: I have one. What was the impetus to finding out who was affected by this? Was it brought by the people who are doing it or was it – was it in the Department? What happened?

Ms. Pratschner: This was brought forward by the Board.

Mr. Lundsten: Okay.

Ms. Pratschner: Thank you.

Chair Raschko: Anybody else?

(silence)

Chair Raschko: Okay. Thank you.

Ms. Pratschner: All right. Thank you, Commissioners.

Chair Raschko: Okay, my understanding is we had nobody sign up to address the board. Stacie, is that correct?

Ms. Pratschner: Let me go ahead and double-check.

Chair Raschko: Thank you.

Ms. Pratschner: That's correct, Commissioner. No one has signed up to speak.

Chair Raschko: Okay, we have nobody signed up to testify at this public hearing. Does anybody in the audience care to do so?

Unidentified male voice in the audience: _____. We just came to observe. We are representing the Madalyn plat _____.

Chair Raschko: All right. Well, thank you for being here.

Same unidentified male voice: Thank you.

Chair Raschko: I guess with that we'll close the public hearing. Okay. We'll go to the Department Update.

Annie Lohman: We didn't have the Public Comment.

Chair Raschko: Did anybody – I apologize that I went right through to the Public Hearing and omitted the Public Comment. Does anybody care to –

Same unidentified male voice: No, I think we're good and I appreciate you asking.

Chair Raschko: You're welcome.

Same unidentified male voice: A good experience for the young one here.

Mr. Axthelm: It's a quiet night!

Chair Raschko: Stacie, I understand we have a new Planning Director.

Ms. Pratschner: Yes, that's correct. On – it'll be next Monday, January 29th, Hal Hart has been chosen to be our new Planning Director. He has over 20 years' experience in planning. He has both experience in urban and regional land use. He acted as Director at Whatcom County, also

the City of Woodinville, and comes to us most recently from Alaska, so we're excited to have him start.

Ms. Mitchell: Can you tell us – does he have a lot of experience in rural?

Ms. Pratschner: He does. He does have county planning experience.

Ms. Mitchell: Okay.

Chair Raschko: Anything else?

Ms. Pratschner: Oh, yes. I did want to update the Planning Commission. Today staff held deliberations with the Board of County Commissioners on the 2018 docket, and they did make a motion to adopt the items on the docket that staff had recommended for inclusion. And so we'll be going back on consent Agenda with the Board of County Commissioners next Monday, I believe it is, and at that point a resolution will be presented to the Commissioners for their signature. And then at that point staff will be coming to the Planning Commission and we'll start our work on the 2018 docket.

Chair Raschko: There was some discussion about next month's meeting, the timeline being awkward. Can you elaborate on that please?

Ms. Pratschner: Thank you for reminding me of that, Chair. On February 6th – that would be our next scheduled Planning Commission regular meeting – both I and the Assistant Director are going to be out of town on that day – but still working that day, but out of town – and so we were hoping to present to the Commission if they would consider meeting at 7 p.m. that evening rather than at 6 p.m. so that we can hold deliberations then issue a recorded motion pursuant to today's public hearings. The 7 p.m. time will give us a chance – myself and the Assistant Director – a chance to get here and meet with you.

Chair Raschko: Are there any comments about that?

Ms. Candler: Am I correct in assuming that's the only thing on the agenda that night?

Ms. Pratschner: That will be the only thing on the agenda that night.

Chair Raschko: We should be able to finish by 9? Okay. That sounds fine.

Ms. Pratschner: Thank you.

Chair Raschko: Okay. Okay, Planning Commissioner Comments and Announcements. Have we any announcements?

Ms. Mitchell: Not announcements, but a question for Stacie. Can you give a quick little update about the water situation for folks with the new law?

Ms. Pratschner: Yes. Yes, thank you for bringing that up, Commissioner. So earlier – it was last week – pardon me, it was last week. There is now a Senate Bill 6091 and this is an amendment to the *Whatcom v. Hirst* decision. So what this decision is dealing with is the ability for folks who are doing rural development to get water to their parcels. So our attorney met with Ecology staff last week and at this point, if you read the very beginning section of those amendments, this bill

is not including the Skagit watershed. The bill does address the *Swinomish* decision. It says that additional requirements may apply for folks affected by *Swinomish* as far as proving legal and adequate water supply. So what we'll be doing is we will continue working on the local level and with Ecology to find solutions for folks here in Skagit.

Ms. Rose: So I have attended a workshop up in Whatcom and there was a water engineer who presented to us. And before they passed the fix for *Hirst* he was able to get two different sites permitted for building by mitigating the 20% that they say that if you withdraw water from a well you only get 80% of it back in the groundwater with your septic.

Ms. Pratschner: Right.

Ms. Rose: So that 20% difference, they're using rainwater harvesting to mitigate that 20% and they have a system where they monitor the release of the water during the dry summer months. It has to be very, you know, engineered and precise –

Ms. Pratschner: Yes.

Ms. Rose: – but nonetheless it turns a nonusable piece of property that couldn't get a well permit before and allows it to get a well permit at a lesser cost than full rainwater harvesting. I know that Skagit County is working on the full rainwater harvesting program, which is awesome, but has this other method been part of the – has it been part of the discussion in Skagit County?

Ms. Pratschner: You know, not as far as I'm aware, but I will certainly bring this up with staff.

Ms. Rose: I have the guy's card at home. I forgot to bring it.

Ms. Pratschner: No problem. You can –

Ms. Rose: But it was really quite exciting because they had solved the problem basically. Like I said, it was kind of a new approach and they already had two permits issued under that approach, and it seems like it could apply to the *Swinomish* situation down here.

Ms. Pratschner: It certainly sounds like it.

Ms. Rose: Yeah.

Ms. Pratschner: Yeah, we should explore this.

Ms. Rose: I'll get you that information.

Ms. Pratschner: Thank you, Commissioner.

Ms. Rose: Yeah.

Chair Raschko: Anybody else? One other – no, I think I'll address that another time. I'm sorry. All right, anything else?

(silence)

Chair Raschko: Okay.

Ms. Mitchell: I move that we adjourn.

Ms. Hughes: Second.

Chair Raschko: It's been moved and seconded to adjourn. All those in favor, say "aye."

Multiple Commissioners: Aye.

Chair Raschko: Okay, thank you. We're adjourned (gavel).