

Skagit County Board of Commissioners
Public Hearing: 2019 CPA Docket
March 11, 2019

Commissioners: Lisa Janicki, Chair
Ron Wesen
Ken Dahlstedt

Staff: Hal Hart, Planning Director
Nick Schmeck, Intern
Andrew Graminski, Intern
Jack Moore, Planning Building Official

Public Hearing
Commenters:

P-1 and P-2:
Nancy Fox, Guemes Island Planning Advisory Committee
Hal Rooks, Guemes Island Planning Advisory Committee

PL18-0405:
Janine Ceja, Humane Society of Skagit Valley

Others: Marianne Manville-Ailles, Skagit Partners Consultant

Chair Lisa Janicki: (gavel) Good morning. I'd like to call to order the Board of County Commissioners. It is Monday, March 11th.... Well, good morning, everyone. We are here for a – the second public hearing and possible action to consider testimony regarding the 2019 docket of Comprehensive Plan use and the zoning map with policy code amendments. And to kick us off, our director of Planning and Development Services, Hal Hart. Hal?

Hal Hart: Thank you. Before I take the podium to lead us quickly through a staff overview, I want to acknowledge the staff in the room. Andrew and Nick, our venerable Western Washington University intern component here. They've been very helpful. And then Jack is also here representing our team from the building department. So if we get into anything that's outside of my immediate expertise they're here to help answer questions.

Chair Janicki: That's great, and we always like to have interns. I think it's good to have – yeah, that's an important part of –

Nick Schmeck: Thank you very much.

Chair Janicki: - of your educational experience and, you know, in service. And thank you for making that service to government.

Andrew Graminski: Thank you.

Chair Janicki: Oh, and we have a remodeled podium.

Mr. Hart: Good morning. Hal Hart, Planning and Development Services Director. Quickly we'll go over some information for you. The annual docketing process is – we begin with goals, policies, and texts are kind of keys here in all counties across the state. We like to gather up changes every year, put them together and say okay, this is a living document. How are we going to make Skagit County better this next year? And we do that by taking that information in July of every year and putting it together and then we hold a series of hearings, which I'll cover here in a second here. So July 31st, deadline for applications. Then it goes to January 29th, 2019 – the Board of Commissioners host public hearing to determine which petitions should go to the docket, and then the 29th public comment period. Today we are at the We Are Here sign on that document, and in case that's a little hard to read: "The second public hearing to determine which petitions should go forward at this point." And really they're giving us the direction to what we should be studying and what's going to go to the Planning Commission for a series of additional in-depth workshops so that they can make a recommendation.

And I think the rest of it is self-explanatory so I'll move on. Here's the timeline again: Winter 2019, Board of County Commissioners' Public Hearing. We have deliberations next. We'll hold the workshops at the Planning Commission and have a public hearing there, and then in the fall deliberations at the Commissioners' office.

So for today's we are going to introduce the County-initiated amendments first, and then we'll have public comment. Then P-1 and P-2, the Rainwater Catchment and Wells on Guemes, with public comment. Then Small Cell Technology. Then the Great Blue Heron issue. Then MRO Designation – overall removal of that designation. And then number 6 has been taken off the list for today.

Overall I will say that we received a lot of public testimony – about 245 comments on the plan. We also received significant comment on other issues as well, including the heron __ issues and Guemes Island water issues.

Okay, so for our County-initiated amendments, the first one – and I'm going to use a bit of a cheat sheet here. The Transportation Element for the Technical – let me make sure I'm following it on the line here – yeah – is the Comprehensive Plan Transportation Element Technical Appendix for Guemes Island Ferry. The amount of that ferry has changed and so we need to bring that technical – I'm sorry. We need to bring that into alignment with our policy.

The next one is the policy and code drainage district. The idea here is that we would be in greater collaboration with the drainage districts across the county.

For Binding Site Plans at the Port of Skagit, it's a coordination effort. When we have to look at development we need to streamline that development process as much as possible.

Trails in the OSRSI. Again, that's an issue where we want to streamline the process and move it forward expeditiously.

Habitat Restoration as Hearing Examiner Special Use Permit. Again, these are – most of these you'll see a theme here where we are trying to accomplish a pathway for permitting that is streamlined and consistent with where the community would like us to go.

Fire Code Consistency. I'll let Jack speak to the specifics of that.

And Building Permit Requirements consistency for signs. That one is – again, I think consistency is the issue there between the building code and current zoning code.

So with that, we'll go down the list and take public testimony, if that's the wishes of the Commissioners today.

Commissioner Ron Wesen: Could you go back to one of your first slides you have there?

Mr. Hart: You bet.

Commissioner Wesen: I just want to have the – that one there. And so when we're – just on the left there, and actually development code and everything there's a lot of public input gets put in along the way. Isn't that correct?

Mr. Hart: That's absolutely true.

Commissioner Wesen: And I just want people to realize that this discussion here is just starting the process to start that public input. Isn't that correct?

Mr. Hart: Yes. And so then the next area of public input would be at the Planning Commission where we can shape what happens at that level, and they make a recommendation to you.

Commissioner Wesen: And some of that could be what type of studies have to be done and those kind of things.

Mr. Hart: Absolutely. We don't have all the information so before we can bring that back to the Commissioners for their decision with any information that we have to collect we would go do those studies and that analysis. Thank you.

Commissioner Wesen: Thank you.

Chair Janicki: Hal, for clarification, though: C-8 is now the Airport Environs Overlay. Were you going to address that one separately or with this basket of Department-initiated?

Mr. Hart: Oh. Go ahead.

Mr. Schmeck: Basically with the Airport Environs Overlay – that's going to be C-8 – that is just one more County-initiated amendment proposed by our Department, and we are basically just collaborating with the Port of Skagit to have consistency with their planning department as well as ours and make sure that the permit process stays streamlined, just like Hal described before.

Chair Janicki: And the reason I asked for it specifically is that was something when we had our first public hearing – that item was new but had not been presented. At least I didn't have the background on it prior to that public hearing.

Mr. Hart: Yes. They had been talking to us. We didn't bring the information forward at that time. That was an oversight.

Chair Janicki: Okay. All righty. Are there any questions, Commissioner Dahlstedt, Commissioner Wesen? Is there anyone – one of the reasons I wanted this grouping brought forward first is in our public hearing last time there was a gentleman who approached the bench and said, I had public comment to give on the Department-initiated things but it didn't sound like there was space

for that in the testimony. And we asked him to leave his comments in writing. But I just want to make sure that people know that they can also make public comment on the Department-initiated proposals – whether or not to bring those on to docket. Right now there's no one signed up in the room to do that but I'm giving you a second chance at this point.

(silence)

Chair Janicki: Okay. All right. Well, then we'll move – then we can move on?

Mr. Hart: Yes. All right. Do you want – I'm going to move over there.

Chair Janicki: Okay.

Mr. Schmeck: Are we going to move on to the public comment for the County-initiated amendments, or would you like a general description of –

Chair Janicki: I saw no reaction on that so –

Mr. Schmeck: Oh, okay.

Chair Janicki: You know, but I asked just to clear to everyone. It is a little bit different and we divided up – on our first public hearing we divided it up by subject matter just to group the comments. And so I've asked staff to continue that format by breaking this up and giving opportunity to speak after each of their short presentations on the specific topical issues. And it's a little bit different but there were some very – well, minus the change on probably the largest docketing question here, there were just a lot of people who, you know, had comments that were coming through and kind of drowning out everybody else. So I wanted to make sure that we got to hear. The next one will be on the Guemes Island initiatives. So we're moving on to Guemes Island unless anybody wants to talk about those staff-initiated/Department-initiated Comp Plan amendments.

(silence)

Chair Janicki: Okay. We're talking about Guemes next.

Mr. Hart: Very good.

Chair Janicki: Hal.

Mr. Hart: So again, the proposed change is a citizen-initiated request to amend sections of the seawater intrusion area, SCC 14.24.380 to include a new subsection. The subsection will include a County-approved standardized rainwater catchment system template. The template will allow property owners on Guemes Island to build RCS (scribe's note: RCS = rainwater catchment system) without engineer approval. So I think that will be –

Mr. Schmeck: Yeah, so basically we're just trying to do a little bit of research into looking at rainwater catchment systems, and basically the idea is not to recreate the wheel every time. We want to be able to have a standard on the shelf that citizens can go and grab if they so please once it is enacted by our council.

Chair Janicki: Okay. Will you also address P-2 please?

Mr. Hart: Yes. P-2: Citizen-initiated request P-2 to amend sections of the aquifer recharge area, SCC 14.24.300 to 330, and seawater intrusion areas to require predrilling approval for new wells on Guemes Island, including an assessment of the hydrogeological impact; amend sections of SCC 14.24.380 to allow for rainwater catchment systems on Guemes Island without first demonstrating why a public drinking water system or drilled well cannot be utilized.

So again we've been working with the community on this and it's a question of studies that would – we would undertake with them.

Chair Janicki: Okay, great. Commissioners, do you have any questions before we move into public comment?

Commissioner Wesen: Nope, no questions.

Chair Janicki: Okay, for this particular item we have the representatives of the petitioning group, Nancy Fox and Hal Rooks, to speak. Would you like to step up to the podium and introduce yourself? We're going to limit comment to three minutes, if you could do that. And I know you guys have spent enough time at these podiums. You can just – yeah, if you just leave the microphone set it will catch you. The podium has been slightly modified, if you'll notice, just to drop everything down behind it. So you can – actually, Nancy, center yourself on those footprints and you'll get picked up the best.

Nancy Fox: You're serious? Okay. Got it!

Chair Janicki: I listen to what they tell me. I'm just trying to relay the message.

Ms. Fox: Great.

Chair Janicki: Go ahead.

Ms. Fox: Good morning. I'm Nancy Fox. I am a member of the Guemes Island Planning Advisory Committee. My address is 7202 Channel View Drive, Anacortes 98221.

I'm here specifically to speak on behalf of GIPAC's code amendment P-2. We have indeed spoken to you a number of times about our concerns that there's a lack of oversight for new wells on Guemes Island, and we provided our rationale for the code amendments that are before you. I'm going to spare you any detailed repetition of those arguments today.

But one thing I do want to make sure we've been clear about is that our concern about new wells is not a strictly abstract or academic one, and, in fact, we have had two new wells drilled very recently on the north end of Guemes Island, which is a very sensitive area. In fact, the Department of Ecology flagged the north end as a concern 25 years ago and recommended that the County not allow any new wells without further protections for existing wells. Since that time, there have been many, many wells drilled, and these two recently drilled wells were drilled with no notice to the County nor the kind of review and preapproval that the code calls for. So we just want to point out that these are a very current reminder of why we're making the proposed code amendments that we are. Thank you.

Chair Janicki: Thank you. Good morning.

Hal Rooks: Good morning. I hope I'm seated – situated correctly. Okay. My name is Hal Rooks. I'm the chairperson of the Guemes Island Planning Advisory Committee. My address is 1219 10th Street in Anacortes. And I'm the author of P-1, the proposed amendment.

So we, as Nancy said, addressed both P-1 and P-2 previously and we don't want and I don't want to take your time by repeating what we said. We just want to say that both amendments are important to our committee and ask that you please docket them. That's it.

Chair Janicki: Okay. Thank you. Is there anyone else who would like to address the Guemes Island P-1 and P-2 issues?

(silence)

Chair Janicki: All right. Hal, do you have P-3, Small Cell Technology?

Mr. Hart: Okay, the next one is Small Cell Technology. Is that right? Yeah, great. So I think as a briefing – I'm trying to remember back to what you've heard before – but large cell companies the United States are starting to push out new technology called small cell towers. In counties and cities, large cell companies are applying for small cell tower permits on utility poles, on buildings, on structures locate within urban and rural settings. The industry is expanding small cell distribution antenna, or DAS, for current 4G and new 5G cell services. Since the cell industry is innovating new technology for cell towers, Counties and Cities are actively updating their procedure to wireless cell placement and amending their codes and/or ordinance to reflect the coming changes.

So we were approached and the other issue here – go ahead.

Mr. Schmeck: So as of January 14th of 2019, the FCC, the regulating body who controls the cell companies, took – issued a two-part declaratory ruling with the intent to streamline 5G small cell technology and its complementary equipment. So as we move on into the future, it's our recommendation that we push this to the 2019 work plan because there's going to need to be a lot of research for the County to look into making sure that we're up to code with federal regulations. And so this isn't something as simple as just quickly adopting some new code. It's going to take a little bit of our planning staff's research and technical expertise to look more into this.

Mr. Hart: It's a very good example of you write a comprehensive plan, you write regulations, but then technology changes, and it changes – it start changes what actually happens on the landscape or in front of your house.

Mr. Schmeck: And we do luckily have a case study locally. Anacortes has adopted new small cell technology code and so possibly working with our friends within the County.

Chair Janicki: Okay. So that's why the recommendation is to defer to a long range work plan rather than adopt into the docket.

Mr. Schmeck: Yes, Commissioner.

Commissioner Wesen: Just a clarification question. If some of the small technology is put on an existing power pole or something that's already there, do we require a permit on that? Or if it's already in our easement do we care what they hang on them?

Mr. Schmeck: So currently –

Mr. Hart: Go ahead, Jack.

Jack Moore: Do I need the microphone?

Chair Janicki: Yes.

Mr. Hart: Yeah, come on over here.

Chair Janicki: Why don't you go ahead and stand at the podium, Jack? It'll be less awkward than that pose!

Commissioner Wesen: And my concern is I could see it when you're putting something that's not already there, but if you've already got a pole there and a couple things hanging...that's my question.

Mr. Moore: So, yeah, the answer is yes. Now that is something that may – we may want to address during this public hearing and development process in that the cell companies don't wish to have to go through that process and they have challenged us in our exertion (sic) of a building permit being necessary for that. Upon our department's review of the easement and agreements with the utility companies, it appears as if we give them – you know, we have agreed to allow their particular utility to be developed, replaced, maintained within that easement, but not necessarily a separate *private* entity to come in and co-locate on those – that infrastructure. So currently, yes, we do require permitting on that, but that is something that, you know, maybe we should look at how people are doing that moving forward as it is a new technology.

Commissioner Wesen: But it's a co-locating issue is what triggers it today. Because Puget Sound Energy, they sometimes will put in new transformers or other things on the poles that didn't used to be there but because they are one utility they're able to keep _____.

Mr. Moore: Yes, because it is a separate utility and it's not clear that a separate company is covered under our existing agreements.

Commissioner Wesen: Thank you.

Mr. Moore: You're welcome.

Mr. Schmeck: One further debate topic, too, with the small cell technology is the question of the shock clock. So that's one of the federal regulations that they're trying to address is how many days does our County or our Planning Department have to permit a new co-location or a new structure going on an existing building, pole, or something __ that. So currently the new regulation, I believe, is going to be about 120 days, depending on the type or location of the new structure. So that is something that we are going to have to research further as well, is the different types of locations also require different permit lengths, and how long we have until we need to address those.

Mr. Hart: And then, I think, follow-up is, Does that shock clock match the shock clock we have for everything else? So adding could add permit complexity.

Chair Janicki: So are you saying that the feds will – if we can't get a permit or have that process in 120 days – four months – then by default they just get to install what they want? Is that what the shock clock violation becomes?

Mr. Hart: I wouldn't go that far in saying that, but I would say that we want to be consistent with federal law.

Chair Janicki: Okay. And are you using "shock clock" just because this is March Madness, or do they really call it that?

(laughter)

Mr. Schmeck: That's the term the FCC used, so...

Chair Janicki: Okay. All right. I get it. Thank you.

Mr. Schmeck: Yeah.

Mr. Hart: Thank you.

Chair Janicki: Okay, is there anyone here to speak to the public comment on the Small Cell Technology proposal?

(silence)

Chair Janicki: All right, then let's move to our P-4, the Great Blue Herons.

Mr. Hart: Yes, I'm just looking for it. Okay, a citizen-initiated request, P-4, to amend the sections of the critical areas ordinance, 14.24, to strengthen protections for Great Blue Heron by mapping nesting habitat, creating buffer areas, requiring review for heron buffer areas during the development and clearing permit process. The overall goal here is to keep those known areas protected and also thinking of future areas where they may go to: How can we protect those for the long term as well?

Chair Janicki: Great. Is there anyone who would like to speak to the Great Blue Herons? No one signed up.

(silence)

Chair Janicki: All right, let's move to P-5, the MRO Designation Removal.

Mr. Hart: Thank you. A request to amend Comprehensive Land Use Plan and Zoning Designation to remove the Mineral Resource Overlay from a 9-acre parcel owned by Mangat Estates. The applicant has provided mineral resource assessment demonstrating that the site and vicinity has negligible minerals resources. So we would be responding to that.

Chair Janicki: Okay. So, Marianne, are you here to speak to that one?

Marianne Manville-Ailles: I spoke to it last time and _____ I'd be happy to answer them.

Chair Janicki: Commissioners, any comments/questions on the MRO Designation Removal? I think we're good on that one.

Commissioner Wesen: And the process is there has to be a study to show that there aren't the minerals there anymore or they weren't there originally because we didn't do a lot of research when we designated these years ago.

Ms. Manville-Ailles: And we provided that.

Commissioner Wesen: Yeah, there is a process to go forward and you –

Mr. Hart: Thank you.

Chair Janicki: Correct.

Commissioner Wesen: Thank you.

Chair Janicki: And then the request from Skagit Partners on the Avalon project has been withdrawn actually.

Mr. Hart: That is correct.

Chair Janicki: And that was dated as of Friday afternoon at 2 p.m. Okay. So is there – we're going to close the public hearing in just a minute, so this is last chance for anyone who would like to speak on any of those proposed docketing items. All right – oh. Certainly. Would you like to come forward to the podium and give your name and address?

Janine Ceja: Good morning. My name is Janine Ceja, director for the Humane Society of Skagit Valley, at 18841 Kelleher Road in Burlington 98233. And I wasn't going to go ahead and speak but I just wanted to – I just felt compelled to go ahead and just say thank you, while I know that this isn't completely a resolved topic about the Avalon portion. But I do want to go ahead and thank you for taking the time and to listen to the outpour of the community in regards to a situation that wouldn't just affect the animal shelter but actually a lot – many, many involved. Right? And so I just want to go ahead and hope that we continue taking that positive direction and really doing our proper due diligence and research to go ahead and make sure that – and utilize the areas that could be most effective and better for our community as opposed to maybe areas that would kind of lose a lot of other qualities for Skagit County. So I just want to thank you.

Chair Janicki: Okay, thank you. Commissioners, can I get a motion?

Commissioner Wesen: So I move to close the public hearing on these updates.

Commissioner Ken Dahlstedt: Second.

Chair Janicki: It's moved and seconded to close the public hearing. All in favor, signify by saying "aye."

All Commissioners: Aye.

Chair Janicki: Motion carries. All right, and so our next step we're scheduled for proposed action is to either accept or change the recommendations that are listed there from the Department.

Mr. Hart: That is correct, Commissioner.

Commissioner Wesen: The deliberation is next week?

Clerk of the Board: March 19th at 10:30.

Chair Janicki: Okay. All right. Well, then with March 19th at 10:30 – it does seem like this is taking forever this year. And I have to accept responsibility for part of that because of that Airport Environs. That was a – you know, something that became – was unknown at the time that we were scheduled to close down public comment. So thank you for all of your patience. I know work is still going on behind the scenes as we are – and our Planning Commission actually did work on this, too, so we value their input.

All right. So with that, if there's nothing else from the Department – Jack? Jack's not jumping up. Okay, we are going to adjourn.... We stand adjourned (gavel).