

Skagit County Board of County Commissioners
Discussion: Staff Recommendations on 2023 Docket Petitions
April 11, 2023

Commissioners: **Commissioner Ron Wesen, Chair (District 1)**
 Commissioner Peter Browning (District 2)
 Commissioner Lisa Janicki (District 3)

PDS Staff: **Jack Moore, Planning Director**
 Sarah Ruether, Long Range Planning Manager
 Jenn Rogers, Long Range Planner

Chair Ron Wesen: (gavel) Good morning. I'd like to call this session of the Skagit County Commissioners to order. It is a little after 9:45 on April 11th, 2023. Please join me in a salute to our flag.

(Everyone recites the Pledge of Allegiance.)

Chair Wesen: Good morning. We are here today with Planning and Development Services looking at Discussion/Recommendations for the 2023 Docket – Comprehensive Plan, Land Use, and Zoning Map Amendments. So, Jack?

Jack Moore: Thank you, Commissioners. Good morning. For this presentation on the 2023 docket, I'd like to turn it over to Jenn Rogers, our long range planner.

Jenn Rogers: Thank you, Commissioners. Like he said, my name is Jenn Rogers. I'm a long range planner for Planning and Development Services and we're here today to go over staff recommendations for petitions under consideration for the 2023 docket.

The planning docket cycle is a yearly process where citizens and staff can submit petitions to make changes to the Skagit County Comprehensive Plan and Development Regulations. We have received five citizen-initiated amendments. There are two additional petitions which have been deferred from previous cycles. And there are 11 petitions from the County. So today is the second work session that we're hosting to review the recommendations for each petition for docketing. The Board hosted the first work session on March 28th to review summaries of each petition. We have provided a staff report to the Board which includes analysis and recommendations for each petition, and those reports and other memorandums can be found on our project website at the link on the screen, skagitcounty.net/2023cpa. And just a reminder that docketing of a petition does not constitute final action for any proposed change. It just means that we are authorizing that proposal to move forward for further evaluation by the Planning Commission and by the public.

So first the Skagit County Code requires the Department to make recommendations to the Board on which petitions should be included on the docket, and these are the criteria by which we evaluate those petitions:

- So first, does the petition comply with the filing requirements?
- Can it be reasonably reviewed by staff under the yearly work plan?

- Does the proposed amendment require any additional amendments and is it consistent with the County goals and policies as they stand today?
- Would the proposed amendment be more appropriately addressed through an ongoing or future work program?
- Is there a legal or procedural flaw which would prevent implementation, or does the proposal lack sufficient information for review?

So we'll start on the first citizen-initiated petition, and I'll wait after each petition to go over questions from the Board.

So LR23-01 is the Dunlap Rural Reserve Rezone. It's brought by James Dunlap. This petition requests to rezone approximately 21 acres just south of the La Conner city limits from Agriculture-Natural Resource Lands to Rural Reserve. And the rezone would potentially allow the petitioner to build additional homes through a CaRD development. The petitioner states the zoning was incorrectly mapped at the time of designation because the parcels are on an uphill slope and do not contain soils of commercial significance, so they're not able to be farmed. The Department is recommending that this petition be included on the docket.

So as you can see on the map on the screen, there's a clear delineation between the farmable lands next to the upland areas, which are wooded. So the proposed rezone is drawn in red here and you can see the parcels are outlined in the thin orange line as well. So they are requesting the rezone to follow the toe of the hill and there are examples in the county where we have done this previously. The zones are – this area is surrounded by parcels zoned for the Town of La Conner just to the north and agricultural land and Open Space of Regional and State Importance-zoned properties to the south. They are right along some waterfront as well. At the time the County designated resource lands, properties were zoned agriculture based on soils of commercial significance and existing farming activity. And Washington state code allows for natural resource lands to be redesignated for a variety of reasons, including an error in the original designation or new information has been brought forward on natural resource lands related to the designation criteria.

Are there any questions on this petition?

Chair Wesen: Commissioner Janicki, any questions? Commissioner Browning?

Commissioner Peter Browning: No, thank you.

Ms. Rogers: Oh, and this – one more map you can see here the other zones that are nearby.

Commissioner Browning: Yeah.

Ms. Rogers: LR23-02 is the Chavda Rural Center Rezone brought by Kesh Chavda. This petition requests to rezone one 2.65-acre parcel at the junction of Highway 20 and La Conner-Whitney Road from Small Scale Business to Rural Center. And this would allow the petitioner to use the property for other commercial purposes, like a small storage facility. The parcel was recently rezoned in 2014 from Rural Reserve to Small Scale Business because of the location being unsuitable for residential purposes and the proximity to Highway 20 and the neighboring Shell gas station. The Department is recommending this petition be excluded from the docket because the GMA rarely allows us to create new Type 1 LAMIRDs such as Rural Center zones. And there are some criteria that they haven't been able to meet, and I'll go over that here shortly.

So here's a parcel map just so you can see where this is located. So as you can see, it's right along Highway 20 at the junction with La Conner-Whitney Road here and they're located just east of a few parcels zoned Rural Business, and the surrounding areas are mostly ag lands. So here's an aerial photo as well. The petitioner owns both of these two parcels just to the west as well. So the one on the left includes a Shell gas station and a coffee stand. The parcel in question is only accessible through the gas station/Shell property. The petitioner purchased both properties with the intent to develop the parcel in question for a commercial purpose, but the current designation doesn't allow them to use it for the purpose that they're hoping for.

So the Rural Center zone is an example of a Type 1 LAMIRD and they are clusters of small scale commercial uses at selected locations in the unincorporated portion of the county. They're typically located at crossroads of county roads, state routes, or major arterials. Type 1 LAMIRDs do allow for greater development than is generally allowed in the rural area, provided that certain limitations are maintained to retain rural character and prevent sprawl. These types of LAMIRDs are specifically designations used to contain areas of urban growth that were existing prior to the Growth Management Act in 1990. The GMA does allow some changes to the boundary of LAMIRDs, but the fundamental purpose of them is to minimize and contain the LAMIRD development.

The Skagit County Comprehensive Plan has specific regulations for establishing new Rural Centers, but they are very restrictive. A few of the criteria include that all the properties included must be currently within the Rural Intermediate or Rural Reserve designations. This property is currently in Small Scale Business. The travel distance between a new Rural Center and existing Rural Commercial designations is a minimum of five miles and this property is currently bordering against other Rural Business designations. And given that this property was not in commercial use when these designations were established in the '90s, and it does not meet all of the criteria for a new Rural Center, we are recommending that this petition be excluded from the docket.

Are there any questions?

Chair Wesen: Commissioner Browning, any questions?

Commissioner Browning: Are there any other designations that would make that – make it possible for him to do something other than – because it's too small a piece to really farm.

Ms. Rogers: It's not suitable for farming or for residential purposes so it's possible, but I haven't looked to see what other zones might fit there.

Commissioner Browning: Okay.

Chair Wesen: Commissioner Janicki?

Commissioner Lisa Janicki: If instead of applying for a zoning change, could the applicant do a boundary line adjustment off of the gas station piece and just include that in? And does the zone travel from the gas station piece across? Or I don't even know if that's the right – actually I don't know if that's the right zone. But if you do a BLA, if you combine parcels to do a BLA, do you end up with the same zone across the entire land?

Ms. Rogers: Let me – Jack, do you want to answer that?

Mr. Moore: No. The zoning designation would stay the same and even if you eliminated a boundary line between two abutting parcels you would have a split zone parcel at that point without a designation change.

Commissioner Janicki: That doesn't sound like a good thing – a split zone parcel.

Mr. Moore: Probably not the best solution.

Commissioner Janicki: Because I looked to see what kind of nervous signals the attorney in the room was giving then.

(laughter)

Commissioner Janicki: All right. Just checking. All right. Thanks.

Chair Wesen: And like you said, this was rezoned back in 2014. I think it was ag back then, I think –

Ms. Rogers: It was Rural Reserve at the time that they did the rezone, but it was being taxed at a commercial rate since the '90s since that Shell gas station went in, so that definitely made a big influence on the Planning Commission's recommendation to allow the rezone. But that was under a different ownership at the time.

Chair Wesen: Yep. Thank you.

Ms. Rogers: LR23-03 is the Port of Skagit Bayview Ridge Rezone. This petition request (is) to rezone one 7.5-acre parcel, which has a split zoning designation along Peterson Road, just west of the residential development at the top of a hill. So the property's owned by the Port of Skagit and is located within the Bayview Ridge Subarea Plan. The rezone would allow more flexibility in the industrial uses for the parcel, because when a parcel is zoned Bayview Ridge-Light Industrial and it buffers against the residential zone, there is quite a large buffer for activities on that industrial parcel. So having that split zoning designation is further increasing that buffer for them and leaving them with not as much space as they would like to use that parcel for. So the Department is recommending inclusion of this petition on the docket.

So you can see here on the map where the parcel has a small area in green in that yellow section which is zoned Bayview Ridge Residential and the rest is Light Industrial. So this whole area actually used to be zoned residential prior to the 2014 Subarea Plan Update. During that time, the Washington State Department of Transportation released new regulations which increased the size of flight path overlay safety zones, and the new safety zones meant that there were large areas zoned for future housing which were no longer compatible with the safety zones. The Port of Skagit formally requested the County amend the Subarea Plan to reflect the new Airport Environs Overlay maps and safety zones, and the updated plan adopted it in November 2014 – changed approximately 110 acres of residential zones to industrial zones.

So as you can see here on this map – this is what was submitted during the Subarea Plan Update – the property in question is located right on the edge of the new Light Industrial area and right against the residential neighborhood which was already development. So when the new maps were approved, just this one parcel was left with a split zoning designation between Light Industrial and Residential. But the Department is supportive of this being included on the docket this year.

Are there any questions?

Chair Wesen: Commissioner Janicki, any questions?

Commissioner Janicki: No.

Chair Wesen: Commissioner Browning?

Commissioner Browning: No, I don't have any.

Chair Wesen: Thank you.

Ms. Rogers: LR23-04, the Cumming Rural Intermediate Rezone, is brought by Pat Cummings. This petition requests to rezone one 10-acre parcel on Olga Road, just south of Anacortes, from Rural Reserve to Rural Intermediate. If the rezone is approved, the petitioner would like to then split the parcel to build a second residence. The parcel is currently within a Mineral Resource Overlay and is ineligible for a CaRD development. The Department is recommending this petition be excluded from the docket.

So here's a map of the parcel requested. It's that small, yellow, triangle-type shape here. You can see the faint tan overlay. That is the Mineral Resource Overlay. The parcel is abutting up against a cluster of Rural Intermediate-zoned parcels. There is ongoing mining activity just to the northeast of the property with Lakeside Industries. We are recommending against docketing this petition for two reasons. First, Rural Intermediate is a Type 1 LAMIRD, like I discussed on a previous petition. So that designation is meant for development which was developed at a higher density prior to the Growth Management Act. And the GMA does not permit the Counties to allow for expansion of a LAMIRD to include a new infill development. And the petitioner hasn't provided evidence that the boundary of the LAMIRD was drawn incorrectly at the time.

Second, this property lies within the Mineral Resource Overlay because of the ongoing mining activity and existence of mineral lands of commercial significance. MROs are instituted to protect resources but also to ensure neighboring residential uses are not in conflict with mining activity. And the Comprehensive Plan and the Code state that densities within a quarter-mile of an MRO should be no greater than one development right per 10 acres unless the new development can be clustered outside of the MRO. So the petitioner's intent to split the parcel into two to build a new residential unit would not be approved even if the rezone were approved, because they would not be able to cluster it outside the MRO. This entire property lies within that overlay. So that's why we are recommending that this petition be excluded from the docket.

Chair Wesen: Commissioner Browning, any questions?

Commissioner Browning: No. It makes sense.

Chair Wesen: Commissioner Janicki?

(silence)

Chair Wesen: How many acres is it?

Ms. Rogers: 10.

Chair Wesen: 10?

Commissioner Janicki: Jenn, doe your mouse work that you can kind of draw that MRO just so that people – sometimes colors are hard for some.

Ms. Rogers: Oop, I don't think it's going to let me. Yeah, I wish I could. Maybe I can darken it on a future map. I could talk to GIS and see if I can make it a little bit –

Commissioner Janicki: Well, it worked. As you were just _____ point to those boundaries. Yeah, the MRO goes then all the way down. Yeah.

Ms. Rogers: Yeah, so there's a parcel between the parcel in question and the edge of that MRO boundary.

Commissioner Janicki: Okay. Thanks.

Ms. Rogers: Okay, any other questions?

(silence)

Ms. Rogers: Okay, LR23-05 is the Rural Business Use Amendment. This petition requests the Department amend the Rural Business zone to allow for more diverse commercial uses. The Rural Business zone is a LAMIRD designation for commercial development existing prior to June 1, 1997, when the Comprehensive Plan was adopted after the GMA. This zone does allow for reasonable expansion and change of use opportunities for these pre-existing commercial uses. And I do want to correct something that I wrote in my staff report about the current use of the property. So I did write that the applicant, Sarah Bucko, was operating an estate sales business but wished to operate a different commercial business for multifamily housing. The property's being rented out so she herself is not operating the business. The person who's renting on the property is operating it. And she also let me know that she is no longer looking to build multifamily housing. She's been approached by some people that would like to buy the property but the uses that they would like to use it for don't work as of this point. So she's hoping to add a few more uses to make it more attractable for someone else to use it for a commercial purpose.

So here on the map is where you can see the petitioner's property, zoned Rural Business, along Highway 20, just east of Peter Anderson Road. So the applicant has stated that the allowed uses are very prohibitive and encourages the Department to look into allowing for uses that provide services, economic opportunity, and possibly more affordable housing. The zone does allow for changes of use as long as the new use is still compatible with the surrounding rural character and the new use would not substantially increase the overall impact. If the new use is substantially similar to the existing use, only an administrative approval is required. If the new use is not substantially similar to the existing use, a hearing examiner special use permit is required.

The docketing criteria does allow for petitions to be excluded if the petition lacks sufficient information or adequate detail to review and assess whether the proposal meets the applicable approval criteria. So the Department is recommending this petition be excluded from the docket because the petitioner's application doesn't include specific details on how this zone should change or any uses that they would like to add to the zone. And there *are* opportunities for them to change that use in the current language. It does have to abide by certain size limitations and such, but there *are* opportunities to change that use currently. We also have bookmarked this issue. There are some clarity issues that we could clear up on LAMIRD language in our code and

in the Comp Plan I think that we're going to look at in the periodic update. So it's certainly something that we would like to look at further during that process rather than this docket.

Chair Wesen: Commissioner Janicki, any questions?

(silence)

Chair Wesen: Commissioner Browning?

Commissioner Browning: No.

Chair Wesen: And this is between Sedro-Woolley and Burlington?

Ms. Rogers: Yes, so it's right on the edge of the Urban Reserve area for the City of Burlington.

Chair Wesen: Thank you.

Ms. Rogers: So LR20-04 and LR22-02 are two deferred petitions brought by Bill Sygitowicz of Skagit Partners to change the Comp Plan, Countywide Planning Policies, and Development Regulations to allow for fully contained communities. Given how significant the changes would be to code and policies, GMA legal issues, and significant public interest, the petitions were addressed incrementally. So we split those two petitions for the 2021 docket and the 2022 docket. LR20-04 was docketed in the spring of 2021 but then deferred by the Board in December 2021 to allow for the Skagit County GMA Steering Committee the opportunity to consider creating a population reserve.

LR22-02 was submitted to the County in July 2021 and was also deferred last spring of 2022 until the GMA Steering Committee could consider adding the item to their work plan. The code does require us to bring back petitions which were previously deferred for consideration on the next docket. So that's why they've been added to this year's list.

So prior to the creation of an FCC, the Skagit County Growth Management Act Steering Committee would need to allocate a population reserve to a new urban growth area. And so after speaking with the Skagit Council of Government's executive director Kevin Murphy, the process for this would start during our periodic Comprehensive Plan update. So first we would get our population estimates from the state on how much growth we're expected in the county, and then SCOG would then allocate those estimates to the cities in the county. The jurisdictions will then do a buildable lands analysis to see how much growth they can take on with the capacity to have available in their UGA, and if one or more of those jurisdictions state that they don't have enough capacity, then they can reallocate those population estimates to a different UGA or they could consider creating a new one. So only on that last choice – if they decided to create a new one – that there would be a possibility for a fully contained community. But the planning policies also had to be changed and in order to change the Countywide Planning Policies, the GMA Steering Committee would have to recommend that change to the Board before the Board could adopt it. The proposal for FCCs has been before GMASC multiple times and they recently declined to add this item to their work plan for 2023, so the Department is recommending this petition be excluded this year.

Chair Wesen: Commissioner Janicki?

Commissioner Janicki: I think the only thing that's not in that litany of things that have to be done is now the GMA Steering Committee, with that House Bill 1220, has to do those housing planning by affordability levels. So it further complicates the whole allocation of where housing units will be built. Yes.

Chair Wesen: Commissioner Browning?

Commissioner Browning: No questions _____.

Chair Wesen: I understand the process and everything going forward and having to deal with it. My frustration is we are one of the lowest vacancy rates in the state in our county and obviously the system isn't working because we don't have enough housing. And so – but this is a process we have to go to. You have to get the allocation from the GMA Steering Committee, and the reason that was set up years ago was because there were lawsuits going on between the counties and the city and that was an agreement they came up with and so that's what we're abiding by now. And so we're – like you said, the 2023 work plan for the GMA Steering Committee will get the population from the last census and then have to allocate it out, making sure that we have the ability to house the people that are in the county or we project to have in the county the next 24 years.

Ms. Rogers: Yes.

Chair Wesen: I'm frustrated with the system but that's the system, so....

Ms. Rogers: I understand. So I'll move on to the County-initiated petitions. The Department is recommending inclusion of all these petitions on the docket, so I'll just start off with that. The first one is C23-1, the Seawater Intrusion Area Well Drilling Requirements. This petition would require review by the County and information to be submitted prior to a well being drilled in a sole source aquifer with seawater intrusion. This would include a site plan with location, depth, and land elevation of the proposed well, and the depth and chloride levels of surrounding wells and a drilling plan. There is only one area in the county that is a sole source aquifer with documented seawater intrusion, and that is Guemes Island, so that's where this would apply. Currently there is only County review of a well if a person applies for development attached to that requires the use of a well. And with the proposed change, if you were on Guemes Island in that area then you would now need to submit the required materials for review prior to drilling the well, even if it's not attached to development. And the intent of this petition is to try and work with applicants prior to a well being drilled to ensure that there is the least amount of impact on the sole source aquifer.

Are there any questions?

Commissioner Browning: Yes.

Chair Wesen: Commissioner Browning, go ahead.

Commissioner Browning: So there will be no thought that once it's approved that they – I mean, they still – once the well is drilled, if the well shows to have a negative impact we'll still have the ability to decommission the well. So this is not saying, yes, you can drill it and yes, you can move forth and use it. It's just yes, you can drill it and we will then determine whether it's going to have an impact on surrounding housing and other things. So it's just one piece of it, though.

Ms. Rogers: It's one piece of it. We will – the intent is that we will work with the petitioner and that their water source is putting the least amount of impact on the aquifer. So that's the intent of this review process.

Commissioner Browning: Okay.

Commissioner Janicki: I think in that work session it was stated it is possible that a person goes through the process, gets – you know, applies for a well, drills the well, and the –

Commissioner Browning: Yeah.

Commissioner Janicki: Yeah. And that the chlorides are high or the impact to neighbors is real and then – yeah.

Commissioner Browning: Yeah, I just don't want to have this be – give the impression that it's the final yes, you can drill this, use it, and go forth and prosper. It's yes, you can drill it but we still have to justify the – okay.

Ms. Rogers: Jack, did you – do you want to add anything?

Mr. Moore: Sure. Commissioner Browning, to your question: Yes, you are correct in what you stated. So this would just require that prior to any well being drilled, even for purposes of determining whether it's suitable for future development, it would just require them to come in and initiate a process with the County so that we're well involved in the, you know, determining whether that well *does* have a detrimental impact on neighbors. And yes, to your final question: It is possible that if – if it's demonstrated it *does*, they may not be able to use it or continue use of the well.

Commissioner Browning: Okay. Great. I really appreciate this. This is a long time coming. I really appreciate this. This is one of the pieces towards that. Good. Thank you.

Chair Wesen: Commissioner Janicki, anything else? So this, we're not asking to say within a half-a-mile or anything from the new well you have to have data from all the other wells? Or we're just – does that make sense what I'm asking? Sometimes when you put in a well we need to have data from adjoining wells and –

Ms. Rogers: Yes. So one of the requirements is the depth in chloride levels in surrounding wells.

Chair Wesen: But we're not saying how big a surrounding area? That's what I'm concerned about – is –

Ms. Rogers: I don't know the exact distance of what constitutes surrounding well, so I can check on that and get back to you.

Chair Wesen: Yeah. That would be the details worked out before –

Commissioner Janicki: I guess we definitely want to discuss it on the docket. So that's good.

Chair Wesen: Thank you.

Ms. Rogers: Okay. C23-2 is Qualified Professional Definition. This petition would amend the definition of “qualified professionals” to ensure the requirements are consistent with surrounding jurisdictions. The amendments would increase the overall years of experience required from two to four years and refer the definition of a “stormwater professional” to the Skagit County Stormwater Manual.

Qualified professionals are used to perform technical analysis of proposed development, such as site assessments and as such need to have the necessary qualifications, experience, and education to provide the right expertise for the project. The Department believes that our current requirements are not quite stringent enough for Skagit County and the environment here, and thus proposes increasing those qualifications. There were a few follow-up questions from the last work session on this petition. So first, we do maintain a pre-approved list of consultants, which applicants can work with. And these new requirements would not remove any of the consultants that are currently on the list.

Second, not all of the professionals used for site assessments are licensed in the state of Washington. So here’s a table that’s also included in the staff report well, where you can see the different types of professionals that are required for different types of work in our code. So geospecialists and engineers would be required to have Washington state licenses, but specialists for wetlands, watercourses or wildlife habitats don’t necessarily have a state license. And so we stipulate the experience required for two reasons. First, if the professional does not have a license then the County would like to ensure that they have enough experience in the field to complete accurate reports. Second, even if the professional *is* licensed, we want to make sure that their experience is in the necessary specialties and ecosystems that are similar to Skagit County. And this work experience might be a little more tailored than what is required just for the state license.

Requiring the right amount of experience is also vital to ensuring the professional can complete reports and other work necessary that it is accurate and thorough. Because if reports are not completed correctly, the Department will have to request revisions which creates more work for the Department but also slows down the permitting process overall and can increase costs for the applicant if the professional passes those extra costs down to them. So we want to make sure that these reports are being completed thoroughly and on the first try.

Are there any additional questions on this petition?

Chair Wesen: Commissioner Janicki, any?

Commissioner Janicki: No, I think we’ll get the details of this hashed out. I think it’s a good thing to look at.

Chair Wesen: Commissioner Browning?

Commissioner Browning: No, thank you.

Chair Wesen: Thank you. Looks good.

Ms. Rogers: C23-3 is the OSRSI Allowed Uses Amendment. This petition would amend the Open Space of Regional and State Importance zone to allow trails as a permitted use. OSRSI zones are typically public parks or areas of environmental and cultural importance such as Deception Pass State Park, Bayview State Parks, and the Skagit Wildlife Refuge, just to name a couple of

examples. Currently trails and trailheads are listed – excuse me. Trails and trailheads are both listed as an administrative special use, and *trails* are also included as a permitted use. So there is a conflict here in the code. And we are requesting the change, one, to resolve the conflict, but also because trails are an example of low impact development that certainly fit within the OSRSI intent and shouldn't require additional review by the Department. We don't want there to be a conflict in the code and there are projects here in the county that have been slowed down as a result of some of the permitting processes, so the Parks Department is certainly supportive of it as well.

This same petition was submitted for the 2019 docket but the Planning Commission ultimately recommended the Board increase the review process for trails to a hearing examiner special use. The biggest issue was that the Commission didn't want to eliminate noticing for the development of trails. And the Board ultimately decided to remand the issue back to staff for further evaluation and to bring back the issue in the future. So we are bringing this petition again with the same recommendation, and not to require administrative or a hearing examiner special use just for trails. Almost all the lands zoned OSRSI are owned by federal, state, and local agencies like DNR, County Parks and Rec, and WDFW, and increasing the review process for these projects, like I mentioned, can often hold up the development of trails in areas which are designated for recreation and preservation. They can also lead to issues with funding if the permitting process is taking too long as well. The Parks Board will be submitting some testimony on their support for this change. I also want to note, even with trails as a permitted use applicants will still need to have a critical areas review done, and the work can be subject to a grading permit. And if the grading permit – if the area's too large it could also trigger a SEPA evaluation, which would require noticing to neighboring property owners and interested parties to comment on that development.

Commissioner Janicki: And I just want it to be part of the record that we went through an evaluation of the trails – the allowed use – back when North Mountain – DNR, on DNR trust lands, there was a trail being run up North Mountain. They had to stop at the Skagit County border from Snohomish because we required a special use permit. And if a permit is required, versus a permitted use – so I always call that an allowed use because I think using “permitted” in two different contexts is confusing. But if the trail is an allowed use, the DNR can do that on trust lands and provide that amenity through a – I'll call it an *unimproved* trail, so no rock, no asphalt. But if it requires a special use permit or an actual permit, then they can't go through that – they can't do that on trust lands. And you think – I mean, the DNR oversees 1.6 million acres of trust land. I wanted to make sure that they can – it was *possible* to get those trails into DNR *trust land*. So I just want to make sure that we end up in the right spot, because we had conflict in the code. A former Planning Department – an attorney working in the Planning Department had identified where that conflict is and I thought resolved it back in maybe 2016, 2017. So just to make sure that we're hitting all pieces of this and aren't further complicating. But that's the outcome that I want to see, is that on those public lands they don't need to apply for a permit. If that constitutes development, they can't do it. So it would keep the trails off of – I mean – anyway, that's not the outcome that I want to see on DNR trust lands.

Ms. Rogers: I think it was in 2014. It was on the Industrial Forest-Natural Resource Lands that we changed that, so we now allow for non-motorized trails as a permitted use rather than a special use, for that reason. Because if you apply for a permit, it constituted a – could be interpreted to constitute a conversion of forestland, which would not be allowed.

Commissioner Janicki: Well, considering that 2014 was before my election –

Ms. Rogers: I guess it must have been after that!

Commissioner Janicki: So I wasn't here, so what – the issue that I had brought forward for North Mountain – the DNR trust land on North Mountain, in conjunction with a Snohomish County project or a City of Darrington project, would have been *after* 2014.

Chair Wesen: Commissioner Browning, any questions?

Commissioner Browning: No.

Chair Wesen: And I think it's really important on this one the – like you mentioned – the publicly-owned lands, and I know that was one of the concerns of some of the people on the Planning Commission and so forth. I mean, they just don't want anybody on a trail. But it's publicly-owned property is what it is.

Ms. Rogers: And if there was ever a trail that did cross over private property, they would need approval from that property owner to do that.

Commissioner Browning: Yep.

Chair Wesen: Thank you.

Ms. Rogers: The C23-4 is the Master Planned Resort Designation. This petition would amend code language to refer to Master Planned Resort as a zoning designation and not a special use, to remain consistent with the Comprehensive Plan and the Growth Management Act. Master Planned Resorts are “self-contained and fully integrated planned unit developments in a setting of significant natural amenities, with a primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of developed on-site indoor or outdoor recreation facilities.”

So examples of these in Washington state would include Crystal Mountain Resort, Skamania Lodge, the Sun Mountain Resort. And in Skagit County we have Clark's Cabins in Marblemount. That is a Master Planned Resort. So currently in our special use permits code section there is language which would refer to an MPR as a special use, which would be subject to the special use permit regulations, but this is a zoning designation, not a special use. So this change would just simply fix an inconsistency in our code.

Chair Wesen: Commissioner Browning?

Commissioner Browning: I'm sure Clark's Cabins would just love to know that they're being thrown in there with the Skamania Lodge and Crystal Mountain! But yeah, so I'm fine.

Ms. Rogers: Not in size, but in designation.

Commissioner Browning: This makes great sense to me, yes. Thank you.

Chair Wesen: Commissioner Janicki?

Commissioner Janicki: No other questions.

Chair Wesen: Yep, it's very good to make things more clear for everybody involved so thank you for that.

Ms. Rogers: C23-5 is the Fire Marshal Code Amendment. This petition would remove the requirement for structures built outside of a fire district to have a foam applicator for firefighting hoses. Firefighting foam can have dangerous materials such as PFOS or PFOA foam and residents are not necessarily trained on how to use them properly, so it can have dangerous impacts on the user and on the environment as well. The foam is commonly recalled and can also expire, and also water is now really more the accepted standard for firefighting in wildlands. So this change would make firefighting safer for those residents, which is why the fire marshal has proposed the change.

Are there any questions?

Chair Wesen: Commissioner Janicki?

Commissioner Janicki: No.

Chair Wesen: Commissioner Browning?

Commissioner Browning: Coming from a family of firefighters, I appreciate this. This is a really good one. Thank you.

Chair Wesen: So is this going to require more waterflow for those different properties than they used to?

Ms. Rogers: Not right now. The waterflow requirements would remain the same. We would just delete the section that states it also needs foam – a foam applicator.

Chair Wesen: Thank you.

Ms. Rogers: C23-6 is the Temporary Manufactured Homes Title Notice Requirement. This petition would require residents applying for temporary manufactured homes to also submit a title notice for the property. These temporary manufactured homes are only allowed for family members which have a medical need or for a farmworker family to live near the farm. We have requested the additional documentation to ensure that temporary manufactured homes are being removed when they are no longer being used. And this is a particular issue if the property is sold with the temporary manufactured home still on the property, and the new homeowner doesn't know that they can't use that for any purpose that they so choose, like a rental property or such. So this is to hope that the new homeowners will understand that they need to be removed.

Are there any questions?

Chair Wesen: Commissioner Browning?

Commissioner Browning: No. I'm glad to see that one also.

Chair Wesen: Commissioner Janicki? Some of those temporary homes have to have the septic system and a well and so forth, so there is quite a bit investment in those, and so when a buyer comes and buys it they need to be aware they have to remove it.

Ms. Rogers: Correct. We want it to be clear as to what they can use the property for.

Chair Wesen: Yes. Thank you.

Ms. Rogers: C23-7 is the Flow Sensitive Basin Rules. This petition would update the flow sensitive basin regulations in our critical areas ordinance, which have been superseded by the Skagit and Stillaguamish Instream Flow Rules. The code language right now refers to withdrawal limits that were set in 2001. In 2006 Ecology implemented the Skagit River and Stillaguamish Instream Flow Rules, and this petition would just simply remove the old, outdated language and refer to the new Ecology rules for each basin, which is what staff are implementing currently. It's just our code isn't up to date, so this would just simply fix that.

Chair Wesen: Any questions?

Commissioner Browning: Thank you.

Ms. Rogers: C23-8 is the Wind Turbine Use Amendment. In the interest of time, I'll brush past a little bit of the history which is included in the memo. But the intent is that we will work with the Planning Commission to create regulations for small, personal use wind energy systems – so one per property. We had previously brought a similar petition on the last docket but the Planning Commission voted to deny the petition, so there's still an inconsistency in the code between what is defined and what is allowed in our zoning regulation. So our hope is to continue the work done last year with the Planning Commission and find a suitable recommendation for the Board.

Commissioner Browning: Great.

Chair Wesen: Thank you.

Ms. Rogers: C23-9 is the Primitive Campground Definition amendment. And this petition would amend the definition of "primitive campgrounds" to clarify that minimal amenities should be shared amongst campsites. The language would also refer residents to regulations for recreational vehicles to ensure primitive campgrounds are limited to two RVs maximum and the RVs are only allowed to be occupied 180 days per year. The Department has encountered issues in the county with small, primitive campgrounds adding individual site hookups for multiple RVs, which has a much more substantial impact than the intent of the primitive campgrounds' use. So that's why we're proposing to make this clarifying change for applicants in the future.

Are there any questions?

Chair Wesen: Any questions?

Commissioner Browning: Nope, that's a good one.

Chair Wesen: Thank you.

Ms. Rogers: C23-10 is the Countywide Planning Policies Update. This petition would adopt changes to the Countywide Planning Policies recommended by the Growth Management Act Steering Committee. The new language directs the County to disband the Boundary Review Board by June 30th, 2025. The GMA Steering Committee has determined that the County has met the requirements for disbanding the Boundary Review Board and voted on new language in December 2021. This petition will not disband the Boundary Review Board just yet. It just adopts new language that directs the County to do so by June 30th, 2025. So the Department plans to work on this change during our periodic Comprehensive Plan update.

Chair Wesen: Any questions?

(silence)

Chair Wesen: Thank you.

Ms. Rogers: And our last petition is C23-11, the General Code Language Clean Up. This is just a housekeeping item. The Department made updates to the stormwater and wireless facility language last year and the code revisers found some inconsistencies in language in other sections of the code, so this would simply rectify and make sure that our code is consistent across the board.

Commissioner Browning: Great.

Chair Wesen: Thank you.

Ms. Rogers: So we do have an open public comment period right now, so people can submit written or email comments through April 27th at 4:30 p.m. So you can mail a letter to our address here, 1800 Continental Place, or you may email comments to pdscomments@co.skagit.wa.us. We just ask that you provide your full name and address on any comments that you have.

So like I mentioned, we do have the comment period open and we will have a public hearing on Monday, April 24th, at 11 a.m., so people can provide verbal testimony if they want as well. And then the Board is scheduled to review the submitted comments and deliberate on which petitions will be docketed on May 8th at 10:30 a.m. And again, the petitions that we have been discussing and any additional documentation can be found on our project website at the link on the screen.

Commissioner Browning: And the verbal can be about those things you've chosen to exclude or only includes the ones you've chosen to include?

Ms. Rogers: They can make comments on any of the petitions that are under consideration. Our recommendations are certainly not final. The Board gets to make that decision.

Commissioner Browning: Great. Thank you. Thanks for being so timely. That's great.

Ms. Rogers: Trying to make sure you make it to your next one!

Chair Wesen: Any other – all right. Thank you very much. Any other comments or questions?

(silence)

Chair Wesen: So with that, we'll be adjourning for a minute.... So with that, we adjourn. Thank you (gavel).