

**Skagit County Planning Commission**  
**Deliberations: Extending Preliminary Approval Time for Short Plats and Plats**  
**February 6, 2018**

**Planning**

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

**Staff:**                   **Hal Hart, Planning Director**  
                                  **Ryan Walters, Assistant Planning Director**  
                                  **Stacie Pratschner, Senior Planner**

Acting Chair Kathy Mitchell: Good evening. I'd like to call to order the Planning Commission meeting for Tuesday, February 6<sup>th</sup>, 2018. Welcome, everybody (gavel). To begin with, I'd like to ask everybody take a look at the agenda. Number 4, the way we had put it out before we had put out number 4 was going to be Public Remarks. So we do need a – we did make a correction there, but does anybody else see any other additions or corrections or changes to the agenda?

(silence)

Chair Mitchell: Seeing none, Stacie, did you have anything else to say?

Stacie Pratschner: Yeah, thank you. I would just follow up – thank you, Chair – with item number 4. It had been printed saying it was going to be a public hearing, but this evening we are doing deliberations. We held the public hearing for the plat extensions on January 23<sup>rd</sup>. Thank you.

Chair Mitchell: Thank you. Normally we would also have Public Remarks next, but seeing as there's nobody in the audience tonight I think we'll just blow past number 3 and head for deliberations.

Annie Lohman: Number 2?

Mark Lundsten: What about number 2?

Chair Mitchell: Oh, excuse me! Our guest! Stacie, could you please welcome our guest and introduce us, please?

Ms. Pratschner: Thank you.

Ryan Walters: I'll do that, I guess.

Chair Mitchell: Okay.

Mr. Walters: I would like to introduce Hal Hart. He comes to us as our new Director of Planning and Development Services from the City of Anchorage – most recently from the City of Anchorage, but also has a lot of experience including in Washington as Director of Whatcom County Planning. I think he can take it away with the rest of his introduction. But I think he – the entire Department is very excited to have him here and we're excited to see what we can accomplish over the next year with Hal and with the Planning Commission.

Hal Hart: So it's a pleasure and an honor to be here and back in my home state. I love this place, and sometimes you step out of the state to remember how great your own state is. But I am busy now listening, learning, taking – I took a ride-along today. I got to see flooding up close and personal in some places and hopefully tomorrow I'll be doing some of the same things – not the flooding part but the ride-along with different staff, seeing the county through their eyes and understanding from as many people as I can about this great place that you call home. And hopefully I will soon, too. I have to pick my car up from the Tacoma Port, I think on Friday, so that's coming down, so, you know, one piece at a time. But it's tremendous staff. I like the team that's here and, again, you're my heroes because you chose to serve your community. And so I'm here to listen. Feel free to call me – open door policy all the time, and you're very, very important to the way things function. So that's it for me. I'm going to be listening.

Chair Mitchell: Thank you. Does anybody have any questions they'd like to ask?

(silence)

Chair Mitchell: Well, thank you for coming and seeing us tonight. We really appreciate that. And welcome and we'll look forward to it.

Mr. Hart: Thank you.

Chair Mitchell: So shall we move on to item number 4 then for the deliberations? I think Stacie would need to tell us a couple things first, please.

Ms. Pratschner: All right. Well, good evening, Planning Commission, of course staff who are here this evening. Today we are holding the deliberations for proposed amendments to Skagit County Code chapter 14.18.100. The purpose of these is to provide additional time for short plats and plats to reach final approval. These are plats that are currently not able to obtain water, pursuant to the 2013 *Swinomish Indian Tribal Community v. the Washington State Department of Ecology* Supreme Court decision. Today's deliberations are being held subsequent to a work shop that was held with the Planning Commission on December 5<sup>th</sup> and then a public hearing that was held on January 23<sup>rd</sup> of this year.

Prior to this evening's meeting and subsequent to our public hearing on the 23<sup>rd</sup>, the Department is not in receipt of any agency or public comments concerning the amendment, either pursuant to the SEPA determination of nonsignificance or to the public noticing that was completed on December 26<sup>th</sup>. The public comment period ended on January 25<sup>th</sup>.

Meeting the procedural requirements for legislative proposals in both local ordinance and state law, the Department has prepared a recorded motion and you'll see that there's draft findings of fact for the Planning Commission's consideration. I can modify the document, per your direction

and our discussion. This will then be forwarded on to the Board of County Commissioners as a recommendation on these proposed amendments.

Chair Mitchell: Thank you.

Ms. Pratschner: Yeah, thank you. So I'm ready to type when we're –

Chair Mitchell: Okay. So we'll open it up for deliberations. Does anybody have anything to begin with?

(silence)

Chair Mitchell: Okay. There's only one item that I'd like to ask a question before we go any further.

Ms. Pratschner: Thank you.

Chair Mitchell: It says – per normal form, the paragraph above the findings of fact – it says after consideration of the written and spoken comments and consideration, blah-blah-blah. Well, since we didn't get any written or spoken comments, do we strike that or leave it or what do you want to do?

Ms. Pratschner: You are correct. There were no written or spoken comments. We could modify that paragraph after the public comment period so that it's clear that there was an opportunity to comment but we didn't receive any.

Chair Mitchell: That would be better.

Ms. Pratschner: Thank you.

Mr. Walters: That's just a boilerplate sentence. We pretty much always get at least one.

Chair Mitchell: I know. And, you know, if we didn't have that cue we'd probably forget it, so thank you very much.

Ms. Pratschner: Thank you.

Ms. Lohman: I have a question.

Chair Mitchell: Yes, Annie?

Ms. Lohman: Stacie, in item number 2 where you mention that the “two preliminarily approved land divisions having their previously-verified well use invalidated” – so have they had their water use validated now? Or is this extension going to help them pursue whatever it takes to get that water validated?

Ms. Pratschner: Thank you. It's the second statement that you made. The purpose of these code amendments is to provide these projects additional time to get that well use validated and make sure they have access to water. At this point they do not. And so the purpose of these amendments is to allow additional time for them to work with Ecology. Both of the project proponents, as I understand it, are working with Ecology to find a solution.

Ms. Lohman: And – Chair, can I –

Chair Mitchell: Yes, go ahead.

Ms. Lohman: So there is no guarantee that they're going to get their water and they're going to eventually run out of time if they don't. Is that correct? That's a hard – I mean, this is a hard line. No more extensions after this one, correct?

Ms. Pratschner: It is a possibility that those additional five years may not be enough, and at that time if there has not been a solution for access to water either through the state or through Ecology, we would again look at seeing what options we could provide.

Tammy Candler: Are we also going to put language that there was an opportunity for public hearing?

Ms. Pratschner: Oh, yes. After the public comment period, "the opportunity for..."

Ms. Candler: You could even just put "public hearing."

Ms. Pratschner: I was thinking "after the public hearing, an opportunity for public comment." Does that –

Ms. Candler: Yes.

Ms. Pratschner: Would the Commission be happy with that? Okay.

Chair Mitchell: Okay, has everybody had a chance to read through the Findings of Fact and Reason for Actions that have been tossed up for us? Does anybody have anything they would like to change or add?

(silence)

Hollie Del Vecchio: That double-space – yeah.

Chair Mitchell: What double-space, Stacie? How good you're getting!

Ms. Pratschner: Yes! Learning as I go!

Chair Mitchell: I haven't been able to think of any other Findings of Fact at this point other than – as small as this might seem, I think it's a big deal. I really appreciate that the County has taken the position to do the best that they can to help the residents trying to deal with these permits. I'd like to find a way to say thank you for doing what they can to help the situation.

Ms. Pratschner: Sure. "The Planning Commission" – we could state "The Planning Commission concurs with the Department's efforts..."

Chair Mitchell: "...efforts and recommendations in assisting the plat extensions." Is that correct?

Ms. Pratschner: "The Planning Commission concurs with the Department's efforts and recommendations to permit additional time for those projects impacted by Swinomish and Ecology to reach final plat."

Chair Mitchell: Thank you.

Ms. Pratschner: “The Planning Commission concurs with the Department’s efforts and recommendations to permit additional time for those projects impacted by *Swinomish v. Ecology* to reach final plat.” Would the Commission like to make any modifications, changes to that statement?

Chair Mitchell: Annie?

Josh Axthelm: (unintelligible)

Chair Mitchell: Yep.

Mr. Axthelm: Okay, never mind. Same thing.

Chair Mitchell: Josh, did you finish?

Mr. Axthelm: Yep.

Chair Mitchell: Okay. Annie, you had something?

Ms. Lohman: But we don’t know if we’re going to be able to get to the end zone. So I’m struggling with the word “concur.” I think of it maybe “appreciate,” if it’s the will of the rest of you.

Chair Mitchell: How about “supports”? Or is –

Ms. Pratschner: “...supports the Department’s...”

Ms. Candler: I actually think the word you used, Kathy, might have *been* “appreciates.”

Chair Mitchell: I’m sorry. I can’t hear.

Ms. Candler: I think you actually said “appreciates” maybe.

Ms. Pratschner: Appreciate.

Chair Mitchell: I think I use that term because I really do appreciate the fact that they’re going the extra mile to try to help in a situation like this when it’s so difficult. It’s not a little deal. I think it’s a big deal. Is that okay with you – you guys?

(sounds of assent)

Chair Mitchell: Okay.

Mr. Axthelm: That’s fine.

Ms. Candler: The problem is now the recommendation part doesn’t make as much sense. Can we take out “and recommendations”?

Female Commissioner: Mm-hmm.

Mr. Axthelm: (unintelligible)

Chair Mitchell: A little louder, please.

Mr. Axthelm: Right underneath it, it just – it already recommends that we approve the proposal.

Ms. Pratschner: Yes, that's – yeah, that's already stated.

Chair Mitchell: But that would be – yeah – the final statement, right?

Ms. Candler: Mm-hmm.

Chair Mitchell: Any more changes or additions?

(silence)

Chair Mitchell: Do you consider the deliberations finished, everybody?

Mark Lundsten: I'd like – I have a question.

Chair Mitchell: Mark, go ahead.

Mr. Lundsten: I'd like to know – since we don't know what's going to happen, I'd like to know what the short-term and long-term prospects are. It seems like the long-term would be a legislative fix of some sort that would allow these – water-permitted – the wells to be approved again. And the other is – are basically loopholes. Is that right? Is there a creative fix? I mean, that may be a little too broad-brushed, but – and what does the County have to – what are the remedies, short- and long-term, and what does the County have to do with that?

Ms. Pratschner: Well, the Department – to answer the first part of the question – the Department is working with the Western Washington University's Sustainable Communities with a project to have a prescriptive design for a rainwater catchment system. This may offer an option for folks who can't obtain water through ground wells. The second part of your question was concerning the long term, the – am I correct in stating that, the long term? I think you answered that in the first part of your statement, which was a state legislative fix.

Mr. Lundsten: Okay.

Ms. Pratschner: As for prospects, I think we'll probably see a lot of action on this over the next year. I think, as the Chair stated, this is a big deal for a lot of people.

Mr. Lundsten: Okay.

Mr. Walters: One important proviso is that we don't currently allow rainwater catchment as the water source for an entire land division and we have seen legislation move forward in the last couple weeks on a fix for the *Hirst* Supreme Court decision, but it specifically carved out any kind of fix for *this* decision, the *Swinomish v. Ecology* decision from 2013. But there are other bills in the legislature, so there remains some possibility of additional legislation that might provide some assistance.

Chair Mitchell: Do you think –

Mr. Walters: But there are also mitigation options that some of these places are looking at: purchase of water rights from one area that results in freeing up of available water; using a well in another area. Those types of solutions might be maybe the best bet for some of these.

Ms. Pratschner: I believe Spokane County has implemented a project like that with water banking.

Mr. Walters: Mm-hmm. There're a number of such examples and some coming to Skagit County.

Chair Mitchell: Do – I mean, just to toss this up for a question between the two of you – do you think it's worth our even mentioning other options, or is that a moot point because –

Mr. Walters: Other options like what?

Chair Mitchell: Well, that could happen somewhere down the road. Under Findings of Fact and Recommendations, findings are the rain catchment systems not in place yet for these kinds of people, so is that worth saying or not saying?

Mr. Walters: At this point we don't foresee making it an option as the water source for an entire land division.

Chair Mitchell: Okay.

Mr. Hart: I did have a conversation today with the PUD, and in that I think they were saying there were going to be – their view, at least, was that there were going to be a variety of solutions. And I think that might be the safest thing to say, that there's a – there could be a wide variety of solutions to that and we want to be open to be finding those solutions. Maybe I'm saying too much out of school too soon.

Ms. Lohman: But isn't that getting a little bit far afield because –

Mr. Hart: Yeah.

Ms. Lohman: – what we – what the code language change was for extending the time period for them to get everything in a row, and when you start adding all these extra things I think we're getting too far off of what the hearing was over. And even though the underlying reason might have been water, it might have been this court case, we only really addressed extending the time element, right?

Chair Mitchell: Okay. So then we're back – it looks like we're back to everybody's okay with what we have now? Mark?

Mr. Lundsten: I certainly didn't mean to suggest changing any language. I just wanted some information just for deliberations' sake, so just for the record.

Chair Mitchell: That's good. That's helpful. Okay, so if everybody's comfortable with what we have written – anybody have a – like to make a motion?

Martha Rose: I'll move that we support this code amendment. It's a code amendment, right? Yes.

Ms. Pratschner: Correct – a development code amendment.

Ms. Rose: Yeah.

Ms. Lohman: 14.18.100 at the very top.

Ms. Rose: 14.18.100, to extend the timeline for preliminary short plats.

Chair Mitchell: Any second?

Mr. Axthelm: I'll second.

Chair Mitchell: Okay, we have a motion and a second to approve the recorded motion. All those in favor, say "aye."

Mr. Walters: Uh –

Multiple Commissioners: Aye.

Chair Mitchell: Oops, hold it.

Mr. Walters: We just need – we need a roll call vote on this.

Chair Mitchell: I'm sorry. Okay, so we'll take a roll call vote. Tammy?

Ms. Candler: I support.

Chair Mitchell: Josh?

Mr. Axthelm: Support.

Chair Mitchell: Martha?

Ms. Rose: Yes, I support.

Chair Mitchell: Hollie?

Ms. Del Vecchio: Support.

(several Commissioners speaking unintelligibly)

Mr. Lundsten: I support.

Chair Mitchell: I support.

Ms. Hughes: I support.

Ms. Lohman: I support.

Chair Mitchell: Okay, does that count for you? All right.

Ms. Lohman: And then we need to –

Chair Mitchell: So let the record show that there's unanimous support for –

Ms. Lohman: No.

Chair Mitchell: No?

Ms. Lohman: It's not unanimous.

Chair Mitchell: Oh, excuse me. Yes, we're minus the Chair. Okay. For those that are present, and our Chair is – could not be here this evening so – all right, so thank you. Thank you, staff, for helping with that, Stacie in particular.

Ms. Pratschner: Thank you, Planning Commission.

Chair Mitchell: And will you be handling Department Updates or – Hal? Is that your department? Okay, so Ryan. Yes.

Ms. Pratschner: I'm going to print this document so that we can obtain signatures.

Chair Mitchell: Thank you, and we'll do that before – thank you. Thank you, Stacie. Department Updates?

Mr. Walters: So just a couple of updates. Number one, there are very few updates because our new Director has just arrived. So the Board has gone ahead and set the docket for the 2018 Comprehensive Plan Amendments and that'll be coming forward to you very soon. But the Board has not yet set the Department's entire work program for 2018 so we have to get back before the Board to have them decide on that. However, what we proposed to them were a number of things that we didn't get done in 2017 so it may look very familiar to you. We expect that we will be bringing forward to you, I think at our next meeting, another round of draft stormwater code updates and we expect that that'll be the last workshop before we release it for public comment and a public hearing.

We will also be talking to the Forest Advisory Board tomorrow morning about what we think is probably the last draft of the rural forestry code amendments. And then our current expectation is that we will release those simultaneously for public comment because they sort of work together. After that, besides the 2018 Comprehensive Plan Amendments, the only thing that I think we are for sure doing this year is amendments to our flood code. Those – the flood code needs some work generally but also the Department of Ecology has requested a certain number of amendments to make sure that we're in compliance with the FEMA flood insurance program. So we need to work on those and I fully expect the Board will docket – or will add that to our work program because it was on last year's work program.

Do you have any questions about those items that are coming forward this year?

Chair Mitchell: Nope.

Mr. Walters: The only other one is the Capital Facilities Plan, which you do every year. This year we are trying to put it into an Excel file so we can do formulas and things more easily. If we are successful at that, and that remains to be an – to be seen, it will look a little different but it

will – as in the last couple of years – be almost exclusively a numbers document. But that is what we're thinking for this coming year.

Chair Mitchell: Good. Okay, Annie – yes?

Ms. Lohman: I have a question for you on that. Ryan, are you the go-to guy on that one?

Mr. Walters: Which?

Ms. Lohman: The Capital Facilities?

Mr. Walters: Nope, that's Stacie.

Ms. Lohman: Okay.

Mr. Walters: I am very happy to have passed that one on. And, actually, largely it is Kathy, our Administrative Coordinator, because she just reaches out to all the special purpose and junior taxing districts, gets their data, brings it into our document. So it doesn't even require a lot of Stacie's time.

Chair Mitchell: Okay, good. Is that for the Department Updates then?

Mr. Hart: Yeah, I was just going to say I will assist her in reaching out to all those that want to have projects in that document, and make sure that they are represented.

Chair Mitchell: Good, I appreciate that. Thank you. Okay, so the next item on the agenda: Are there any Planning Commissioner comments or announcements?

(silence)

Chair Mitchell: All right! Seeing there's none, I'd like to adjourn the meeting. Thank you, everybody.

Ms. Lohman: Move to adjourn?

Chair Mitchell: Yeah, move to adjourn.

Ms. Del Vecchio: Second.

Chair Mitchell: All in favor?

Several Commissioners: Aye.

Chair Mitchell: Aye. Thank you. Adjourned (gavel).