

**Skagit County Planning Commission
Workshop: Comp Plan Update (PC Schedule)
Workshop: Guemes Island Seawater Intrusion Amendment
April 23, 2024**

Planning

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

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

Others: **Steve Orsini, Resident of Guemes Island**

Chair Tim Raschko: (gavel) Good evening. The April 23rd, 2024, meeting of the Skagit County Planning Commission is now in session. Roll call: I believe we are missing Commissioner Rose and Commissioner Mitchell. Okay? Everybody else is here. You might notice too that there are some changes to the agenda, and I think this – I would call it experimental. And one thing that was tried by staff was to assign timeslots to the various agenda items. And personally, I served on the hospital board of commissioners for 15 years and we did it this way. They were a lot longer meetings and a lot more complex agendas but / thought it was really helpful. The timeslots aren't, you know, hard and fast. I mean, if something is worth continuing discussion and we're getting good discussion from people, it should continue. If we finish early on something, we should finish early. But it'd be nice to try to stay by these guidelines. And if in the end people really don't like doing it this way, we don't have to. We can change back.

The other thing that's changed here, and I'm not sure how much / like it, is moving this Planning Commissioner Comments to the front. So we'll do that tonight and if you wish you can state your opinion – you don't have to – on these changes and on that, and please bring up everything else that you wish to do. So, Angela, would you like to start?

Commissioner Angela Day: Sure. Thank you. I also agree that having the timeslots or suggestions is helpful. And so I look forward to seeing how that goes. I don't have any other comments. Thank you.

Commissioner Amy Hughes: I have no comments.

Vice Chair Tammy Candler: I have nothing right now.

Commissioner Joe Woodmansee: ____ comments.

Commissioner Vince Henley: No comment.

Commissioner Jennifer Hutchison: Nothing to share. Thank you.

Chair Raschko: Well, that was really easy. Can I just ask again: Does anybody have an opinion on whether Commissioner Comments should be at the beginning or the end of the meeting?

Commissioner Woodmansee: I think they should be at the end, because you get the full – you digest what you've heard that night and then it gives you an opportunity to bring up a point or do a thank-you or recognize somebody that you can't really do before the meeting. And so I would prefer that they were at the end.

Vice Chair Candler: I think I agree with that. You get a little time to digest what you might want to announce or – it just makes sense to me to be at the end. I don't have a *strong* opinion, I guess.

Chair Raschko: People are nodding yes.

Commissioner Henley: I'm easy either way.

Chair Raschko: Okay. I agree with what Joe said. Since everybody else is indifferent, I think we should move it to the end. Any problem with that?

(silence)

Chair Raschko: All right. Can we do that? Thank you. Well, that ends our Commissioner Comments. We have time tonight – oh, wait a minute. We need to approve the minutes. Could I have a motion, please?

Commissioner Henley: I move that we approve the minutes.

Commissioner Hutchison: I'll second.

Chair Raschko: It's moved and seconded to approve the minutes. Any comments, changes on the minutes? Corrections?

(silence)

Chair Raschko: All those in favor of approving the minutes, say "aye."

Multiple Commissioners: Aye.

Chair Raschko: Opposed?

(silence)

Chair Raschko: That is approved. We have time for Public Remarks tonight. 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 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 being three of you, that just works out almost. Would anybody like to say anything?

Unidentified Male Voice: No comment. Thank you.

Vice Chair Candler: We might have someone online.

Chair Raschko: Robby, do you know if there's anybody?

Robby Eckroth: We do have one person on Zoom. If you'd like to speak and participate in the Public Remarks, please unmute. We'll give you a few minutes to have that opportunity.

Unidentified Female Voice: (indecipherable)

Chair Raschko: Did they say no thank you? All right. So that'll end Public Comments, which will take us to our first major agenda item tonight, which is a Workshop on the Comprehensive Plan Update and the Planning Commission Schedule.

Vice Chair Candler: Tim, we are 20 minutes ahead of schedule. Nice work!

Mr. Eckroth: Good evening, Commissioners. Thank you. I just wanted to take an opportunity to show you the final schedule for the Comprehensive Plan Update and also give you an opportunity to see the tentative schedule that we developed. Of course, it's very tentative, but I just want to give you an idea of what the next year and year-and-a-half is going to look like as we go through this Comprehensive Plan Update process and also as we move through the other items that we have to move through this year.

So you can see here on the schedule that starting in July we're going to be kicking off the review of the first draft of each Comprehensive Plan element. We'll be going through about two to three elements per month. So I wanted to take an opportunity to show you this and just also pull up the other schedule just to emphasize that we kind of have a heavy load this year. So we're hoping to get through the Guemes Island Saltwater Intrusion or Seawater Intrusion Amendment, which we're going to address next, before mid-June, and then also get through the permit procedures before July as well. So we can get through that portion and then, like I said, we're really going to start getting into the Comprehensive Plan workshops, and then at the end of the year we will be looking at the 2024 Docket and then also the Capital Facilities Plan, as we have possibly a little bit of a break. If needed, we might have to schedule some special meetings if we end up not being able to get through some of those workshops, so it's part of the reason why we propose putting some suggested timeframes on each agenda item, just in the hopes that we can move through things a little bit efficiently as we have so much to work on this year.

So that's all I have. If you've got questions about either schedule, please let me know. I just wanted to give you all an opportunity to give comments or ask questions. Thank you.

Chair Raschko: Any questions, comments?

Commissioner Henley: I assume if there is a change we'll hear it by the usual route?

Mr. Eckroth: Yes, yes. And of course the Planning Commission schedule is very tentative. I can – if you'd like, I can provide you an update but I think as we move through we're just going to have

to make adjustments. So there might be a lot of changes to especially that Planning Commission schedule. If there're some major Comp Plan schedule updates, we'll certainly let you know.

Vice Chair Candler: The open houses that are listed in June and September, are those expected to happen here or those are community meetings that you've listed here?

Mr. Eckroth: Those were to provide updates on some of the things we heard at open houses. So the open houses will be separate meetings. We just wanted to provide the Planning Commission an update in case some of you weren't able to attend. And that also may – that date may change if we aren't able to schedule before the date that I proposed on the tentative schedule.

Vice Chair Candler: Okay.

Chair Raschko: Okay, well, thank you. We'll go now to a Workshop with Guemes Island Seawater Intrusion Amendment.

Mr. Eckroth: Thank you, Commissioners. This work session is the first of a series of meetings to discuss the seawater intrusion amendment for wells and sole source aquifers, or Guemes Island, which is the only sole source aquifer in Skagit County. In this presentation, I'm going to provide a quick history and background of this amendment and provide an overview of the connection between this amendment and the Growth Management Act, and we'll then provide some details of the proposed amendment.

So this amendment was reviewed by the Planning Commission last year as part of the 2023 Planning Docket under petition number 23-1. On November 28th, 2023, the Planning Commission recommended denial to the Board of County Commissioners and on December 19th, 2023, the Board of Commissioners remanded the petition for further analysis. When establishing the 2024 legislative workplan, the Board of County Commissioners separated the amendment from the 2024 docket to be considered on its own and requested completion of the legislative process for this amendment by the third quarter of 2024. So the proposed amendment is exactly the same as last year's and has no changes.

So this presentation I'm going to start from the top of the Growth Management Act and I'm going to move my way down to how this amendment ties to Skagit County Code.

So the Growth Management Act requires designation protection of critical areas using Best Available Science. Protection of critical areas includes development regulations that protect critical areas. The definition of "critical areas" in the Growth Management Act includes "areas with critical recharging effect on aquifers used for potable water." Review of an environmental impact to groundwater, including potential impacts to seawater intrusion, are unrelated to water rights, which are regulated by the Washington State Department of Ecology.

So the intent of aquifer recharge development regulations is to define minimum regulatory requirements to protect groundwater quality and quantity for existing and future land use; identify practices, alternatives, and mitigation measures that can minimize the adverse effects of proposed projects; and to ensure adequate design, construction, management, and operations to protect groundwater quantity and quality.

So Guemes Island was designated as a sole source aquifer by the EPA in 1997. The EPA defines a sole source aquifer as "an aquifer that supplies at least 50% of drinking water for its service area and has no reasonably available drinking water sources should the aquifer be contaminated."

And so just a reminder that Guemes Island is the only sole source aquifer in Skagit County so this amendment would only affect Guemes Island.

Commissioner Henley: Question.

Mr. Eckroth: Yes?

Commissioner Henley: There are several aquifers on Guemes Island. Does the SSA apply to *all* of them at once or is it a specific aquifer?

Mr. Eckroth: It applies to the entire island.

Commissioner Henley: Okay.

Mr. Eckroth: So sole source aquifers in seawater intrusion areas are considered Category 1 Aquifer Recharge Areas and are identified by the County, State, or federal government as areas in need of aquifer protection, or a proposed land use (which) may pose a potential risk which increases aquifer vulnerability.

So beneath coastal land, freshwater floats on seawater. Pumping from wells causes a fresh and seawater boundary to rise, and if seawater is pumped from a well it's not potable. And permanently pumping down the aquifer one foot can cause the seawater boundary to rise 40 feet, according to the USGS Fact Sheet 057-00.

So currently Skagit County Code 14.24.380(2) requires an application proposing use of a well must include a site plan, including the inland well location; estimated depth of the well; estimated land elevation of the well; depth and chloride levels of surrounding wells; a drilling plan; and applicable fees. So just to reiterate, this is something that's already required as part of a development application.

Currently code is only applicable when a development application is submitted which includes the use of a well. As a result, a well can be drilled without any County review if it's not associated with a development permit. So then later when a development permit is requested, because the well is not new there is no review required. So the purpose of this amendment is to fix that loophole and require review for any well on Guemes Island, so people aren't putting in wells prior to development. And so that way we're not able to review for seawater intrusion impacts.

So the petition would add language to Skagit County Code 14.24.380(2) to require the same information that's already required for wells associated with a development permit to be submitted prior to drilling in a sole source aquifer, regardless if it's associated with development.

The new proposed language would require an applicant who wishes to drill a well in a sole source aquifer to submit an application regardless of the type of development application so siting, depth, and other information can protect the applicant and neighboring properties against seawater intrusion.

Commissioner Hutchison: Question.

Mr. Eckroth: Yes?

Commissioner Hutchison: So just reiterating on Mr. Henley's earlier question: So this applies to the entire island of Guemes, not just the sole source areas?

Mr. Eckroth: Yeah, so it'd be the entire island.

Commissioner Hutchison: Okay.

Mr. Eckroth: Yeah, I believe the entire island is designated as a sole source aquifer.

Commissioner Hutchison: Okay.

Commissioner Henley: Other question? How rigid are we on the estimated depth? My experience with wells is that you frequently don't know how deep it's going to need to be.

Mr. Eckroth: That is a great question. Jack, do you happen to know the answer to that?

Jack Moore: I'm sorry. Could you repeat that?

Commissioner Henley: Say it again? How rigid are you on the estimated depth of the well? My experience with wells – and I've drilled a number of them, all right? – means that you may not know how deep the well needs to be before you actually drill it. So my question is, is how rigid are you on some of these numbers that have to be in the permitting process in the beginning?

Mr. Moore: As you point out, it would be impossible to know the exact depth. So and it'd be dependent on the, you know, the aquifer level at that particular location and, you know, the County doesn't intend to really get into that one little detail.

Commissioner Henley: So you allow some leeway in that.

Mr. Moore: Absolutely. Yes.

Commissioner Henley: All right, thank you.

Mr. Eckroth: So when the Board of County Commissioners remanded this amendment from last year's docket they requested some additional information. One request was to contact the Department of Ecology to see if their staff can review wells for seawater intrusion impacts. The Department of Ecology responded and indicated that they are unable to review or offer advice on seawater intrusion impacts. The Board also requested more information on the possibility of reviewing the expansion of uses on existing wells that require additional usage. So for example, if someone already has a house and wants to add a bedroom, they wanted to see if we are able to require additional review for seawater intrusion impacts, and Skagit County Code 14.24.330(3) already provides that authorization.

So as the proposed amendment meets the consistency criteria listed in Skagit County Code 14.08, the Department recommends approval of this proposed amendment. So we're going to open the public comment period starting Thursday, May 2nd, 2024, and we'll close Thursday, May 30th, 2024, at 4:30 p.m. There's three options to comment: mailing, emailing, or attending the public hearing, which will be on May 28th, 2024, at 6 p.m. here at Planning Commission. You can mail to 1800 Continental Place, Mount Vernon, Washington, or email comments to pdscomments@co.skagit.wa.us. If you choose to provide comments, please provide your full name and address for any submitted comments.

Chair Raschko: Do you have a question?

Vice Chair Candler: I do. Have you any reason to know whether elsewhere in the state there are sole source aquifer areas where a county or local government has added language to deal with this kind of an issue? Because I remember our discussion before was kind of like this is what's in the purview of the Department of Ecology, but would we be literally the only place in the state then kind of looking at this, or are there other areas –

Commissioner Henley: There are no other SSAs.

Vice Chair Candler: There are no other SSAs – that's right, that's right. I knew that.

Mr. Eckroth: No in Skagit County. There are other sole source aquifers.

Vice Chair Candler: What about other state – there must be some others in some other states or something. How could they –

Mr. Eckroth: So I believe that Jefferson County is reviewing seawater intrusion impacts. That is the one county I specifically know of. I can try to provide a list for future meetings of other counties that are doing that. But I know Jefferson in particular is, based on conversations with our legal staff.

Vice Chair Candler: And are they doing that based on general intrusion in some areas not necessarily sole source aquifer areas, or do they have some of – like a similar issue, like with an island or something?

Mr. Eckroth: I am not sure off the top of my head. And actually I believe I heard someone in the audience mention Island County and I have heard that as well.

Vice Chair Candler: That makes sense. Okay. That is one question I had. The other question I had is whether or not – and I think I know the answer because you said this was as proposed before. But the other issue that some of us had with it, or I think I had, was the burden on the person who wanted to drill the well to get information that is not readily available from their neighbors. Has there been any proposal or discussion on any other level with the Department or somewhere that we haven't heard about as to whether or not that is something that a database that the County would keep or somewhere these people can get this information? Rather than requiring them to do this thing that I just don't see how they can do without – I guess – if they have a cooperative neighbor they can get the water and they can test it, but what if they don't?

Mr. Eckroth: That's a good question. I don't believe it's been a problem with the applications that we *have* reviewed that are associated with a development permit. And I know that there are – there *is* well information available from Health Department review and our previous reviews of those wells in Planning and Development Services, so it is something that I believe is public information that can be obtained.

Vice Chair Candler: So is the Department able then to help a person obtain that information through their reviews, through their records?

Mr. Eckroth: Yeah, absolutely, and I believe the Health Department as well.

Vice Chair Candler: Okay. Okay, thank you.

Chair Raschko: Jen?

Commissioner Hutchison: I think my question's more about the existing wells, the current residents. A lot of this is to protect water – safe, clean water for drinking for residents who are already on the island. So what happens if they have a failed well and they need to drill again? Do they get any kind of, like, priorities? I don't understand how – like, if you guys are able to say the County can reject a plan in development phase for someone that might be – you know, cause an issue with the saltwater intrusion. But what about existing wells that already have that senior right and then they fail? Is there a backup plan? Is it just they have to go through the whole process with their application from first stages and hope for the best?

Mr. Eckroth: Sure. So there's two things I want to touch on with that question. So one, this amendment and existing code cannot allow us to deny a well. It's really to try to help the person who wants to build a single-family residence or use that well for whatever use it may be – put it in the best location possible so they don't have chloride issues and so it doesn't cause their neighbor to have chloride issues. If someone who's on an existing well starts to have an issue and they need to relocate a well, this ordinance would apply to them as well.

Commissioner Hutchison: But you can't deny another?

Mr. Eckroth: Correct, but we can provide them with the best information available, based on the review that's required.

Commissioner Hutchison: This is a guidance process.

Mr. Eckroth: Essentially.

Commissioner Henley: And so the adjunct to Commissioner Candler's question: Do you have available – or can you get for the purpose of doing the permitting – previous drilling logs so that you'd have an idea about what the subsurface conditions are?

Mr. Eckroth: That is something that we can request and that, I believe, through this process would be obtained when they're developing neighboring properties – well information for surrounding properties.

Commissioner Henley: So that would be very useful information if you were putting together a permit process.

Mr. Eckroth: Absolutely.

Commissioner Henley: Okay.

Chair Raschko: Angela?

Commissioner Day: Thank you, Robby. All these materials and the presentation is really helpful. And I know this is a really complicated issue. So just having heard you say you "can't deny" an application for a well, I think that's because the County doesn't really have regulatory authority over well-drilling. That's the Department of Ecology under normal circumstances. Is that correct?

Mr. Eckroth: Jack, I'm going to defer to you on that.

Mr. Moore: Yes, that is correct, Commissioner Day.

Commissioner Day: Okay, so the regulatory authority here that you're referencing is basically under the Growth Management Act for aquifer recharge areas. And so this is a Category 1 aquifer. Do you see any future potential to change this language out to be any aquifer recharge area so that the County would be requiring applications at the county level for a well in basically any area of the county?

Mr. Eckroth: That is *not* what we're proposing right now and –

Commissioner Day: No, I understand, but could the policies that are providing the ____ for this be used for something similar for a different type of aquifer in the future?

Mr. Eckroth: I think that's something we'd want to look into in a bit more depth, but it's not something that the County's entertaining at this time.

Commissioner Day: Understood!

Mr. Eckroth: Yeah!

(laughter)

Commissioner Day: But it just makes me think. You know, you referenced the type of aquifer and I looked up the Skagit County Code on aquifers and I see the sole source aquifers but I also see that there are other aquifer recharge areas which the County is required to regulate. And I also looked at the critical areas handbook online today and it did reference Jefferson County and there was actually a court case, if I read it right, that required – ended up requiring Jefferson County to take a look at the saltwater intrusion in their aquifer recharge areas, which made me wonder if this could eventually expand beyond a sole source aquifer. So that was a question about the regulatory authority with the – my second question is: You mentioned in your memo that this would allow for greater monitoring and data gathering, so what type of data is the County going to gather and who's going to monitor it? Do you have staff capacity for that or is there a certain part of PDS that would do that, or how would you actually implement this?

Mr. Eckroth: So I don't know about necessarily monitoring, but by just requiring the information that we'd be requesting through this application process, it gives everyone a better idea of what was found through that well-drilling process and application process that the applicant had to go through to get their well from an aquifer recharge perspective.

Chair Raschko: Jen?

Commissioner Hutchison: I have another question just about notification. I understand that public comment is open for the better part of May.

Mr. Eckroth: Right.

Commissioner Hutchison: Is notification happening to the entire island since this kind of concerns the entire island. Are you mailing everybody an official letter or is it just signage on corners where people drive and (are) supposed to know what's going on?

Mr. Eckroth: We will be providing notification to the paper on Guemes Island. Unfortunately there's not a code nexus to allow us to just notify an entire island that would be affected.

Commissioner Hutchison: Okay.

Mr. Eckroth: Really there's only a notification procedure for neighboring properties for a specific property if there's a rezone in the legislative process, but not for code amendments. Only the SEPA process and the noticing requirement for putting this in the paper to publish for notification.

Commissioner Hutchison: Okay.

Chair Raschko: Joe.

Commissioner Woodmansee: I'm sitting here imagining I own a piece of property on the island but I live in California, say. That's a bad statement – I live in Idaho. And I have *no* idea this is happening. It seems to me like this is a very specific area that it seems like people that – because there's a small group of people there being affected by this, in theory, because there's limited parcels on the island. It just seems like something that / think could have a big impact on their ability to do something on their property, that it shouldn't be left to chance that they read the newspaper that this is going on if they're not right in the middle of it. And so it concerns me that there's not like – you have a rezone that gets applied for near you, then there's an area that has to get mailed out and you actually get notice that these people are proposing to rezone this property. So I have a little bit of a concern that there's not truly a notice to everybody that's affected by this because it is not – it's nobody else anywhere else; it's *that area*. And if you don't see it in the paper and you're just working away in some other state thinking you're going to retire there and then something changes and somehow or another you can't do what you were going to do and you had no idea this was going on, that's something, I think, that should be considered or looked into.

And then I wanted to expand on that we can't deny. I don't understand that. If we can't deny it I don't understand why we're doing this. Because if there's – if there's no authority to deny, then I don't understand why they're being put through this process when the ultimate decision-makers – assuming it's going to be the DOE. And so that – I'm having a hard time balancing the fact that you can't deny it, I don't think there's another code that you can't enforce that I'm aware of. But you're basically saying you can't deny it, but I guess you could – “you” is the wrong word – *we* could make this so onerous that people *won't* try to drill a well. You're not *denying* a well but the conditions are made to the point that well, there's no way that you're going to be able to drill a well because these conditions take away your ability to drill a well.

And so maybe we're saying, Well, we can't deny you a well, but, you know, if we put a fee of a million dollars to drill a well you've just denied the well. Which is a bad example, but if the conditions are – you know, when you buy a piece of property and you look at it and you analyze, Can I build a home here? All the things you go through as to what's this going to cost, what's this going to cost, and you go through that whole process, and part of that process is going to be going through some sort of a well analysis. And if the conditions to get the well are so onerous that the real result of that is wells are not going to be drilled, it's the equivalent of denying wells.

And so I don't understand what the gain is if we can't deny a well and why we put somebody through this process just because they haven't built their house yet. They're going to have to do the same due diligence whether they're building their house in year 1 or year 3 to do their well. And making them do this upfront, it could be – this could be done in a handout, I would think.

Here's all the things you have to consider to be able to drill this well. Because if you can't deny the well, you know, the conditions of having an approved well by the DOE or whatever they are – and so do you see where I'm going with this?

Mr. Eckroth: I do, and so I think the intent is because we can't get everyone a pamphlet or a brochure is to provide that opportunity to have someone go through this process so they're making the best educated choice possible when they drill their well. So for instance, if someone didn't know that there was seawater intrusion issues on Guemes and they just go through the Ecology process to put in a well, they might not know. And they also might not know that they're causing issues for their neighbor who's closer to the shoreline when they're uphill or more inland. So I look at it like a land disturbance permit. It's kind of like it's just doing site prep. And you're gathering the best information you can before you make a decision to actually develop, and in this case "develop" means to put in the well.

Commissioner Woodmansee: So is the County going to have this set of guidelines: If your neighbors well is at 50 feet from the shoreline you can't be within so many feet of that? I mean, do we have a whole set of criteria that the information that gets brought to us then gets put into this matrix and ___?

Commissioner Henley: It's a pump test.

Commissioner Woodmansee: Well, there's no well there yet.

Commissioner Henley: Well, okay. True.

Mr. Eckroth: So what we ask for is on the screen. And again, we're already requiring this, and I don't believe it's been a major, onerous process for the applicants. This is what we're asking for and it hasn't really led to making things so difficult for someone that they end up drilling a well. And it's just expanding that review beyond just someone who's coming in for a house to build later on that year.

Commissioner Woodmansee: Well, it's changing the timing. You're saying that you're already requiring this. It's not expanding anything.

Mr. Eckroth: Well, it's changing the timing if someone wants to put in a well and then three years later build a house.

Commissioner Woodmansee: Right.

Mr. Eckroth: And so there's no development application associated with it. If someone were through the permitting process saying, Hey, I'm going through the site plan review process or the natural resource process and I want to build here, then we would use that opportunity to have them go through this process.

Commissioner Woodmansee: So how does this requirement of lists of things here play into effect if somebody comes in and already has an existing well approved by the DOE?

Mr. Eckroth: Currently then they don't have to go through this process and that's exactly what we're trying to fix here.

Commissioner Woodmansee: Well, the fix is long-term. I think that you're adding a step to people in these areas basically – to the process –

Mr. Eckroth: Sure.

Commissioner Woodmansee: And you're saying you can't deny it so I guess you're just, you know, making that stuff happen earlier. But I don't know that there's an effective change to what's actually going to happen. Because is this information going to change how the DOE regulates the well drilling?

Mr. Eckroth: Not the Department of Ecology. It just – again, a separate issue. This is a critical areas issue for aquifer recharge areas. So what it does is if someone wanted to drill in one place and they find out, Oh, there's seawater intrusion areas in this portion of the property, it gives them an opportunity to locate it somewhere else that potentially may have less impacts.

Chair Raschko: Okay, Jen?

Commissioner Hutchison: Well, my question is following right up on Mr. Woodmansee's. So I feel like maybe Ecology's not doing enough to communicate that with – I don't understand how they would pass a drill that we would say is probably not in the best place. Like, if you're willing to make a suggestion you can try, you know, a couple other areas on your lot instead. Is Ecology just not doing enough, or are they – is it a lack of communication? Like, I would feel like you'd get notified every time somebody's putting in an application for a well whether or not they're developing a whole site.

Mr. Eckroth: Well, we can't require the review because of existing code if there's not a development permit associated with it. But the state has delegated – under the Growth Management Act, critical areas review, which includes aquifer recharge areas review, to local jurisdictions – counties and cities.

Commissioner Hutchison: Okay. Thank you.

Mr. Eckroth: Yeah.

Chair Raschko: Commissioner Day?

Commissioner Day: Thank you. So I think the change here is that you're de-linking this application from a land use proposal. Is that right? That's the major change.

Mr. Eckroth: Right, 100% correct. Yeah.

Commissioner Day: So are there other instances where Planning and Development Services has de-linked a review from a land use proposal? Like, how is – I'm trying to understand where the regulatory authority comes from, even though you're not necessarily going to deny it. But normally if it's connected to a land use application, you know, we see that nexus. But are there other examples that the County has where you're conducting a review that's unrelated to a land use proposal?

Mr. Eckroth: I would say if you consider land disturbance permits, if that's not considered a land use because they're not proposing any sort of use, I would say that's the closest example I could think of.

Commissioner Day: Okay.

Mr. Eckroth: Jack?

Mr. Moore: Other types of critical areas as well. So someone could come in for a critical areas review and that's not a permit to do any construction but they just want to know, you know, where are the sensitive areas on their site. Someday, maybe they *do* want to do something. They want to know where to stay out of. So they maybe don't have a project in mind right now but it's a review that we could do to help inform them of those other critical areas, whether it's wetlands or streams.

Commissioner Day: That would be more like a voluntary predevelopment review, not a requirement that the County has.

Mr. Moore: True. Yes.

Commissioner Henley: I have a question.

Commissioner Day: If I could just follow up on that – I still have a question about, you know, if the County has authority to require this, you know, could that then lead to authority over other aquifer recharge areas in some way? So I'm just trying to understand that for clarity's sake. You know, if you're de-linking it from this particular instance of a Category 1 aquifer, could it eventually be de-linked from basically anywhere in the county because anywhere in the county could be a Category 2 sole source aquifer?

Mr. Eckroth: So what makes this different is it only pertains to sole source aquifers. So it's very specific to that.

Commissioner Day: Right. Understood. Now. But all of the policies that are described in the memorandum could just as easily be applied to a different category of aquifer, it seems to me.

Mr. Eckroth: It could. There are other areas in the county that could potentially have seawater intrusion issues.

Commissioner Day: Mm-hmm. Yeah.

Mr. Eckroth: But this proposal would not affect those areas.

Commissioner Day: Could I ask a follow-up question? I guess if you are clearly talking about for wells. I was a little bit confused in the amendment – where the language is placed, if that makes any sense. So you read the section that says “for wells,” which is number 2(a), but then you go down after you have, you know, land use proposals and public facilities, and then you go down and it says “for sole source aquifers this is required.” Why not put it up under the Wells so it's clear that that's what you're talking about?

Mr. Eckroth: That's a great question. But that is what we proposed last year. That's a great point, though.

Commissioner Day: Okay. Because if someone's reading it – I read the whole section on wells, and they go down and there's this other thing that's just kind of randomly inserted.

Mr. Eckroth: Right.

Commissioner Day: It might make it clearer to put it with the wells.

Commissioner Henley: A question. One of the requirements for the permit process is the chloride levels in the surrounding wells. Now is that information considered private or is it public? Do you have a means of compelling taking those samples?

Mr. Eckroth: So any data that's collected with a well-drilling permit is public.

Commissioner Henley: Okay.

Vice Chair Candler: Wouldn't – some of these wells are not drilled last week! I mean, what would the chloride level at a time that it was drilled have to do with what – wouldn't you be wanting to require a *current* chloride level?

Mr. Eckroth: You're talking of the neighboring wells, or of the well –

Vice Chair Candler: Yes, the "depth and chloride levels of surrounding wells." So you're got wells that were drilled before you guys were even requiring that, I'm sure, up there probably.

Mr. Eckroth: Right.

Vice Chair Candler: So where are they going to get that information?

Mr. Eckroth: Great question. Jack, do you have a good response to that?

Mr. Moore: I don't know why they would need it from their neighboring wells. The well is already there. This proposal is for prior to placing a well on a property.

Vice Chair Candler: Does it or does "not require depth and chloride levels of surrounding wells" is part of the application?

Mr. Eckroth: Yes, that is something that's required. Jack, do you know off the top of your head if the depth and chloride levels are based on past data that was collected through that well's permitting process, or it's required for current data?

Mr. Moore: I'm not sure. I don't know how you would acquire current data, as I've heard some of the Commissioners talk about.

Commissioner Henley: You'd have to ask for it, because otherwise it doesn't have any meaning. I mean, like Commissioner Candler says, okay, the chloride levels of a well that was drilled 10 years ago is meaningless in terms of the current permitting process. I mean, it doesn't mean anything.

Vice Chair Candler: So I'm bootstrapping onto Commissioner Woodmansee's, but the notice, I think – and Hutchison, as well – the notice requirement, I think, is particularly concerning when you're talking about – obviously a person can want to drill a second well or something, but largely this is probably undeveloped property. So the idea that it would only be noticed to people who are already living on the island in their paper doesn't seem like a very – a broad way to get – I'm not

saying they live in California, but even if they live in other areas of Skagit County or Whatcom or something. So I'm concerned about that.

I also think that you make this – we've already talked about it a little bit, but I just want to reiterate. You're saying we can't deny a well based on this, but if you can deny the completeness of an application based on the lack of ability to get the chloride levels of the surrounding wells, I don't see how that's any different.

And then I feel like this is – the point of this would be to, as you've explained, to discuss these things. But ultimately it seems like it's being guided toward maybe helping some of these newer development, or undeveloped areas when they develop, to maybe *not* use the aquifer, maybe *not* intrude, and maybe use this rainwater catchment that we've talked about many times. Does anybody have – do you have enough data on – there was a time when we talked about developing a system and putting that right in the code. Is that still being discussed or is there anybody who's developing a model for people for that? Because it seems to me that if you're going to do all of this with the whole point of talking to people, you do want to have that in place to offer this other option and something simple. That was the point of that other petition we were discussing. Do you have any updates on that at all, or do you know what I'm talking about?

Mr. Eckroth: I have an idea, just based on previous meetings. We do a lot of rainwater catchment systems but you're talking about more of a – like a pre-engineered system –

Vice Chair Candler: Exactly.

Mr. Eckroth: – that someone can use.

Vice Chair Candler: Exactly.

Mr. Eckroth: Jack, do you have an update on that?

Mr. Moore: I do.

Vice Chair Candler: Oh, good.

Mr. Moore: The Board of County Commissioners have asked the Public Health Director to develop a prescriptive rainwater catchment system that could be used in Skagit County.

Vice Chair Candler: And is that expected to kind of become part of code or be available in the code somewhere?

Mr. Moore: Yes.

Vice Chair Candler: Okay.

Mr. Moore: That is the intent. And if I understood the timing, it was by the end of this year.

Vice Chair Candler: Oh, good. Okay, great. Thank you for the update.

Chair Raschko: Commissioner Hutchison?

Commissioner Hutchison: I'll try to make this my last question. Is the speed of this review, would you suggest, is, like, within 30 days? If I was looking to purchase land, unimproved land, and I want to make sure that I can develop it, that it's got to all happen within a certain period of time, would you be able to offer any idea of what the length of that process is? I mean, granted I have to now knock on the neighbors' doors and test their water real quick so I can have your chloride samples, which I don't think I would have much trouble doing. But I just would like timing, if there's an idea.

Mr. Eckroth: Jack, do you happen to know that?

Mr. Moore: I do not.

Commissioner Hutchison: Okay.

Mr. Eckroth: But if Jack does not know, it's likely not an issue.

Mr. Moore: Well, it's not been discussed, you know, as far as timing goes or how long a permit will take – or a review, I should say. I don't know that we've pondered that yet. If there's no maximum timeframe established in the ordinance, then it would be dependent on staffing levels and workload.

Commissioner Hutchison: When you do an old development application, is it a pretty – I mean, that should happen within a pretty timely process for someone that's engaging in development. But if you're like – if I wanted to acquire a property, I want to make sure that I'll be able to drill, and I'd want to do that quicker than actually going through my whole process of development. So just thoughts.

Chair Raschko: Anybody else?

Commissioner Day: Thank you. So I guess I just have one more question about regulatory authority. This gives the sort of prospect of *feeling* like it's regulatory in nature because you're asking someone to apply, when it could just as easily be called, you know, like a critical areas review – you know, a well-drilling review that could be voluntary, that could be a service that the County provides. Because it feels like that's essentially what you are providing in response to an application. So I'm just wondering, you know, is this going to create the sense of a duplicative regulatory environment? Like, does Department of Health have a role already in this that could substitute for this or that could help be coordinating – sort of a coordinating role in the County? And do you really need an application per se? Could this be addressed with different language, I guess is what I'm asking.

Mr. Eckroth: I'm not sure when this happens in coordination with the Health Department's permitting, but they are looking at things like chloride levels.

Commissioner Day: Right.

Mr. Eckroth: So but I'm not sure if the timing is at the exact same time.

Commissioner Day: But they certainly have data about the existing wells, one would presume.

Mr. Eckroth: Jack, do you happen to know?

Mr. Moore: I'm no expert on this, but my understanding's that the Health testing comes after – or during the drilling or shortly thereafter, and before a development permit. I believe the intent of this proposal is to attempt to address the likelihood of it being detrimental to the aquifer – you know, this critical areas aspect – prior to drilling a well. One argument I've heard in favor of this proposal is once – if a property owner does not know any better and gets a start card and goes ahead and gets a contractor out there with a drilling rig and they start drilling and testing and get it in, or partially in, then, you know, there's some cost and it would be less likely for them to shift gears and go to another location or consider other options.

Vice Chair Candler: I'm kind of stuck on this depth and chloride levels of surrounding wells, but I don't think this problem is insurmountable. I would suggest that it – assuming people are interested in this and want to do this – but it seems to me that there could be a slight modification of this that would make – certainly make me feel more good about it – such as the depth of chloride levels of surrounding wells is required if surrounding well landowners have provided to the County those levels. Because what I'm picturing is yes, you are friendly. You could go to your neighbor and you could say, Let me have some of your water. But the problem is is that if this person in this house is suffering from high chloride levels in their well and they know that's a way to stop this whole process, you know, they're not motivated to do that – I mean, if they're mean or whatever. I don't know. Maybe people don't act like that. I don't know. But it's the unknown that concerns me. And so it seems to me that the County could keep – and also because that homeowner, that person who has that well, is in the best position to know if those chloride levels are changing, right? So if they have a chloride level that *they're* concerned about, perhaps they could submit that to the County and say, Hey, this is concerning. Here's my number right now. And then eight, 10 months later, Hey, this is even worse. Here's my new number. And I don't want to put a huge burden on them to keep paying for – you know, I don't know what it costs to test water. Not that much, I don't think, but I don't know that for sure. But anyway, it seems to me that there could be a caveat in that condition that would say somewhere those are going to be available. Because I just – I think the impossibility of it is what's concerning to me.

Mr. Eckroth: So we can look into that. I also want to doublecheck and see if we're looking at existing data from when the wells were drilled from neighboring properties, or this is something that we're asking for new data.

Commissioner Hutchison: Surely you'll have _____ but the current chloride levels is completely different.

Commissioner Woodmansee: I mean, I suppose that you could – there could be a requirement to request that information from your neighbors, but that if they don't – if they're nonresponsive that that's not factor in the process. Because it is real easy for, you know, a neighbor to not cooperate, especially if they think their well's going to be at risk if *you* drill a well. And so if there was a requirement to at least request the information, and if permission is denied then it's – you're not stopped because they wouldn't provide the information. That would be a possible way around that.

Chair Raschko: It seems to me too that if we're going to rely on neighbor's data there can be an incentive for a neighbor to not be totally honest with the nature of the sample. If you're going to do that, then I believe that this verbiage in the law should include some requirements for who collects the samples and how they're handled and everything else.

Commissioner Woodmansee: I have a question about testing. Once you get your well – regardless of whether you're on the island or not, once you get your well and you're done and

you're in, does the Health Department require any further testing down over the years? Or once you're in, you're in, and then it's just up to you to try to keep a quality well?

Mr. Eckroth: Jack, do you happen to know that?

Mr. Moore: I do not.

Commissioner Woodmansee: Because that would play into the subject of, Is there current information available, you know? My guess is there's none required.

Mr. Eckroth: Right.

Commissioner Woodmansee: And so... I mean, I'm not suggesting another code to require it.

Commissioner Henley: In California, we used to do it once a year.

Commissioner Woodmansee: If you sell the property, your bank's going to require it more than likely. I also think that if for somehow – my concern is the County denying people's ability to drill a well. That's my concern about this.

Mr. Eckroth: Which this code amendment would not do.

Commissioner Woodmansee: I understand that's what you're saying. I do think that once this code amendment happens, it could get expanded and it could be – there could be a list of things that becomes impractical, makes it too difficult to get a well. In the process of the catchment system, I would think – I would hope that in the County that anywhere in this catchment – that this charge the staff's been given, or the Health Department's been given to come up with a plan for catchment prescriptive plan, that anywhere where a landowner in Skagit County is denied the ability to drill a well that part of that new thing would be automatic you're eligible to do a catchment system. Like, no questions asked – automatic, you can do a catchment system. You have to meet the criteria of the prescriptive and/or some engineer's system that gets approved if you want to spend that kind of money. But just food for thought, if they're going to wordsmith code for catchment systems, I think part of that should be that any parcel in Skagit County that is denied the ability to drill a well – because this is one thing. There's hundreds of people that have been denied the ability to drill a well in Skagit County for years and years and years. And so if we're going to do a catchment system and if somehow or another we play a role in denying a well somehow – maybe because of criteria – I understand. I'll take it at face value that that's not what we're trying to do. But the DOE won't issue a well for all the reasons we all know about. It seems like the catchment should be an automatic option, like no questions asked: You can do a catchment if you can't drill a well. Period.

Commissioner Henley: What about desalinization systems like reverse osmosis?

Commissioner Woodmansee: I don't have a problem with that.

Commissioner Henley: So you _____, you apply the same principle?

Commissioner Woodmansee: I would be happy to do that. Sure.

Chair Raschko: Okay, has anybody got anything else?

Mr. Eckroth: Director Moore may have a response to that.

Mr. Moore: If I may, Chair? So catchment systems are currently allowed right now in Skagit County. The difference that this, you know, this new system would make that the Public Health Director will be working on is that we would develop a prescriptive or preapproved method of doing it so that people could do – you have a modular system to put in place without the trouble of going in and getting their own, very individual design. But there are people out there that have done that so they can develop their property. So we have approved and a number of engineers out there will design catchment systems right now.

Commissioner Woodmansee: Yeah, the purpose of the prescriptives is to make it easier.

Mr. Moore: Absolutely.

Commissioner Woodmansee: Yeah. I would just tie it to that new well thing somehow! That way there's no questions asked. One of the big hurdles getting a permit is, Do you have potable water – right? And so, I mean, it's held up a lot of permits for a long time in the past.

Chair Raschko: Anything else?

Commissioner Day: I could ask one more question if you want to go over it a little bit more.

Chair Raschko: You sure may.

Commissioner Day: So it seems to me that this is really a unique challenge for the County, because under the Growth Management Act, if you're required to regulate the quality and – not quantity of groundwater because the quantity is from Department of Ecology. But if land use regulations affect water quality for the most part you can do that through a land use regulation. In this instance, the actual usage of the water is what's causing the water quality issue. But if the County can't regulate quantities, I don't know how else you'd do that other than through how you're already doing it, which is through, you know, a proposal to build something and then you have to show that you have potable water and a certain volume of it. And isn't that just in itself enough of a deterrent for someone to want to do their own research to see if they will be able to meet that criteria if they want to build a home?

Mr. Eckroth: From what I've heard from our water resource planners, it does not always happen.

Commissioner Day: So people drill a well but then they can't build a home because it's not sufficient?

Mr. Eckroth: Well, we just can't require the review that we're proposing to apply to all wells because the well is already drilled. Whether there's chloride issues that come up that might prevent them from using it, that's a Department of Health determination to make.

Commissioner Day: So if a person comes and wants to build a home on Guemes Island, do they have to bring you information about the well?

Mr. Eckroth: If it's associated with a development permit from our perspective, yes, and then the Health Department has their own requirements, and then the Department of Ecology has their own requirements.

Commissioner Day: Right. So presumably a landowner would know that drilling a well is a risk if they can't – you know, if they can't show the volume and the quality of the water that's required to develop a home.

Mr. Eckroth: Presumably, yes. But this also – this review allows them to also consider neighboring impacts as well.

Commissioner Day: Thanks.

Mr. Eckroth: Thank you.

Commissioner Hutchison: So there was a slide that mentions – _____ when we're done – but one foot of drilling can impact the seawater boundary by 40 feet, and that can continue to expand from penetrations. That can get more severe so that – so is it that the areas of impact can continue to grow and the entire islands could become at a higher risk?

Mr. Eckroth: I believe so. This is a data point that we noted last year in our presentations and I looked to see where that came from and it looks like it came from the USGS. So I'm not an expert on that –

Commissioner Hutchison: It's an astounding fact.

Mr. Eckroth: Yeah.

Commissioner Henley: I think it's just an estimate anyway.

Chair Raschko: Commissioner – go ahead.

Vice Chair Candler: How much does a water quality test cost?

Mr. Eckroth: Permit review is – I believe it's just less than \$200.

Vice Chair Candler: So that's for permit review. How much does it cost to take it to the lab to have it tested? I know somebody knows.

(several inaudible Commissioner voices)

Commissioner Woodmansee: Less than \$200.

Vice Chair Candler: It's like it's somewhat known. Yeah, okay.

(more inaudible Commissioner voices)

Commissioner Henley: Down in California it used to cost us about \$50.

Commissioner Hutchison: So in testing the neighbors' chloride levels, is that an expense that the person seeking the new drill is going to have to absorb?

Vice Chair Candler: We don't know.

Mr. Eckroth: I think that would be between them and their neighbor, if it's required that they use current data. And that's something I want to provide to the Planning Commission – if we're requesting current data or if we're utilizing past data.

Commissioner Woodmansee: Can I follow up on the 1-foot/40-foot question?

Chair Raschko: Please do.

(laughter)

Commissioner Woodmansee: I want to understand. I do want to understand it because that is – that's, like, crazy numbers to me. And so that one foot lower – right? Where are we at in the world of one foot in the history of the island? Because in theory, like, are we two inches into it? Are we eight inches? Are we – you see where I'm going with this? It's – you know, does five more houses, does 20 more wells get us to that one-foot barrier? So I'm, like, completely ignorant on that particular spectrum, and I don't know if – I would be happy to hear if you wanted to enlighten me a little bit on that particular subject, if that's okay with the Chair.

Chair Raschko: Well, I'll just say this. It's sort of unprecedented to do this, but in this we'll allow you, if you would, please.

Mr. Eckroth: If you wouldn't mind coming up to the microphone and stating your name and address for the record, that'd be appreciated.

Chair Raschko: I just don't want this to become a –

Commissioner Woodmansee: Yeah, and I apologize I didn't ask first.

Steve Orsini: Well, thank you very much for the opportunity then. My name is Steve Orsini. I live at 4971 Guemes Island Road. That's on Guemes Island. And I've been involved with this problem of seawater intrusion for many, many years and was part of the group that got the USGS study originally done. And what you're looking at here is this is a very known hydrogeologic phenomenon, particularly on islands that are surrounded by seawater. It's called the Ghyben Herzberg Principle, and what it says is that over time you have lenses of freshwater that build up into permeable soil, and that pushes down or pushes away the seawater, and that's what historically people drill wells into are these lenticular aquifers on these islands. What happens is that there's a big difference in the density of freshwater and seawater, so when you reduce – oh, and these aquifers through another principle hydrologically form lenses. They're kind of higher in the middle, not hugely higher but higher than on the edges. And they're also weeping to the sea. So you get rainfall comes down, it goes into the aquifer, and the aquifer slowly – it's weeping to the sea. But over time it builds up more than it leaks out. Then what happens, if you reduce the head height – say, through pumping – or drought – one foot, it takes one foot of freshwater to shove the denser seawater down 40 feet.

So what happens is when you drill inland – now there has been a reduction in the head height over time on Guemes. We know what because of the number – there's about 40 houses now that have suffered complete seawater intrusion and have had to go to something else. That's the phenomenon that we're trying to address. But the reason it's happening is because the head height of the aquifers are being dropped.

Is that enough? Thank you.

Vice Chair Candler: It's helpful.

Chair Raschko: Okay, anybody else?

(silence)

Chair Raschko: Anything else, Robby?

Mr. Eckroth: Yeah, I didn't get a chance to finish up my presentation here.

Chair Raschko: Oh!

Mr. Eckroth: So just real quick – yeah! Next steps: May 2nd through the 30th will be the written comment period; May 28th will be the public hearing; and then June 11th will be the date we'll hold deliberations. And supporting documents can be found on the website shown here on the screen, which is the Planning Commission's schedule and minutes website. So thank you all for your time. I will try to provide you with as much follow-up information as I can, maybe at the next meeting or during the public hearing or deliberations meeting. Thank you.

Chair Raschko: Okay, thank you. Well, I had a list of topics to bring up but everybody was so thorough that everything was covered. I appreciate everybody's input and hard work on this. I appreciate the hard work by staff as well.

That ends our agenda for the night, so I wish everybody a good evening. Thank everybody for coming, and we'll stand adjourned (gavel).