

**Skagit County Planning Commission
Workshop: Updates to Permit Procedures
Workshop: Introduction to 2024 Docket
March 26, 2024**

Planning

Commissioners: Kathy Mitchell (absent)
Vince Henley
Angela Day
Amy Hughes
Tim Raschko, Chair
Joe Woodmansee
Tammy Candler, Vice Chair (absent)
Martha Rose
Jen Hutchison

Staff: Jack Moore, Planning Director
Robby Eckroth, Senior Planner
Tara Satushek, Senior Planner

Others: Ryan Walters, Consultant

Chair Tim Raschko: (gavel) Good evening. Welcome to the March 26th, 2024, meeting of the Skagit County Planning Commission. We are missing Commissioner Candler and Commissioner Mitchell. Okay, is there a motion to approve the minutes of the last meeting?

Commissioner Vince Henley: I so move that we approve the minutes.

Commissioner Amy Hughes: I'll second.

Chair Raschko: It's been moved and seconded to approve the minutes of our last meeting. Is there any discussion of the minutes? Changes, anything?

(silence)

Chair Raschko: If not, all those in favor, say "aye."

Multiple Commissioners: Aye.

Chair Raschko: Those opposed?

(silence)

Chair Raschko: So that passes. Thank you. We have time tonight for Public Remarks. This time on the agenda is an opportunity for anyone to speak to the Planning Commission about any topic except items scheduled on the agenda for a public hearing the same day – which there aren't any – or items that have had a public hearing and are still under Planning Commission deliberation. Public Remarks, which is not part of the formal public participation process, for any development

regulation or Comprehensive Plan amendment project is limited to three minutes per speaker and up to 15 minutes total. So is there anybody that wishes to address the Commission?

(silence)

Chair Raschko: No? Have we people on Zoom?

Tara Satushek: No, Chair. Nobody currently.

Chair Raschko: Nobody? Oh. Okay, we're done with Public Remarks. Thank you. Which takes us to our first main agenda item – is a Workshop, Updates to Permit Procedures. That would be – are you ready? I went blank! Mr. Walters.

Ryan Walters: Good evening.

Chair Raschko: I had a senior moment there. I apologize!

Mr. Walters: Oh, no worries. It's been about five years. As some of you might recall – I recognize some of your faces – I was Assistant Director of the Department about five years ago and for almost a decade before that Deputy Prosecuting Attorney advising the Planning Department. I'm here under contract to talk about our proposed revisions to the County's permit procedures. And I think it would be helpful if we could switch the monitor to the PowerPoint.

Chair Raschko: Would you prefer people ask questions as they arise or wait till you're finished?

Mr. Walters: It depends on how long you want it to take.

(laughter)

Mr. Walters: We gave this presentation to the Board of County Commissioners a couple weeks ago and we took about an hour, but they asked questions along the way. So I think that that –

Chair Raschko: I think if it's that long people will forget or – you know. So, okay.

Mr. Walters: And do you anticipate spending an hour or do you want me to go faster?

Jack Moore: We had somewhat estimated around 45 minutes total with questions.

Mr. Walters: I can make that happen.

Mr. Moore: Okay.

Mr. Walters: Okay, so tonight I thought we would review the project objectives, take a look at the approach and some of the changes that we'll be making in the chapter and by your feedback. Importantly, it's the future that you'll see a final draft code proposal. There was a code proposal, I believe, in your packet. That is a draft and not a final draft. There is also forthcoming a detailed staff report with comparisons, because the draft doesn't have strikethrough and underline because it's a complete rewrite of the chapter. So we've got a staff report that does compare all the existing sections so you can see where things move and how things are addressed. And then, of course, your standard public hearing, written comment, and Planning Commission recommendations.

Our objective at a very high level first of all is to refresh and modernize the permit procedures chapter. Now the Planning Commission doesn't deal very much with permits because you deal with the legislative side, but most of the rest of the Department manages and processes and issues permits. So it's obviously a big deal for the Department. The permit procedures code chapter that we have today, Chapter 14.06 in the Skagit County Code, was written in 2000, so we're going on a quarter-century. There are some inconsistencies with RCW Chapter 36.70B. That is the primary chapter that governs how permit procedures are supposed to work. There're various other errors. The structure of the chapter is not easily updated and we do need to make some updates because there's been some recent State legislation, or we need to make some updates to insert some process improvements so that the Department can process permit applications more quickly.

The primary piece of state legislation that we're talking about is Second Substitute Senate Bill 5290, which was passed in the last session. It requires – the last session in 2023, that is – it requires changes to avoid some fee funds and some other things and create some time limits. Importantly, those time limits. It's also necessary to update other chapters, like Zoning, to make sure that this proposed chapter is consistent with the rest of the code. So while the Chapter 14.06 is the focus of this project, other chapters will need to be touched to avoid inconsistencies that we will otherwise create.

At a higher, more esoteric level, we want to improve permit processes to expedite permits. We want to eliminate intensive manual or non-electronic processes, and some of those are implicated in the current code chapter. We want to consolidate review processes which has been a directive under state law for the last 30 years. We want to facilitate digital workflows in the County's new permit software. As I'm sure you're aware, the County is getting new permit software. It's a *big* investment of County time and money. We want to improve the readability and usability of the code itself because it shouldn't be just for planners to understand; it should be for everybody to understand.

The current code uses some terminology that is a little different from what is in the state law, and where possible we want to align those so that an applicant from another county, a developer from another county, or someone who's recently moved here, or somebody researching the state law can understand. All the same terms are covering the same concepts. I am a big advocate, as some of you might remember, of plain language drafting techniques. I will use tables and lists to make it easier to see how processes compare to each other, and so that you can modify those if you see fit. We want to delete duplicative code language so that wherever we are articulating some kind of rule we say it only once. That means we only need to delete it or edit it once, and that means we can't get out of sync with other sections if we've only said it once. And finally, that compliance with 5290, the legislation from last year.

Now this particular proposal will, first of all, evolve permit application levels into types of review, and I've got more slides explaining what this means. But basically all types of applications today are sorted into one of four types. They're labeled one through four, but there's actually five. We're proposing to reorganize that a little bit and evolve the terminology, so it won't be application level it'll be types of review. And the reason for that is not everything is technically an application, but also we want to have a clean break between the old numbers and the new numbers. The old numbers were Roman numerals, the new numbers will be Arabic numerals. You know, we're trying to clearly articulate the difference. That requires some changes in the process and some changes in the appeal rights, and I'll go over those. It also replaces long sections of text, paragraphs of text, with a comprehensive table so that you can see all in one place how the processes differ and how they work. It provides for an optional site plan review process, and we'll

talk more about that but that is potentially a significant process improvement. There are several other new tables for permit timelines, for permit expirations – those types of things. Everything that is tabular data goes into a table so that you can see it all in one place. And then we thought we would throw in an optional escape route for failure of, say, the Hearing Examiner to deliver a decision on an application. And, of course, other changes for consistency.

I mentioned plain language drafting techniques. I'm not proposing to go over all of these but they're here on the slide, which we can provide to you. It's – plain language has been promulgated as *the* official style of the federal government, believe it or not, but also the state government. There's a big push to move away from archaic terminology toward more, well, plain language that everybody uses in their everyday speech and that everybody can hopefully understand. Standardization of terminology is certainly one of those, but also you'll see in the code proposal lots of self-documentation of the code. Where code provision is *required* by the state law, we say "per" that section of the state law, so everybody remembers why that provision is in there and we don't decide to change it because, you know, somebody wants to change it to something else. It's *referenced* right there.

So the first thing on my list on the prior slide was Evolution of Application Levels – Two Types of Review. So this table I'm going to break up in a couple of segments here, and you'll see it slide-by-slide. First of all, under the existing code there are four application levels; however, you see that Application Roman numeral I there is broken into two columns because some of those give public notice (and) some don't.

How we would evolve this is, first of all, basically preserving those columns, those types of permits that are in each application, but changing the terminology to type of review. So an application level 1 would become a type of review 1; however, the application level 1 with a notice requirement would become a type of review 2. So each column has a number. And importantly, under the old system – the application level system – Roman numeral IV there has no allegory in the new system. And I'll explain why that is in a moment. So type I's become type 1's, type I's with notice become type 2, type II become type 3, and type III becomes 4.

So here's how I've built out the rest of this table. Let's take a look at what some of the example permit types are in each category.

In category 1, you've got building permits; boundary line adjustments; flood permits; lot certs; final plat approvals, and that has an asterisk and I'll come back to that in a minute. So those are generally considered ministerial permits. There's not discretion. If you meet the criteria because you submitted all the components of your building permit, you get the permit. That's also why there's no public notice and no public comment associated with those kinds of permits.

Then as we move further to the right on the table, we get into permits that have more discretion. So an administrative special use permit or an administrative variance – you'll see some others here – those types do have some level of discretion and they do offer public notice and a public comment period, but they are decided by staff. Similarly with type I reviews.

The third category is more or less the permits that go to the Hearing Examiner, so the Hearing Examiner special use permits, the Hearing Examiner variances. Those more intense applications where there is more discretion and more opportunity and more desire for the public to be heard to make sure that those permits are integrated into the neighborhood.

And then type 4. There is a small subset of variances that go to the Board of County Commissioners. There is a regional essential public facility, a large-scale essential public facility, and there are rezones. Rezones have to be adopted by ordinances. The Board of County Commissioners is the only entity that can adopt an ordinance, so they *must* be in the type 4. In the old type IV, there was final plat approval. And we proposed moving final plat approval from type IV to type 1, which might sound like a big jump but the legislature changed the law a number of years ago to allow for final plats to be approved administratively. And the reason for that is with a final plat you have already gotten a preliminary plat approval and the preliminary plat approval went through a public process, and it yielded a document that said do this to get your land division done. If you do those things, you should get final approval on the land division. The final approval is ministerial. It is if you check the boxes, then you get the permit. So it's inappropriate to require a public notice procedure there because public notice would yield public comment that can't be taken into account. It must be evaluated simply based on compliance with the preliminary approval.

Now you'll see elsewhere in this chart for each type we delineate who conducts a public hearing, or if there is one. So, for example, type 1 and type 2 do not have public hearings. Type 3 do have public hearings before the Hearing Examiner. Type 4 does have a public hearing before the Hearing Examiner. And then in the next line down, the recommendation line, you'll see who makes the recommendation to the entity that performs the decision. So again taking type 2 as an example, staff make a recommendation; the Hearing Examiner makes the decision. And in type 4 – I'm sorry, that was type 3. So in type 4, the Hearing Examiner conducts the public hearing; the Hearing Examiner makes a recommendation to the Board of County Commissioners. So this table that I'm showing you here on the slide is replicated into the code product. It's in the draft. And it's intended to be able to show you all this at once and not have to show you it in narrative so that you have to read through many paragraphs to figure it out. So it's important that you understand the structure of the table, how the table works, and then we can talk about, you know, any questions that you have.

Here is a significant difference from the existing code – because, more or less, all the rest of this with the exception of final plat and probably some other little edits, is renumbered but consistent with what existing code prescribes as a process. But under current code, there is an appeal of, say, a lot certification, first to the Hearing Examiner and then to the Board of County Commissioners – or a building permit. An appeal route is available first to the Hearing Examiner and then to the Board of County Commissioners. Now depending on your viewpoint, that may be good or bad. It's not allowed under state law, so that's why we're changing it. But also it creates more obstacles for the applicant to getting to court, because the applicant must exercise every administrative appeal – right? – before they can go to court. So we would simplify that. These ministerial permits largely don't get appealed anyway, but if they did they would go only – in this blue line here – to the Hearing Examiner. The same with level 2. They would only go to the Hearing Examiner. So there's only *one* level of local appeal. The more complicated permits would go to the Board of County Commissioners, except for the type 4's that they decide themselves because they will have already made the decision. There's nobody else locally to appeal them to. So after that you can go to court, Superior Court.

And so this is just an illustration that we're eliminating that application level 4 and the only thing that's in application level 4 moves over now into type 1, the final plat.

Now we introduce – well, maybe I should stop there, because this is a very important slide and it's a lot of the meat of the chapter. Or do you have any questions?

Chair Raschko: Go ahead.

Commissioner Joe Woodmansee: Martha was first.

Commissioner Jen Hutchison: Well, I would just like to say that I feel like one of the biggest questions that would come up is with removing the final plat from that additional section. What if there's major revisions during the plan? But as I read through the preparation documents that you guys provided, I see that you would be needing that applicant then to reapply, so they would start over again if there was a major revision to their plan.

Mr. Walters: Yeah. So there's –

Commissioner Hutchison: So they would still go through the process again in public.

Mr. Walters: Right. But the final plat is that final step, the checkbox step. But, yeah, if you want to make *changes*, then you need to go through a different process to make those changes.

Commissioner Hutchison: Okay.

Mr. Walters: And that's – if that was a public process originally, it'd be a public process again.

Commissioner Woodmansee: So if you're in category 1 and you're doing a final plat, I'm assuming that's the final plat, whether it's a short subdivision or a long subdivision?

Mr. Walters: Yeah.

Commissioner Woodmansee: Okay. At that point, I would assume that there's no appeal available to the public. You went through your public hearings, you've got your conditions, you've built your project, the Director says, Yep, you did it all. But here it says that under number 1 that that final plat could have an appeal?

Mr. Walters: Yes.

Commissioner Woodmansee: (unintelligible)

Mr. Walters: So there are two aspects to that. First of all, the decision on the final plat could be a no, and so the applicant may want to appeal. So we always preserve an appeal right. The second question is who has standing. And it may not be that anybody other than the applicant has standing on the final plat approval. I'd have to look through the code. So that's a good question.

Commissioner Woodmansee: Okay, let me ask my question in a different way.

Mr. Walters: Mm-hmm.

Commissioner Woodmansee: If you build everything prescriptively to what your approval was, can I assume that you *cannot* be appealed? So the answer's no?

Mr. Walters: So we would have to go look and see who has standing to appeal.

Commissioner Woodmansee: I understand that. I do understand that. But so previously it went to a public meeting – not a public meeting as in public notice meeting, but within a public setting that it got approved and accepted, right?

Mr. Walters: Right.

Mr. Moore: That's correct. It was a public meeting, not an official public hearing process.

Commissioner Woodmansee: And then you get your approval. How it works is you never get to the meeting unless you've already got signed off by staff and by – I mean, they're not going to put you on the agenda unless everybody's agreed we're going to approve this. That's *practically* how it works. So once you get there – I'm having trouble with that – that final plat could be approved unless there – I mean, there would have to be a major change in the subdivision, whether short or long, for somebody to actually have another crack at stopping your project after it's built!

Mr. Walters: So it's a good question. We'll make sure that this is addressed in the code, but no, the objective is not to allow for any kind of process that way. As a general matter under the standing rules, you need to have commented on the project, and the final plat application no one will comment on. It's type 1. So I'm not sure who else would have standing.

Commissioner Woodmansee: Well, okay, let's – this is important because let's say you have a neighbor who has been on your tail all the way through the whole project and his whole goal is to stop your project from happening. You've built it. He's *at* the final plat whatever. He's commenting on the application. I mean, I don't know how you can have a comment period if there's not really a comment period.

Mr. Walters: There wouldn't be one.

Commissioner Woodmansee: Okay, so then the answer's no. They can't appeal it.

Mr. Walters: Well, so there are two components to the question. One: Is there an appeal that is possible? And yes, there is, by the applicant.

Commissioner Woodmansee: Okay, not by others.

Mr. Walters: I don't think so. I would have to go back and make sure that the code is ___ that way.

Commissioner Woodmansee: You see where I'm going with this.

Mr. Walters: But yes, I completely understand where you're coming from.

Commissioner Woodmansee: You build the whole darn thing and then your neighbor who never liked it from Day 1 tries to stop you from recording.

Mr. Walters: Yeah.

Commissioner Woodmansee: And everything is signed off, and there's this appeal that – and I think it needs to be plain language that it doesn't allow that.

Mr. Walters: Yeah.

Commissioner Woodmansee: Anyways....

Mr. Walters: We'll bookmark that and come back to it and make sure that we address that in the next draft.

Commissioner Angela Day: I just have one quick question. I might have missed it, but this PowerPoint I didn't see on the public Planning Commission page.

Mr. Walters: It wasn't in the packet.

Commissioner Day: It wasn't in the packet.

Mr. Walters: No, we can add it.

Commissioner Day: Okay. I just wanted to check. Thank you.

Mr. Walters: Anything else?

Chair Raschko: I think that's it. Anybody else?

(silence)

Chair Raschko: Okay.

Mr. Walters: So the new process that we would introduce here, a new step, is something that we're currently calling a site plan review. There are other jurisdictions that have a land use entitlement process and they call it a bunch of different names. Here what we are proposing is simply a roll up step. So all of these steps that you see here are things that get done when you're applying for, say, a building permit. All of these things get evaluated. And what we're trying to achieve is evaluate them once and then not again. So, for instance, a lot of records – well, that's maybe not the best example, but your setbacks. You can determine your setbacks as a general matter based on your zoning and your parcel. So that would occur for the first permit that you submit and it would get reduced to a memo and then that step would not occur again. So for your next permit – say you build a garage first and then you build a house – for your next permit, we don't have to re-evaluate setbacks because somebody has already looked at those things, they've put them in the memo. Similarly with critical area boundaries, those kinds of things. We're looking hopefully at them once and not having to return to look at them again.

That is the concept here and what we've tried to do is write it flexible enough such that the Department can figure out how to implement it internally. But we're trying to do that complicated review up front – that land use review. We're trying to allow for it to be followed up with multiple building permits without re-reviewing these land use components. And so the example is, you know, you do your site plan review separately from your building permit, and then maybe you get your land disturbance approval from the Department, and then you go do your civil work, and then maybe you come back for a building permit for the garage or for the house. And on that last step where you're getting that building permit, we don't have to look at all your land use approvals because we've already done that once and we've reduced it to writing. And unless – there are a couple of escape clauses in the section, but unless we happen to know that a new critical area has formed on your property or a code change has occurred, we don't have to do those review steps before. And importantly, the way I just described it, site plan review could be done as an optional step, first step. So you figure out what your parameters are for a building on your lot

ahead of time but if you already know those things or think you know those things – for example, in a recently platted subdivision. I mean, you know all of that – right? – because you just laid out these lots – you don't have to do that step separately. You just submit for your building permit. And internally the step gets done and they write down the notes, so that for the next building permit you don't have to get re-reviewed internally. But we're trying to create basically an internal requirement that staff reduce their review of the land use parameters to writing and then that those parameters don't get reviewed again unless there's a really good reason for it. Your building permit gets reviewed against the internal memo rather than having to start all over with a new critical areas review or those kinds of things. So that can be a little bit complicated, and it may be complicated depending on, you know, how it works out internally, but we're trying to provide a framework for that.

I think we don't have the current fonts here so it messed up the slide a little bit, but what we're talking about here is that new legislation that got adopted in the last legislative session in 2023. It requires the Department to clearly indicate the information required for application review, and that's important because, you know, there's a 28-day time period after which you submit an application and which the Department needs to evaluate whether the application is complete. And if it is complete, then permit processing timelines kick in – and we'll get to those in a moment. So knowing whether an application is complete and how you know is a really important thing for the purpose of calculating timelines. The Department can always come back and ask for more information because maybe we determine there's something else that, you know, you need information about.

But the clock has started running. And so the new legislation requires that we *clearly* indicate that – what information is required. It also requires that interior alterations – with a couple of exceptions, interior alterations don't get site plan review. Helpfully – and we will be having a conversation about this with the state – they don't define what "site plan review" means, but I think we kind of have a sense of it and it also kind of dovetails with what we are calling "site plan review" in our document. But basically if you are remodeling inside your house, you should not have to come in with a site plan, you should not have to show us where the critical areas are, you should not have to do any of that because it's all occurring within an existing structure. So that is an important directive that the state has provided because they perceived a problem with that in some jurisdictions where jurisdictions wanted all this information. I know when I remodeled my basement I had to submit a site plan. The basement was already there. It's been there for the last hundred years. Wasn't getting any bigger. But I had to submit a site plan. Now you won't. So we make a change in the code for that.

And then there's these permit processing time limits. They break them down into each type of permit application, whether it gets a public hearing or a public comment period or both. So permits that require no public notice – those are those type 1's in the chart – they need to be processed within 65 days. Now Skagit County, when it adopts this code, can choose time limits other than these. There are some consequences for choosing *larger* time limits. You could choose shorter time limits or you could break them up differently. But this is the default that's in the statute and it's the default that I've inserted into the code proposal. So number one, permits that don't require public notice – the type 1's – they should be processed in 65 days.

Commissioner Martha Rose: Is that business days?

Mr. Walters: No. Wait. I'm not sure. I'll have to check.

Ms. Satushek: I believe it's calendar days.

Mr. Walters: I think it is, yeah.

Commissioner Rose: Calendar days?

Commissioner Woodmansee: I work seven days a week. _____, right?

Commissioner Rose: Yeah.

Chair Raschko: With this process, you mean it's *accepted* as complete or does it mean it's approved?

Mr. Walters: Right. The 65 days should be measured from when it's accepted as complete till a decision is issued. So the decision could be a no, right? It could be a denial. But you have to get to a decision within that time period. And the same provisions that exist in the law prior to 2023 are still there. The ability to stop that clock if you have to ask for more information – those kinds of things. But as a general matter, it should be processed in 65 days. So that includes building permits. Now permits that require public notice, which would be type 2 on your chart, their default is 100 days. And permits that require public notice and a public hearing, which is type 3 and 4 on your chart except for ___ 4. Those get up to 170 days. Now the default prior to this new legislation was 120 but there was also no consequence for missing the 120-day deadline. Now there are consequences. And as I mentioned, yeah, all of those review periods are subject to the same exclusions that there used to be from stopping the clock.

So in that same table that we saw a minute ago, we add a line at the bottom for the time to the decision. So now you can see here each of those permit types as listed in each column, and then the time to decision on each.

Chair Raschko: Can I ask another question, please? I thought I heard you say that the clock can be stopped, like if more information is needed.

Mr. Walters: Right.

Chair Raschko: Well, when you consider the application complete, shouldn't that – shouldn't that require them to stay within that timeline then?

Mr. Walters: Yes. I mean, I understand where you're going. The question is what does "complete" mean and typically we characterize it as being procedurally complete. So you have submitted all the stuff that we know in advance about this permit type is required. But there may be other things that turn up to be required. You know, maybe you're proposing something out of the ordinary and so we need another engineering stamp or something on that. So that could be a request for more information.

There is another provision, though, that is suggested by the legislation, 5290, that we've written into the code proposal. And so this is straight out of how it's directed or suggested – because it's an optional component – in the state legislation. If staff need to ask you for more information once, that's fine. If they need to ask you for more information twice, then they have to offer you, as the applicant, an opportunity to come in and meet with staff and figure out what information – *all* the remaining information – is required. And when that information is then submitted, the Department needs to make a decision on the application. So the objective here is that applications can't sit in limbo forever. Applicants either provide the information that's requested or not. If the information that is requested is critical to processing the application, then maybe the application gets a denial

if that information isn't submitted. But a denial is appealable and so someone other than staff would then be able to review it and make a decision as to whether staff made the right call. So there are – it's an important component here because statewide we have applications that sit around forever, right? Well, we need a little bit more information about this, or, you know, something else came up. And a lot of those things may very well be legitimate but we also want to get to a point where applications get terminated either by a denial or by an approval, but we get finality on those so that we don't have 10-plus-year-old applications sitting out there. And so this seems like a relatively simple provision, this completeness and the timelines, and it's very much in line with what the law was prior to 2023, but it also represents a new statement from the legislature that we really want permits to be issued on these timelines. Previously 120 days was a suggestion – I mean, it was a requirement but it had no teeth, right? Now there is a requirement that you meet these timelines. If you have some special circumstances, the County can adopt different timelines than what is here, but once you've adopted them you have to meet them. And so that really is a sea change in what the legislature is saying our responsibilities are – is local government to process permits.

That may be a pretty long explanation to what seemed like a simple question.

Chair Raschko: No, it was very good. Thank you.

Commissioner Rose: I have a question that's before this one and it's – or a clarification. So on the item when you were talking about inter-alterations don't require a site review unless special circumstances or under some. And I want to get a little more clarity about that. In my mind, that could be a change of use that would require more parking. That might require a site review, right?

Mr. Walters: Yeah, so there are specific callouts in the state legislation for that and I think that's one of them. Another one is –

Commissioner Rose: Or even adding – what's that?

Mr. Walters: – adding a bedroom.

Commissioner Rose: That's what I was going to say. Even adding bedrooms if you're on septic would trigger it, right?

Mr. Walters: Yeah. Substantial improvement threshold for flood is another one.

Commissioner Rose: I see. Okay, so –

Mr. Walters: Yeah, there are several.

Commissioner Rose: Yeah. Okay, thank you. That's what I figured but I wanted to see if I was on the right track.

Mr. Walters: Yeah.

Commissioner Rose: Okay, thanks.

Commissioner Day: I'm sorry if I am not seeing your chart properly. I don't have very good vision. But is there a time where there is the determination of completeness? I think we asked this last session. And how do we know it's complete?

Mr. Walters: The –

Commissioner Day: As an applicant.

Mr. Walters: The standard in the statute is 28 days. So you submit your application; staff review it for completeness, and they make a determination within 28 days whether it is complete or not. If not, then they send you a letter and then you have an opportunity to correct that. But these timelines here on the last line of the chart – the 65 days up to 170 days – they don't begin to run until your application is deemed complete.

Commissioner Day: Right.

Mr. Walters: Importantly, if staff do not get back to you in 28 days, then your application is *automatically* deemed complete.

Commissioner Day: Okay, so you just keep track and if you don't hear, no news is good news?

Mr. Walters: Maybe.

(laughter)

Commissioner Day: Okay!

Mr. Walters: I mean, I think we're submitting on computer now so....

Chair Raschko: Okay?

Commissioner Day: Yeah, thank you.

Mr. Walters: Okay. So that is the end. So I can go back to any slides, answer any questions, and we are at 37 minutes.

Chair Raschko: Wow.

Commissioner Woodmansee: The last thing you said was we're submitting on a computer now. Is that correct?

Commissioner Rose: Is what?

Commissioner Woodmansee: That we're submitting by computer now?

Mr. Moore: Electronic applications, yes.

Commissioner Woodmansee: The only way you can apply?

Mr. Moore: Yes.

Commissioner Woodmansee: There's been a disaster in one of the cities in Skagit County. And so I really hope that that's right, that we create that to be *super* user-friendly. Because I'm not going to bash the city, but there's a city that we've dealt with and their system was so unfriendly to the user that it just created appointment after appointment after appointment via phone or at

the counter trying to get it figured out so that you can actually then go back to your office and submit it electronically. And so I'm really leery of nothing but electronic submittal so I'm really hoping that as we go down that road that is, like, really super easy to do.

Mr. Moore: Yeah, Commissioner Woodmansee. I wanted to let you know that we've been accepting building permit applications electronically for a few years now and while it's not been seamless at all times because we came up with the process on the fly during the Covid shutdowns, it has worked quite well and we anticipate it working even better when our new software goes live in August. I will say there are some exceptions to our rule of electronic. We have some – maybe people who aren't comfortable with computers, homeowners that don't really work a lot with electronic plans, we can still accommodate some of that here and there. If they come in and they just don't have any other way, we can assist them in scanning it and getting it into the electronic system. We're always going to be looking for ways to be helpful, to make sure we don't leave anyone behind, but it's been a few years now and it's not been too bad, even with our cribbed up system we have at the moment.

Commissioner Woodmansee: Well, that's good to hear. I just went to the races and I had to print my tickets because it was, you know, a real challenge to get them on my phone. Anyways....

Chair Raschko: Jen?

Commissioner Hutchison: I just for clarity want to make sure I'm understanding. When you are speaking of reducing written memo internally, when you say "internally" you're speaking of this new software as well? It'll all be in one place?

Mr. Walters: Well, hopefully. We're drafting this without having the new software live, right? I would expect that it's *in* the software.

Commissioner Hutchison: Okay. Thank you.

Chair Raschko: Anybody else?

(silence)

Chair Raschko: Okay, well, thank you.

Mr. Walters: Thank you. So if you have any other comments, feedback, or ideas, you can send them to Jack or to myself, and I will get you a copy of this PowerPoint as well and put it on the web.

Chair Raschko: That'd be great. Thank you.

Mr. Moore: Yeah, thank you.

Chair Raschko: Okay, we'll turn now to a Workshop on the 2024 Docketing. Mr. Eckroth?

Robby Eckroth: All right. I had an opportunity to give this presentation to the Board of County Commissioners this morning so I got a little bit of practice. So thank you, Commissioners. My name is Robby Eckroth. I'm a Senior Long Range Planner with the Planning & Development Services, and we are here today to introduce this year's docket petitions and to go over staff's recommendations for each petition.

So the Planning docket cycle is an annual process where citizens and staff can submit petitions to make changes to the Comprehensive Plan and development regulations. This year we received four citizen-initiated amendments and there are four requested amendments from the County, one of which was a petition that was deferred from last year's docket. This morning we held the first work session with the Board of County Commissioners, and we have provided you with the staff report that was given to the Board, which includes analysis and recommendations.

That staff report and the citizen petition applications could be found on the project website, which can be accessed from the link on this slide. So docketing a petition is not a final action on any proposed amendment. Docketing just means that the County is authorizing that petition to move forward for a further evaluation by staff, the Planning Commission, and the Board of County Commissioners.

So the Skagit County Code requires the Department to make a recommendation to the Board on which petitions should be included on the docket and on the criteria listed on this slide. So the first criteria is:

- First, does the petition comply with the filing requirements?
- Can the petition be reasonably reviewed within the yearly work plan?
- Do the proposed amendments require additional amendments and is the amendment consistent with the goals and policies as they stand today?
- Would the amendment be more appropriately addressed through a future ongoing work program?
- And does the proposal lack sufficient information for review?

So as I go through each petition, I will wait a moment to give the Planning Commission an opportunity to ask questions.

This is the first citizen petition that was submitted. LR24-01 was submitted by the Washington State Parks & Recreation Commission. The petition requests a rezone approximately 77.85 acres from Rural Reserve to Public Open Space of Regional/Statewide Importance – otherwise known as OSRSI. Changing the zoning from Rural Reserve to OSRSI will allow the Washington State Parks & Recreation Commission to provide recreational needs, environmental protection and conservation, and would bring the parcel into consistent zoning with the rest of the state park. The proposed rezone appears to be consistent with the purpose of the OSRSI zone in the Comprehensive Plan, and therefore staff recommends that this petition be placed on the docket.

And just to show you here. This is the project area. You can see it's just west of Pass Lake and then also just west of the intersection of Rosario Road and State Route 20. And here you can see the bottom portion of the parcel is already zoned OSRSI in the green here and then the top portion is zoned Rural Reserve. So the State Parks is just requesting that the rest of the parcel be rezoned to OSRSI there. And again, this parcel after a boundary line adjustment became part of the Deception Pass State Park so it's already part of the State Park boundaries, so they're just trying to change the zoning to accommodate future uses that are consistent with parks. Are there any questions on this petition?

Chair Raschko: (unintelligible)

Commissioner Woodmansee: Can you typically do a – I'm asking not with an agenda; information.

Mr. Eckroth: Yep.

Commissioner Woodmansee: When you do a boundary line adjustment, can you normally do a boundary line adjustment and combine – and maybe that’s not what happened, but can you combine two different zones into a single parcel?

Mr. Eckroth: You can.

Commissioner Woodmansee: Can you?

Mr. Eckroth: Yeah, absolutely. As long as it’s consistent with each zone district. So, like, let’s say you’re doing a boundary line adjustment and the lot met the minimum lot size requirements. You couldn’t make that portion of the parcel inconsistent with the minimum lot size requirement.

Commissioner Woodmansee: Gotcha.

Mr. Eckroth: And there are some other criteria, but that’s the biggest thing that we typically look at.

Commissioner Woodmansee: I was just curious. The other thing to comment, being in the home-building business: So if 77 acres of Rural Reserve is 14, 15 dwelling units at less – like if we were doing the usable land survey or whatever – I can’t remember what it’s called – buildable lands or – do you know what I’m talking about?

Mr. Moore: Land Capacity Analysis? As far as the type of subdivision?

Commissioner Woodmansee: No.

Commissioner Rose: The Buildable Land _____. Yeah.

Commissioner Woodmansee: The buildable land, right? Yeah. And so the size of it in the Rural Reserve – I have no problem with what’s going on here, but the size of it in the Rural Reserve designation, one of my first thoughts was – as a builder – well, there’s 14,15 units, housing units, that are gone now, right? And so it’s just an observation. It’s not a bad thing. I’m not saying it’s bad, but that is something that came to mind, that we’re always looking for units. But maybe not so far out there.

Chair Raschko: Any other questions, comments on number one?

Mr. Eckroth: Thank you. And just to clarify: The County does a Land Capacity Analysis and that is where we develop that Buildable Lands Report. And the rural areas are typically not as heavily studied as, let’s say, our Urban Growth Areas. And the Cities really, really look at those areas so we wouldn’t be necessarily looking at this parcel with great scrutiny. But now that it’s already in state park boundary, I don’t think it’s ever coming out.

Commissioner Woodmansee: I have no issue with what’s going on. It’s just an observation.

Mr. Eckroth: Right. Thank you. So LR24-02 was submitted by John Bouslog and his attorney Jon Sitkin. The petition requests to reduce the buffer requirements between the industrial and residential-zoned land in the Bayview Ridge Light Industrial zone and also requests to amend the landscape requirements for industrial properties adjoining residential in Bayview Ridge. The

petitioner has proposed two alternatives for consideration, which I have shown in a table in the staff report that was provided to you in your packet. And the highlighted area is the main area that would be affected by the proposed amendment, as it is the only Bayview Ridge Light Industrial-zoned area adjacent to residential zones. As you can see, there's a little area on the bottom right corner that's also zoned Bayview Ridge Light Industrial. It's really tiny there. But that would be another portion that's affected by the proposal. The portion on the south end here, the bigger portion, is adjacent to agricultural lands so it would not be affected by this proposal.

So the Department recommends that the petition be included on the docket and the Department would like to continue working with the petitioner to explore additional alternatives that are consistent with the Bayview Ridge Subarea Plan, continue to mitigate auditory and visual impacts, and creates and maintains (sic) community cohesion.

Are there any questions on this petition?

Commissioner Hutchison: So we just had a rezone – we removed the overlay of the residential zone on one little parcel in here.

Mr. Eckroth: Yeah, so it'd be –

Commissioner Hutchison: Right off Peterson, right on the top corner there.

Mr. Eckroth: Right. Right here we rezoned a parcel last year as part of the docket that was still zoned there by error.

Commissioner Hutchison: And there was a lot of discussion around the buffer there and there were a lot of promises about the buffer there. And this is – I don't know that I can find an appropriate word that suggests how I'm feeling right now about the reduction that they're suggesting in those tables. I believe it was 50-foot.

Mr. Eckroth: That is one of the alternatives.

Commissioner Hutchison: And in reference to distance of semi-tractors being in active ___ and motion. And my husband being a trucker, I get to know that the trailer itself without the truck and your catwalk is literally 53 feet. So I hope that you're able to really find some alternative solutions to their needs.

Mr. Eckroth: Right.

Commissioner Hutchison: I just had to share. Thank you.

Mr. Eckroth: Yeah, well, thank you. And this is why staff wants to continue working with the applicant. I think that there's still some work to do to explore additional alternatives that will work for the whole community there. I believe, in talking with the Port of Skagit, their property – they plan to maintain the buffer requirements since they're so far into the design process of the application that they're going to be submitting here for their business park. But, yeah, this would affect other developments.

Commissioner Hutchison: Thank you.

Mr. Eckroth: Yeah.

Chair Raschko: Other questions, comments?

Commissioner Day: I kind of agree with your comments that it seems like a lot of burden of the buffer is being shifted to the residential lots. And I don't know how big those lots are, but if – you know, if you already have trees or a buffer or your house is already that far there, it's this new zoning or these new regulations would shift that burden to the existing home instead of the Light Industrial. And so that's just something to consider, I guess, as we move forward.

Mr. Eckroth: Absolutely. Thank you.

Commissioner Woodmansee: A quick question. My question is – because it hasn't been that long ago that we did this – so my question is – because this is a pretty comprehensive submittal – so was this already in the works and being worked on between staff and the petitioner when we were processing that other? Or is this all brand new since the rezone happened?

Mr. Eckroth: We did receive the application back in July, which is the submittal requirement. I believe, Jack, you had one meeting with the applicant that was just very – a broad overview of what they were considering at that time. We hadn't seen what they were actually proposing at that point. So not a comprehensive discussion, just we knew the application was coming and there hadn't been any discussion between the submittal and – actually it still hasn't been a conversation about additional alternatives yet, but we plan on doing that with the applicant.

Commissioner Woodmansee: My reason for asking is just if it would have been information that we might have wanted to see at the time. It wasn't actually applied for then, I guess.

Mr. Eckroth: Also different applicants, so I'll just note that.

Commissioner Woodmansee: Okay. Thank you.

Commissioner Rose: If I recall, that prior change of zoning was a very small amount – an acre, two acres, 10 acres? I don't remember.

Mr. Eckroth: I think it was a little over two.

Commissioner Rose: It was a little over two so it was a drop in the bucket compared to this whole – which is how many acres?

Commissioner Henley: Seventy-one.

Mr. Eckroth: Oh, are you asking that the applicant owns or just all –

Commissioner Rose: No, just outlined in yellow.

Mr. Eckroth: I'm not sure what the total acreage of that area is.

Commissioner Rose: Yeah. The other comment that I have is having worked most of my career in Seattle, of course, it was very common to have commercial industrial close to residential and there are a lot of creative ways to mitigate. A hundred-foot buffer would be out of the question in an urban area. And so I'm openminded about it. I think that there are definitely ways to meet the goal without – in a positive way. I don't think it's a negative out of the hopper. That's all.

Commissioner Hutchison: I believe their previous – well, the current. The current existing buffer is 250 feet. So they want to reduce it down to a fifth – not even cut it in half, but a fifth of what the current expectation is from all the surrounding residential properties, owners there.

Mr. Eckroth: Just to clarify, there's a different buffer for different aspects of an industrial development. So the loading dock buffer is a lot greater than the mechanical equipment buffer, and there's a buffer for lighting that isn't **downshielded**, and so we want to look at each – every single aspect to make sure that it makes sense if we're going to be putting another alternative in front of you. So we want to make sure that it's going to work for the residential properties adjacent to all of the Bayview Ridge Industrial development. We also want to make sure that we can alleviate some of those buffer requirements in ways that make sense for any future applicants in the industrial areas.

Chair Raschko: Okay.

Mr. Eckroth: Thank you. LR24-03 is the SMV LLC Rural Freeway Service Rezone brought by SMV LLC. This petition requests to rezone two parcels totaling approximately 4.87 acres from Agricultural-NRL to Rural Freeway Service. The subject properties are located near the Interstate 5 exit to Old Highway 99 South and is adjacent to Cedardale Road. The property is currently vacant and has been used for agriculture. The petition would allow the property to be used for commercial purposes such as a gas station. Rural Freeway Service is an example of a Type 1 Limited Area of More Intense Rural Development designation, which is used to contain commercial areas of commercial or residential growth prior to 1990. Rural Freeway Service areas were designated at portions of four Interstate 5 freeway interchanges in the rural area that had existing commercial development. Skagit County does not expect new Rural Freeway Service areas per the Comprehensive Plan, and Comprehensive Plan Policy 3C-3.2 also restricts new Rural Freeway Service development in designated natural resource lands.

The Department is recommending that this petition be excluded from the docket as the Growth Management Act rarely allows counties to grant new Type 1 Limited Areas of More Intense Rural Development, and the petition is not consistent with Skagit County's Comprehensive Plan policies.

So this will give you an idea of where this is proposed. This is just south of the Mount Vernon city limits. It's adjacent to the Mount Vernon Urban Growth Area here. And this is just a closer image here of the zoning boundaries as well. Does the Commission have any questions on this petition?

Commissioner Hutchison: Is that the nursery?

Chair Raschko: Is there what?

Commissioner Hutchison: Is that the nursery?

Chair Raschko: No, that's just – it's just –

Mr. Eckroth: That's up north.

Chair Raschko: – hayfield. Okay, Joe?

Commissioner Woodmansee: The MVUD zoning there – do you know what the allowable uses are in that?

Mr. Eckroth: Well, it's the Mount Vernon Urban Growth Area and the zoning, I believe, defaults to the city's identified zoning for the area. So we have to work very closely with the City to implement their development regulations and look at their allowed uses.

Commissioner Woodmansee: I could be wrong, but I don't think that they have an agriculture zone in the city any longer. I could be wrong about that. So I'm in – I don't have a dog in this fight, but this particular piece, what perks my interest when I read about this was about how – it talked about how you can't change it. But I've been watching this. I don't really think it's been used agriculturally. If it has, it's been nothing but mowing grass. And so my curiosity is I think I read that the only way you could change it is if there was actually an error in the zoning 30 years ago or 20 years ago, whenever the zoning maps were made. And it seems like for this type of a parcel that's not actually being farmed and as growth happens and it's adjacent to a Mount Vernon zone that my assumption is eventually something commercial might go on those pieces, which is 100% assumption with no knowledge. But I'm just curious. It seems like there should be a way in the future – a point of discussion is how would you take a piece that, you know, 30 or 40 years later has just really not been farmed, zoned ag, stuck in that ag zone because of the rules, and it's really dysfunctional for everybody.

So my comment is that it seems like there's some research to do in the big picture of how would you deal with something like that. Anyways....

Mr. Eckroth: So if you don't mind me just responding to that real quickly.

Commissioner Woodmansee: Yeah!

Mr. Eckroth: So part of the struggle with this specific application proposal is that they're requesting to create a new Limited Area of More Intense Rural Development, which is pretty specific in state law that it has to be based around preexisting development.

Commissioner Woodmansee: Sure.

Mr. Eckroth: The area surrounding it, with the exception of the Mount Vernon Urban Growth Area, is zoned agriculture, so that also makes things a little tricky when trying to identify a zoning designation that might work without having it be in a legal spot zone. So their best hope – and I was actually just speaking with the applicant's agent – is to potentially get put in the Mount Vernon Urban Growth Area through this Comprehensive Plan amendment. If that doesn't work, I'm not really sure what the alternatives are at that point because of those two issues I just brought up.

Commissioner Woodmansee: So just out of curiosity, so is – and you don't have to answer this if you don't want to – but is the rub here not so much that we're trying to keep it in ag but there's just not really a process to get it out of ag?

Mr. Eckroth: I would say that's one consideration, yeah, without knowing a whole lot about the soil types and things like that. Because that's part of that analysis if we are going to take something out of the Agricultural-NRL zone, is it requires more research.

Commissioner Woodmansee: Yeah. I'm not saying that there couldn't be an ag benefit there somehow either, you know.

Chair Raschko: Commissioner Hughes?

Commissioner Hughes: Has it been determined how much acreage that is?

Mr. Eckroth: Yes. It is 4.87 acres.

Commissioner Hughes: Say that again.

Mr. Eckroth: Four-point-eight-seven.

Commissioner Hughes: Thank you.

Chair Raschko: Anything else?

Commissioner Hughes: No.

Chair Raschko: Please go ahead.

Commissioner Day: All right. Thank you. I have some of the same thoughts, I guess, as Commissioner Woodmansee, but, in addition, I also have noticed that all of the applications that the staff is recommending be included on the docket are proposed by, you know, a government agency or, you know, a major development, and this appears to be a smaller individual. And apparently it meets all the criteria because you're not excluding it for that reason. And so I'm just concerned that it might merit more consideration rather than just sort of an administrative recommendation of not accepting it. It does seem to have some unique characteristics: sort of bounded right there by Cedardale Road and the freeway exit, and it *is* adjacent to an Urban Growth Area. So I looked at the Washington Administrative Code for Limited Areas of Intense Rural Development, which is 36.70A.040, and it didn't seem to indicate – at least my, you know, lay person read – that there *has* to be a preexisting building there. And that also part of the concern is that there be some kind of natural boundary to limit future growth, and it does seem like there *is* a natural boundary, given the freeway and the exit and Cedardale Road. So I'm not advocating one way or another, I just wonder about having an open and public process to make a determination – if that wouldn't be merited.

Mr. Eckroth: Sure.

Commissioner Day: Just in an effort to be very transparent and give each application, you know, the analysis that it might be due.

Mr. Eckroth: Sure. Just to clarify, the LAMIRD limitations are in the RCW 36.70B – it might be A. I can't remember.

Commissioner Day: There's 1 and 2, so A and B, I think.

Mr. Eckroth: Right. So there are three different types of LAMIRDs and what they're proposing is a Type 1. Type 1's have that development restriction which is very strict and Counties have been challenged on being too flexible if they're Limited Areas of More Intense Rural Development in the past since the Growth Management Act was adopted. So the County has to very carefully consider whether they can create a new LAMIRD or not. So in the past – just last year we had a somewhat similar application that was excluded from the docket as well by the Board of County Commissioners for similar reasoning. We can – there are other LAMIRD-type zonings available that are Type 2 or 3, but typically we also have to look at those very carefully. One in particular I'm thinking of is like a Small Scale Recreational and Tourism-type zoning. I'm not exactly sure what the criteria for that is off the top of my head but we have to look at the proposal that's been

given in front of us. We of course will continue to keep working with the applicant to find alternatives, but we're just looking at what's been proposed in front of us right now.

Commissioner Day: Sure. Yeah. Thank you.

Mr. Eckroth: Yeah.

Chair Raschko: Anything else? Could you just repeat again: Who's the applicant?

Mr. Eckroth: SMV LLC.

Chair Raschko: SMV.

Mr. Eckroth: SMV. I'm not sure who the governor of that LLC is off the top of my head.

Chair Raschko: Thank you. Okay.

Mr. Eckroth: LR24-04 is brought by the Port of Skagit and is a two-part petition that amends the Airport Environs Overlay. The first part of the petition would add an Avigation Disclosure Notice requirement upon transfer of property within the Airport Environs Overlay, and the Disclosure would increase awareness of transparency at the Airport Environs Overlay before people invest in the property and plan future development. Properties within the Airport Environs Overlay would be tagged on the Assessor's property search website with a notice showing the property requires the Disclosure, and the Port also plans to educate the real estate community about the Disclosure if the amendment is adopted.

This approach is recognized by the Washington State Department of Transportation, Aviation, for increasing awareness of possible aviation impacts. The petition would also amend the Airport Environs Overlay compatibility requirements. The amendment would update exhaust plumes and electrical interference standards in the Airport Environs Overlay to be consistent with the FAA Airport Advisory Circular 150-5190-4B guidance. The current code language regarding exhaust plumes in electrical interference was based on guidance from Australia from the Australian Aviation Authorities as the FAA was still developing guidance on the hazard of thermal plumes in electrical interference. The Department recommends that this petition be included on this year's docket. And does the Commission have any questions on this petition?

Commissioner Hutchison: Is that just within the airport space as far as electrical interference, or does that go beyond? Like, would it restrict neighboring community members?

Mr. Eckroth: Good question. So I should have shown a map showing the overlay. So it extends beyond the airport. It's just an overlay around it that the Port and the FAA have identified as a potential area that could have some hazards associated with development around the airport. And also restricts certain types of development and heights and things like that within that overlay area.

Chair Raschko: Would you equate this somewhat to a right-to-farm ordinance?

Mr. Eckroth: Absolutely. That's a great comparison.

Chair Raschko: Any other questions?

Commissioner Woodmansee: I have a question.

Chair Raschko: Please.

Commissioner Woodmansee: What's the practical effect of this? I mean, like, is it changing, like, somebody's use at their house?

Mr. Eckroth: No. This will have absolutely no change on how development is reviewed or anything like that. What it will do is just – it changes some of the guidelines. It technically could maybe be more restrictive on any exhaust plumes that come from industry or electrical interference, but as far as, like, bulk and dimensional standards go, you're not going to see a change. The biggest change you're going to see between these two parts of the petition is that people are going to have to spend a few extra hundred dollars upon transferring property to record that notice with the Auditor's office.

Commissioner Henley: Quick question. Do they have a good definition of "exhaust plumes"? Because it seems to me like a jet aircraft puts out a hell of a lot of exhaust plume.

Mr. Eckroth: Well, I think this only pertains to development –

Commissioner Henley: Okay.

Mr. Eckroth: – and not the actual airport operation itself. I don't think we have a specific definition of "exhaust plume," but I'm guessing the FAA guidance that they're following does.

Commissioner Henley: It'd be interesting to know because if you're going to try to regulate something you want to be able to define it.

Mr. Eckroth: Absolutely. And we work very closely with the Port and I'm not sure how we've looked at that in the past, especially considering I don't think there's a lot of development in the Port with exhaust plumes. But that's a great question.

Commissioner Henley: Okay.

Chair Raschko: Jen, please.

Commissioner Hutchison: Thank you. So when we're talking about the overlay, is it the same visible – like, if I had a map in front of me and you did show me the outline, is it the same area that's impacted by having to do the recording?

Mr. Eckroth: Yes, yes.

Commissioner Hutchison: So it's all within the Port.

Mr. Eckroth: Would it be helpful if I pulled up the map?

Commissioner Hutchison: It might be.

Mr. Eckroth: Okay.

Commissioner Hutchison: I just wondered if, as far as the residents in the area, if it would be something that they would now have to do as well at the time that they're transferring.

Mr. Eckroth: Yes, yeah.

Commissioner Hutchison: Because, I mean, honestly, when you're going to buy property – Buyer Beware – you have realtors and they're supposed to tell you about things like that. I mean, do we have to start registering all the farms on people's titles? Oh my gosh, sometimes they spray manure! And like, I mean, is this a little excessive, maybe is my question, as far as title recordings. Oh, my. Okay.

Mr. Eckroth: So this is the map here. And just to remind the Commission, there are a lot of disclosures that have to be recorded already at the sale of property.

Commissioner Hutchison: Sure.

Mr. Eckroth: So that will go along with it. Like Chair Raschko brought up, the right-to-farm disclosure. There's other natural resource areas that have to do this. So this would just get tagged on to that and add another – I think it's around \$200 to the sale of purchase. And it should happen automatically really.

Commissioner Woodmansee: Where's the \$200 go?

Mr. Eckroth: I'm not sure where the Auditor's office money goes to!

Commissioner Woodmansee: Well, it's a recording fee basically.

Mr. Eckroth: Yes, it is. Yep.

Chair Raschko: Anything else?

Commissioner Hutchison: Thank you for that visual. I appreciate it.

Mr. Eckroth: Yeah, absolutely. So this one should look a little familiar. C24-1 is the first County-initiated petition. The petition would adopt recommended changes to the Countywide Planning Policies by the Growth Management Act Steering Committee, which recommended that the Board of County Commissioners disband the Boundary Review Board by June 30th, 2025. This proposed action is authorized by RCW 35.93.230. Cities and the County are still required to have comprehensive plans and development regulations consistent with the Growth Management Act, and annexations of land recently included in an Urban Growth Area shall not be final until any appeal periods or proceedings associated with the Urban Growth Area change, have lapsed, or concluded.

So this petition was remanded from the 2023 docket for further consideration. The Board of County Commissioners asked the Department to bring more information how disbanding the Boundary Review Board would affect special purpose districts.

Does the Planning Commission have any questions on this petition?

(silence)

Chair Raschko: It looks like not.

Mr. Eckroth: C24-2 would create a new section in the Zoning chapter to consolidate and reference all fencing regulations, which would make it easier to locate all fencing regulations. The section would also add restrictions to razor wire and barbed wire fencing. Specifically, razor wire fencing would be prohibited in all zones except Commercial, Industrial, and aviation-related zones unless permitted as part of an essential public facility or utility development. Barbed wire fencing materials would be restricted to five feet in height unless located in a commercial, industrial, or aviation-related zone or is also permitted as part of an essential public facility or utility development.

Commissioner Henley: Question.

Mr. Eckroth: Yes?

Commissioner Henley: If I were to build a deer fence that was, say, seven feet high that had the bottom four feet with barbed wire, would that apply?

Mr. Eckroth: It would not because it specifically calls out the fencing material if it's over five feet in height.

Commissioner Henley: So we're really talking about the actual position of the barbed wire limited to five feet.

Mr. Eckroth: Correct.

Commissioner Henley: All right.

Mr. Eckroth: However, the Board of County Commissioners did express some concerns about some of the agricultural operations in the east county that do have some of those tall elk and deer fences. So we'll probably be looking at this a little bit closer to make sure we're still accommodating the agricultural uses.

Commissioner Henley: Yeah. Having fought deer for a lot of times, I have been sensitive to that.

Mr. Eckroth: Right.

Commissioner Henley: Okay.

Mr. Eckroth: Thank you. Another thing that we're going to need to look at is how this could potentially impact marijuana production and processing. I looked at the code after the Board of County Commissioners' work session, and it looks like the agricultural zone is the only zone that allows for marijuana processing and production outside of an industrial area. So we'll probably have to look into that a little bit closer as well because there're state requirements for fencing and security around those Liquor Control Board and cannabis board-permitted facilities.

Commissioner Hutchison: I would think that barb wiring around a facility like that would be taller than five feet, like say eight-foot, so that it's outside of a range of access to an animal or unknowing human.

Mr. Eckroth: Right, yes. Exactly. So that's why we want to make sure that we're not being restrictive in a way that would prevent them from meeting the security requirements mandated by the state.

Chair Raschko: Anything else?

(silence)

Mr. Eckroth: So the intent of these new regulations is to preserve rural and neighborhood character and to make it clear to home-based business operators that the business is supposed to match the surrounding rural neighborhood character. Are there any other questions?

Commissioner Hutchison: What about property owners who are dealing with – I don't know – squatters and they are trying to keep people from accessing their rural property that's outside of their visibility?

Mr. Eckroth: That's a good question. Jack?

(laughter)

Commissioner Hutchison: I would think, like, *more* than five feet –

Mr. Eckroth: Do you have any thoughts on that one?

Commissioner Hutchison: – like seven feet, and then maybe some –

Mr. Moore: I hear what you're saying. I haven't seen that used as a tactic. It's fairly expensive to install so if you were trying to do a large piece of property it would be quite an investment. So I haven't. I don't know that I can think of examples recently where a property owner has used that for that purpose. As Robby mentioned, we have received concerned citizens where they're in a more – you know, out in a rural area of homes that are kind of in the natural environment, and someone comes in and puts up a, you know, six- to eight-foot tall chain link fence with, you know, the strands of barbed wire across the top. And we often hear it described as a "prison fence" going up around their neighborhood and they feel it doesn't fit the rural character that Skagit County's going for.

Commissioner Hutchison: No.

Mr. Moore: So as you've heard, it's a little tricky. Even our – you know, we tried to capture what the community concern was but we don't want to exclude legitimate uses that the public would still wish to retain. So it will take a little extra thinking to make sure we craft a good proposal.

Mr. Eckroth: And we'll also be sure to run this by the Agricultural Advisory Board to make sure that this works with them. Any other questions?

(silence)

Mr. Eckroth: C24-3 removes the storage of unlicensed and/or inoperable vehicles from every zoning district in Skagit County except for the Urban Reserve Commercial-Industrial zone. This petition's proposed to be included on the docket because the vehicle storage use does not align with the purpose of any of these zoning districts that the use is allowed in, except for the Urban

Reserve Commercial-Industrial zone. Storage of unlicensed and/or inoperable vehicles have been included as a use in the code since the adoption of the Unified Development Code back in July 24th, 2000. Since that date, Skagit County has not permitted any business operations under that use classification.

Here's the list of the zoning districts that allow storage of unlicensed and/or inoperable vehicles. As you can see, the Rural Intermediate zone is listed, which is a rural residential zoning district. And the use is also allowed in the County's Commercial Limited Areas of More Intense Rural Development, which are mostly intended to provide a range of commercial uses and services to meet the everyday needs of rural residents. We are still working with the Port of Skagit to see if they would like the use removed from the aviation-related zoning district. They've indicated that most likely no, but we're still discussing that with them. They're moving that up the ladder to see if there's any concerns. Are there any questions from the Planning Commission on this petition?

Chair Raschko: Please, Jen?

Commissioner Hutchison: You're not talking about one or two cars in my yard are – if I've got 20 acres. You're talking about a basic junkyard-style operation?

Mr. Eckroth: Yes, yeah.

Commissioner Hutchison: Thank you.

Chair Raschko: Anybody else? Joe?

Commissioner Woodmansee: So scattered around Skagit County are a lot of pieces of property that have 10, 20, 40, 60 cars that's sitting on them. Is this the situation that we're addressing?

Mr. Eckroth: I can't speak to those properties in particular. I know that there's a limit on cars that I can't remember off the top of my head. Jack, do you know that one?

Mr. Moore: Sure. Yeah, I can add a little to that. This isn't specifically to those necessarily. Those are already in violation of other aspects of code that prohibit inoperable and junk vehicles. And inoperable and junk vehicles are listed as in the definition of "junk" in County code. County code allows in most zoning designations up to 500 square feet. So, you know, just a few cars can get you there. Anywhere you see a big collection of, you know, 'future projects,' – a lot of people describe them as – those are already not compliant with current code. I think what Robby's describing in this proposal is a large-scale business purpose that could come in as a proposed use, as opposed to these unlicensed, unpermitted collections.

Commissioner Woodmansee: Well, if you built a big, huge building and put them all inside, you'd be okay probably? I mean, you'd have to get a permit.

(laughter)

Mr. Eckroth: I actually found out – I thought that this use didn't have a definition but there is one and it doesn't include a portion of the actual language in the use, but it does include indoor storage as well.

Commissioner Woodmansee: *Really?*

Mr. Eckroth: Yes.

Commissioner Woodmansee: So if you had a 50 by 100 shop and you wanted to fill it full of a car collection, you couldn't do that?

Mr. Eckroth: For commercial purposes, correct.

Commissioner Woodmansee: Well – only for commercial purposes.

Mr. Eckroth: Right, right. This is a commercial use that we're talking about.

Commissioner Woodmansee: So if you're just a collector and it's not for commercial and it's for your own enjoyment, you can – what's the limit?

Mr. Eckroth: That's an accessory use to your residence

Mr. Moore: Oh, there isn't one. So the example you provided just a moment ago? If they put a very big shop and parked all of those vehicles inside, that's perfectly acceptable.

Mr. Eckroth: And I just want to reiterate: We have *never* permitted a use under this classification.

Commissioner Woodmansee: Yeah. No, I'm just seeing that this is – I don't think we're going after anybody, but I can see the effect of the method. You drive around enough roads and you're going to see 30 here, 50 there, I mean, it's not *all* over the place but there's a few of them. Those are all out of compliance in theory – that type of a situation. I don't mean to point the finger at anybody. And that's where the 500-foot thing may come in or something like that?

Mr. Moore: Yes. We work with a lot of those on a quite frequent basis – at least one per year. We talk to the owners and provide them pathways to clean up their property and look for options – help them with their VIN inspections and everything. You know, anything we can do to facilitate property cleanup.

Commissioner Woodmansee: Business or non-business?

Mr. Moore: Pardon?

Commissioner Woodmansee: Is that if it's a business or if it's not a business or both?

Mr. Eckroth: I think both.

Mr. Moore: It could be both, I guess. I mean the way I'm reading this what I perceive as an orphaned description in our zoning code, it – the only thing I could think of – I was trying to think of scenarios in which someone might propose something like this. I could only come up with two. One would be a junkyard, but those are also identified in a different portion of code so it's a little unclear. The only other one I could think of is depending on Canadian-US exchange rates, you know, car dealers sometimes go and buy large amounts of vehicles out of country in Canada, bring them back here and they have to sit and they have to get inspected and they have to get their odometers updated to US, and et cetera. So that's the only other scenario I can imagine where someone might want to do something like this. As Robby pointed out, we can't find any example that we've permitted anything like that.

Commissioner Woodmansee: Well, if you're just a car lover and you want one of those and you want one of those and you want one of those, and 15 years later none of them run. Where does that put you?

Commissioner Henley: Your name is Jay Leno.

(laughter)

Commissioner Henley: I have one question. It seems that, you know, we pass a lot of these sort of restrictive ordinances and code changes and so forth. What I'm concerned about is what does enforcement look like? You guys gonna hire wrecking trucks and go around and scoop everybody up? And then where do you put the things you scoop up? In another junkyard?

Mr. Moore: No, we don't intend to do that at this time.

Commissioner Henley: Well, what I'm saying is if you're not going to enforce things like this and they're completely toothless, then it doesn't take long for people to figure that out.

Mr. Moore: I don't perceive that being the case.

Commissioner Henley: It seems to me you need to talk about enforcement somewhere along the line.

Mr. Moore: Certainly.

Chair Raschko: Yes, please?

Commissioner Day: Just to that point, I think this particular proposal – I think it's a good point for sure, but is it my understanding this particular proposal is if you receive an application asking to engage in some commercial use that would involve parked, unlicensed, non-running cars. So it's not necessarily – it's for receiving applications for this type of thing is the main intent of creating this new code.

Mr. Eckroth: Right.

Commissioner Day: Okay.

Mr. Eckroth: Correct – which is different than the junk definition that Jack was pointing to earlier. So if someone just has a bunch of inoperable vehicles that isn't used for a commercial purpose, that's different from this as well.

Commissioner Day: So what is the current mechanism if someone – does it require a neighbor or someone driving by to file a code violation complaint, or does the County initiate a code violation complaint just based on your own images, or what is the enforcement mechanism for the junk car?

Mr. Eckroth: Can I defer to Jack on that?

Mr. Moore: Sure. So the Board of County Commissioners have a policy and a directive for the Department on what we – how we initiate code compliance cases. Some items they have directed us to ensure we receive a citizen complaint on; others, that can be initiated once we find them.

Junkyard or use of a property in itself would be a zoning violation and that requires a neighbor complaint or a citizen complaint to initiate purely a zoning inconsistency. If there are other issues that might be environmental related, that might be construction of buildings or something without a permit, might be impacts to critical areas or groundwater, then those the Commissioners have asked us to go ahead and initiate those and start working with the homeowner as soon as we find them. But there is a written policy and a directive on how we're supposed to operate with those code compliance cases.

Commissioner Day: Thank you.

Mr. Moore: You're welcome.

Chair Raschko: Nothing else? Okay.

Mr. Eckroth: All right, this is the last one. So C24-4 includes two items that are part of the annual general code language clean-up. The first item corrects the height limit restriction of the Guemes Island Overlay District in Skagit County Code 14.16.360(7)(b)(i) to only apply to proposed development in flood hazard areas. As it currently reads, it could be interpreted to apply to the entire overlay district, or all of Guemes Island.

The second item eliminates duplicate language in Skagit County Code 14.18.300(1) – (4), which pertains to CaRD land divisions. So there's two sections there that are repeated, so we're not eliminating anything in code, just the section that is repeated there. Are there any questions on this petition?

Chair Raschko: Yes, Jen?

Commissioner Hutchison: With the Guemes Island Overlay, and maybe I'm understanding it wrong and I'll learn more when we come to our workshops on this, but I recall we had a lot of testimony from residents talking about how limited their space was regardless of where their space was, and the need to build up. The 30 feet was highly deliberated and debated, and I did a lot of research in other cities and zoning areas and what their policies look like, and I believe even Guemes said something to the effect of if you're westerly-viewed and you're set to your south and the neighbor that's building before you, in front of you, will block your view if they build to the north. I think it was, like, each foot they move to not become an obstruction to other existing residents. I believe there's language in that code that goes very deeply to allow them a greater height. And when you think about some of the sloped properties, and for them to even have a view to get out of their slope I don't think that 30 feet was out of the norm. And I feel like this might be – I'm curious where this is coming from.

Mr. Eckroth: So just to clarify, this would not change the height restriction at all to properties or development that's located in the flood zone. So the way that you could currently interpret it is that it would apply to a property, let's say, up the hill on Guemes. And the way that currently reads is that you would still have to measure the height from flood elevation. You couldn't go more than 30 feet. So that essentially means you have to create an underground bunker. So what we're just trying to do is fix the language. So it will currently still read or be interpreted the same way as the Planning Commission and the Board of County Commissioners reviewed previously. It's just fixing an error.

Commissioner Hutchison: Thank you.

Chair Raschko: Any other comments, questions?

(silence)

Chair Raschko: Great.

Mr. Eckroth: So the public comment period opens Thursday, April 4th, 2024, and will close Thursday, April 25th, 2024, at 4:30 p.m. There are three options to comment: mailing, emailing, or attending the public hearing on April 23rd, 2024, at 10:15 a.m. And just to clarify, that is a Board of County Commissioner public hearing, not a Planning Commission event. You can mail to 1800 Continental Place, Mount Vernon, where we are currently. And then you could also email to pdscomments@co.skagit.wa.us. If you do choose to comment, please provide your full name and address for any submitted comments.

And then, so next steps. As I mentioned we have that written comment period. We'll have the public hearing before the Board of County Commissioners April 24th at 10:15, and then the Board of County Commissioners is going to have deliberations on May 14th at 9:15 a.m. Just to remind everyone again, this is just to set the docket. It's not making any decision on any of these items. It's just deciding what we're going to review through the rest of the year for the 2024 docket.

Again, the petitions and supporting documents can be found at the website shown on the slide. And I'd like to thank you for your time and please let me know if you have any more questions.

(silence)

Chair Raschko: No more questions? Great. Thank you very much.

Mr. Eckroth: Thank you, Commissioners.

Chair Raschko: We have Director's Update and Mr. Moore, please.

Mr. Moore: Thank you, Chair. One item I wanted to let you know that I emailed you with some information that came up earlier during the question about different subdivision appeal process. Both a Level 1 and a Level 4 have the same appeal process at time of final approval of a subdivision, and someone would have to appeal that through a court case. Anything that we're talking about as far as changing from 4 to 1 would have no effect on the existing or proposed appeal process. And as Commissioner Woodmansee pointed out, it would seem somewhat unlikely that there would be grounds for an appeal, at that point anyway, and they would have to take it to court if they so chose (sic). So I wanted to just clarify that and, again, I did email you excerpts of those two code sections for your reference.

Additionally, I just wanted to share a couple of other things that are happening. One is we've been having some brief conversations with the Board of County Commissioners about energy facilities, state preemptions, and other associated topics. And (I/we) did share with them and would like to share with you that the Washington State – the Department of Ecology is running an environmental impact statement right now, programmatic impact statement – environmental impact statement for the whole state for their program for siting of energy facilities. What they – their stated intent was to ensure or assist local governments with the permitting process by preloading some of the environmental reviews. Part of that I did look at. We looked at and they do have, you know, maps of areas in it to show where you would likely see either solar or wind facilities – where they would be most likely to occur or where they would be practical. You know,

the concern, of course, is, you know, would we see that here? What their studies have shown is that it is unlikely that we would have anything, well, on this side of the Cascade range. Most of the higher likelihood areas that would provide the solar and wind power for those types of facilities would be located in eastern Washington. But they are going through a public process right now so I just wanted to share that. If anyone had any interest, they are going to be taking public comment on all that at the state level.

This was briefly touched on tonight, but we are in the process of reviewing an eight-lot Light Industrial project at the Port. They're calling it the Watershed Business Park. So we're in the middle of reviewing that – some of the technical aspects of the civil plans right now.

A reminder that we do have a joint Planning Commission and Board of County Commissioners meeting coming up on April 9 where we'll talk about the docket and Comp Plan Update. And anything else that either the Planning Commission or the Board would like to go over together.

Chair Raschko: What did you say the second item was? The docket and what?

Mr. Moore: Sorry, the Comprehensive Plan Update. Additionally, an interesting thing that may play into some of the Comp Plan Update or possibly development regulations in the future: We often work or feed information into the planning program at Western Washington University and they produce different reports that sometimes are of use in our planning process. Their focus this time – their next project is going to be on accessory dwelling units. And they're going to take a look at those in the light of some of the state directives for the urban areas where they're talking about allowing – or requiring jurisdictions to allow for additional ADUs and reduce the regulation on those. That doesn't apply to us, by the way – the state regulations. But they're going to be looking at those. We've also asked them – suggested that they look at rural areas, so it might be a benefit to us if we have to look at, you know, housing options. Well, we're going to be looking at housing options in our Comp Plan Update, you know, so we asked them to take a look at accessory dwelling units in rural areas to see if there's maybe strategies that might be of use for Skagit County. So an interesting thing that, you know, like I said, the planning program at Western spends a lot of time taking a look at different jurisdictions' laws, rules – taking a look at the state rules and coming up with ideas that we often are able to pick from or use for our purposes.

I don't know if I mentioned this to you, but we did have a – we have a new – Planning and Development Services Assistant Director has started this week – yesterday actually. And I'll bring – for next month I'll bring him in and introduce him to you for any of you who don't know him. His name is Allen Rozema. His background is he's worked as the Community Development Coordinator for the Swinomish Tribe. He's worked as the Planning Director for the City of Sedro-Woolley, and most recently – for quite some time – has been the Executive Director for Skagitonians to Preserve Farmland. So Allen's accepted a position here at Skagit County with us. I'm very excited to have him here and all of his background and knowledge on planning and community development. So I look forward – I'll bring him next time and introduce him in person.

Commissioner Henley: A quick question. You mentioned energy storage facilities. One of the things that I'm seeing in the literature is some of the transportation companies have become dissatisfied with electric-powered vehicles, and they're now dumping research into hydrogen power. Now storing hydrogen is a lot different than storing energy for electricity. Have we talked about that at all in any of the information that you looked at?

Mr. Moore: I didn't see that covered in this particular aspect.

Commissioner Henley: Okay.

Mr. Moore: I can take a look closer to see if it is one of the energy sources that are noted.

Mr. Eckroth: The programmatic EIS only covers wind energy generation and solar. I think that hydrogen is going to be looked at in the future, but that – it didn't have anything to do with energy storage necessarily unless it was a component of a solar project _____.

Commissioner Henley: It's not a tomorrow problem but it certainly going to be something that's going to be addressed. If the largest industries are dumping research money into that avenue, that's bound to come up with something that needs to be addressed.

Mr. Eckroth: Sure, sure. That's a good point. I was just going to say this is a state program – that they are doing this environmental study – so we're just watching to see the results of that.

Commissioner Henley: Okay.

Mr. Moore: It would be interesting to see in the future. I will mention that right now we have had conversations with businesses that are going to put in large-scale electric charging for their fleet vehicles. So at least right now that's what some of the larger businesses are still looking at. But certainly in the future there could be other options.

Chair Raschko: Other questions?

(silence)

Chair Raschko: Well, thank you.

Mr. Moore: You're welcome.

Chair Raschko: So we'll finally go to Planning Commissioner Comments and Announcements. Jen, have you anything to share?

Commissioner Hutchison: No. I just want to thank you guys for all your work. I appreciate it.

Commissioner Rose: I don't have anything.

Chair Raschko: Vince?

Commissioner Henley: My thanks to the staff for the good work they do in trying to explain all that stuff to us, so I appreciate it. Thank you.

Commissioner Woodmansee: Same. Presentations are – in my opinion, we get high quality presentations on a regular basis and I appreciate it.

Chair Raschko: Amy.

Commissioner Hughes: Nothing more to add.

Commissioner Day: Yeah, same. Thank you.

Chair Raschko: Okay, well, thank you all, and have a good night and we'll stand adjourned (gavel).

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