

**Skagit County Planning Commission
Workshop: Updates to Permit Procedures
May 14, 2024**

Planning

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

PDS Staff: Jack Moore, Director
Tara Satushek, Senior Planner

Others: Ryan Walters, Consultant

Acting Chair Tammy Candler: (gavel) Calling to order the meeting of the Skagit County Planning Commission for Tuesday, May 14th, 2024. The first thing is the roll call, first on the agenda. We're missing our Chair so substituting today is Vice Chair Tammy Candler. Let's just go ahead and roll call. Next to me is –

Commissioner Amy Hughes: Amy Hughes.

Commissioner Vince Henley: Here.

Chair Candler: Vince Henley.

Commissioner Martha Rose: Martha Rose.

Commissioner Jen Hutchison: Jen Hutchison.

Chair Candler: All other members are not present at this time. The next item agenda, number 2, Approval of our Minutes. Does anyone have a motion?

Commissioner Henley: I move that we approve the minutes as written.

Commissioner Hutchison: I second that.

Chair Candler: It's been moved and seconded for approval of the minutes. Is there any discussion?

(silence)

Chair Candler: Seeing no discussion, all in favor, say "aye."

Multiple Commissioners: Aye.

Chair Candler: Any opposed?

(silence)

Chair Candler: Nothing noted. We're going to move on to item number 3, Public Remarks. This is the time on the agenda as an opportunity for anyone to speak to the Planning Commission about topics except items scheduled on the agenda for a public hearing that 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.

There are no members of the public outside of our item agendas here, but I don't – and it doesn't look like there's anyone on the Zoom but I'd like a second opinion if anybody sees anything.

Tara Satushek: That is correct. There's nobody attending by Zoom.

Chair Candler: Okay, so we will close the Public Remarks, having no one here to speak. So we'll move on to the item agenda number 4, which is our Workshop tonight, Updates to Permit Procedures. Does somebody from the Planning Department want to introduce our speaker or should we move straight to Mr. Walters?

Jack Moore: Thank you, Chair. Yeah, I'd like to – for tonight's presentation I'd like to introduce our consultant, Ryan Walters.

Chair Candler: Just for the record, we should move back. We now have Commissioner Angela Day present as well – for the roll call. Sorry for the interruption.

Ryan Walters: Good evening and thank you for that introduction. I'm here tonight to give you another overview of what we've cooked up for you in terms of an update to the County's permit procedures code. And this'll be very similar to the update that I provided in March. But we have evolved the draft a little bit and I'll give you an overview consistent with what we did before and then also some updates that you'll see in the current draft of our code update.

So tonight what we'll be doing is reviewing the objectives of this code update project, taking a look at an overview, as I said, of both our approach and the particular mechanical changes to the code. And by your feedback and then in the future we'll actually have a draft that will go out to the public. We'll talk about those future steps in a bit.

First of all, why? What problem are we trying to solve? First of all, the permit procedures code chapter is quite old. We're approaching a quarter-century now. It was written in 2000. It's been adjusted over the years but it hasn't gotten a comprehensive review. As a result, there are some inconsistencies with Chapter 36.70B in the RCW. That is the chapter that maybe more or less the Planning Commission doesn't have a whole lot of interaction with because it governs permitting and not land use planning. But it's right there next to GMA, 36.70A, because it really is part and parcel part of the state's scheme for how it is we're supposed to manage land use and permitting. And it has all the little details that the County needs to follow with its own permit procedures, and it was recently updated. There are various other little errors that accrue over time. And the chapter is not written in a way that could be easily update. I mean, we're going to have to make updates

because the state law changes but it's very list-y, which is a virtue, but that also means there are lots of little places to make a lot of changes in order to update it. And we want to make some permit process improvements in order to be able to process permits faster. If we want to do that, we could insert those changes into a variety of places and add a lot more words or we could rewrite the chapter so that it just makes more logical sense on its face. This is the legislation principally that we're talking about integrating into the chapter. It's the Second Substitute Senate Bill 5290 from the 2023 legislative session. It requires changes in our permit procedures here at Skagit County to meet new state timelines, and we'll talk more about that in a minute. And then because this chapter sort of has some tentacles that reach out into other portions of the code, it's necessary to make changes to those other chapters, so you'll see that here in a minute.

Our objectives – and we gave you a lot of detail on this slide last time but I'll summarize this time – are to improve permit processes, to expedite permits. If we're going to require a permit of somebody that's one thing. If we drag it out for many, many months, that's something significantly different, and so our objective is to require a permit where it's required – this largely doesn't get into the substance of that – but where it's required, to get it through the system to a yes or to a no as soon as we can; obviously, to improve readability and useability of the code – that's a really big, important objective; and then to comply with that state legislation. These are kind of the three major themes that we're trying to hit in this code update project.

Specifically, this proposal will evolve what is in the current code as “application levels” into a new term, “types of review.” And we have a whole series of slides about this so I'll cover it in more detail, but this is a really big theme. So we'll come back to it in a little bit more detail in a minute. As we're doing that, we make a few minor changes in process and a few minor changes in appeal rights, and you'll see that. And then we replace what is a very long list of things with one comprehensive table that fits on a single sheet of paper so that you can see how all the permit types compare to each other in one place and also so that the planners and permit techs can also see that, and so that applicants can understand that and decision-makers can understand that.

We are injecting a new optional site plan review step. It's sort of – internally it's a step that would happen all the time and it basically does happen now. But it provides for an option for an applicant to pursue that outside of an application. We'll talk about it more in a minute, but that's an important component because we're hoping that it can help improve permit processing timelines. We create some other new tables. The timelines and limitations for how long it can take to process an application is one of them. There's a new table for how long permits last before they expire. And then we add a – kind of an escape route for if our Hearing Examiner doesn't deliver a decision, which some of you may have heard has been a problem in the past. And other various changes, mainly for consistency across Title 14, and just to reduce the number of words so that we can read and understand the chapter more quickly.

So the first thing I promised on the last slide was to talk about the evolution of “application levels” to “types of review.” So as you might already be familiar with or it might be very apparent, not all types of applications get the same level of review. So a building permit doesn't go to the Hearing Examiner, doesn't go to the Board of County Commissioners for approval. A building permit is a relatively simple thing in *most* cases and it is – or in *some* cases; maybe even “most” is not accurate to say. But the building permit itself is reviewed against the building code, which is thousands of pages of very specific code. So that is what's called a ministerial permit. Under our current system, it's a level I permit. Under the new system it would also be a type 1 review. But then other permits require more analysis and some go to the Hearing Examiner for review and some go to the Board of County Commissioners for review. And so under our current code, each of those is given an application level. Now we're proposing to change that. The current code uses

Roman numerals. We are going to avoid all use of Roman numerals. But we're also going to change the terminology so that we can try to avoid confusion because some things move around. So we want to give it a different term so that people don't get too confused about what the old process was and what the new process was.

If you look at this table – this is just the first row – there are four levels of application in current code. Unfortunately one of those levels, level 1, is broken into two. When we talk about the new chapter, what we're proposing is that we break those two level 1's into separate types of review, so there would be a type 1 and a type 2 instead of a level I *with* a notice to neighbors and a level I *without* notice to neighbors. They would be equivalent but they'd each have their own independent number so it's more easy to reference and easy to see.

You'll note at the far side of this table is the level IV under existing code, which is really the 5th application level, goes away. It doesn't have an analog in the new system, and I'll explain why that is in a moment.

As we build out the table here, I'm going to show you the example types of permits in each of these categories. And then I'm going to show you what their process is – whether they have a comment period, how long the period is, whether they have a public hearing, who makes a recommendation on approval of the permit, who makes a decision to approve or deny a permit, and then what their appeal opportunities are.

So to keep moving, your example permits under *old* application level I and *new* review type 1 are your building permits, your boundary line adjustments, flood permits, lot certifications – those types of things. So they exist in this first column. And I to 1, as you see here, are pretty much the same. Of course it will then get more complicated because under old application level I *with* the asterisk, *with* notice, those are going to become review type 2. So we're not going to have two level I's anymore.

And so those types are admin special use permits, which are special use permits that don't rise to the level of going to the Hearing Examiner for approval and instead are approved at the administrative level by the Department, by the Director. Similarly, a lower level variance, an admin variance is this new type 2/old type I with notice. So each of these have a notice requirement. You'll see as you move down the column, they have a comment period. And then they do not have a public hearing, just like the first type. There's no recommendation because both types are approved by the Director, by the Department. Under existing code, they could be appealed to the Hearing Examiner and then to the Board of County Commissioners. And under the law, you've got to exhaust your administrative remedies before you can appeal to court. So that gives people two hurdles to pass before they can appeal to court. And so we would eliminate that in this. It's also not actually consistent with the statute because the statute envisions having one level of appeal, although it is not very clear on that.

So under the new system, as you'll see here in the dark blue, the local appeal is to the Hearing Examiner. Once you have exhausted your appeal at the Hearing Examiner, you can then appeal to court. Now as a practical matter, Type 1s don't largely get appealed because they are very simple, they are more or less ministerial permit applications. Type 2s, maybe sometimes they do get appealed, certainly with more frequency than Type 1s.

Moving further to the right in type 3 now – old application level II – you have what's called the Hearing Examiner Special Use Permit, which is just a more intense level of review for a special use permit, or a Hearing Examiner Variance, a more intense level of review for a variance, and

long subdivisions – preliminary approval of long subdivisions. Short subdivisions, meaning more or less subdivisions of four lots or fewer, are short subdivisions, so they're in the previous column. And so you can see here that under this type of review, which was old level II and new type 3, you've got a comment period again, you have a public hearing this time and it's before the Hearing Examiner, as you can see here. And then there's a recommendation by staff and then there's a decision by the Hearing Examiner. So the Hearing Examiner makes the decision on whether the permit gets issued or not. And then under the old code you could appeal to the Board; under the new code, same. You could appeal to the Board.

Now the old level III and new type 4 were BOCC Variances, Board of County Commissioner Variances. There's only one type of variance that falls into that category and that's an ag siting criteria variance. Regional, essential public facilities – essential public facilities like a jail or, you know, some – we can talk more about essential public facilities if you want but basically they are facilities that are difficult to site within a jurisdiction and are critical to the functioning of society. Like, you've got to have a jail. And rezones. Rezones require adoption by ordinance and the only entity that can do an ordinance is the Board of County Commissioners as the legislative authority. So they have to live there in that section. Rezones here don't really happen separate from an amendment, a map amendment for the Comprehensive Plan, so that's a little twist. I think maybe they could in Bayview Ridge. But rezones are subject to the timelines. Amendments to the Comprehensive Plan are not subject to the timelines. You don't see amendments to the Comprehensive Plan on this chart at all because they're all handled by your legislative section of the code.

Under this type 4 review, there's a comment period, there's a public hearing, and in this case there's a recommendation by the Hearing Examiner to the Board and the Board makes the final decision. Because the Board of County Commissioners is making the final decision though, there's nobody locally to appeal to. There's nobody higher than the Board of County Commissioners. So that means there's no appeal right under the old code or the new code. If you want to appeal, you just go directly to Superior Court.

Now under old level IV, there was final plat approval. And the way plats work is you've got a preliminary approval in which you lay out your lots and your streets and all those things, and you get approval to go build it. You go build it – and that early approval is called “preliminary approval” – you go build it and then you get a review to determine if you built it consistent with the plan. And so that final review, final plat approval, is very ministerial. There is no discretion, the Department doesn't get to change anything. It is, Did you comply with the terms of your preliminary plat approval? So a number of years ago the legislature changed the law and said for final plat approval, you don't have to have review by the legislative authority. It can be reviewed by the Director. And so what we propose here is to move that to type 1. That's why you see the asterisk

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Chair Candler: Ryan, I'm sorry to interrupt you but – I should have asked you at the beginning: Do you want us to hold our questions till the end or do you want us to ask them as we go?

Mr. Walters: I would – use your discretion.

Chair Candler: Okay. Please carry on.

Mr. Walters: Okay. So there is no analog here. We propose that that final plat move to level 1 and so there is no level 4 in our new types of review chart. Does that make sense? That one got eliminated. We don't go up to type 5 in the new methodology.

So the other thing that we're introducing in this code revision is the concept of site plan review. And at a very high level I think what this is is a new internal process step that kind of rolls up all the other steps that we have already been doing. So its intention here is not to add any time or add more work to review the various types of permits that come through the Department. The intent here, though, is to be able to review it once and then not have to review it again. So you might choose to do this prior to an application. It'll talk about that. But any application that you submit has got to go through some level of review of your site plan. We've got to know *where* you're building your house. You can't just give us your blueprints and say don't worry about where I'm putting it on my lot. You have to show us where on the lot because we've got to analyze so many different things – right? We've got to analyze – well, I have a slide showing you all the things we have to analyze. But it's very intensive and a lot of it depends on where you're positioning things on your site. But once we've done that, we want to be able to avoid that for your subsequent applications. So you build your garage first. We review your site. If you showed us where you're going to do your house later, we're going to need to review your building plans for your house. But hopefully we're not going to need to review everything else about your site again. We're trying to frontload that complicated review and even offer it as a preapplication step. So maybe before you buy a piece of property you might even want to do site plan review to find out if you can do your house where you want it, hopefully really before you design your house, because if you can't put it quite where you want it maybe you want to change the way the windows face or, you know, something else.

The land use approval may be important, especially for commercial, right? Are you going to actually get permission to do whatever particular land use that you're proposing? If it's some complicated commercial thing, is it allowed in the zone? You know, that type of thing can be reviewed at this step. And then the idea is any subsequent building permit that's contemplated originally you could get faster approval for it subsequently.

In effect, it will provide the Department with authority to skip those reviews in the future if you're proposing something that's consistent with what's already been reviewed. And the whole objective here is to be able to do it more quickly.

So this is a partial list of the things that the Department's got to review for based on all those substantive areas of the County code. You've got to make sure that your setbacks are right, based on the size and shape and frontage of your lot and those kinds of things. We've got to know that your septic drain field has got a spot and that the soils are appropriate where you've positioned it. If you have a well, there's got to be a setback from that. You've got to measure all these things on the ground. And those are all things that are important and that are reflected by the current code, but they aren't things that we want to be doing multiple times if nothing else has changed.

Another item that is new to this process is the requirements of 5290, which was passed in 2023. It requires, among other things, that you clearly indicate the information required for an application in your code. It requires that the County exclude *interior* alterations – so you're remodeling a bedroom or a kitchen – from site plan review. The County is not allowed to ask all of those questions about your site plan if you're just remodeling your kitchen, with a couple of exceptions. But that is potentially a big deal.

And then it requires us to establish and implement time limits with what it calls "review time periods," or those various types of project permit applications. And it's generally as follows here, and one of the reasons that we changed the review type is to line these up closer to how the statute reads. First, permits that don't require public notice, 65 days. Now the old time period under the statute before it was amended in 2023 was 120 for all types of permits. That doesn't

really make sense because some of them are much more complicated than others. But now the default – and you can vary from this; the County could choose other time periods than this, but these are the defaults – 65 days for permits that don't require public notice; 100 for those that do. And those that also require a hearing, 170 days. So they're providing more time than before for those more complicated permits. But the other kicker is there's actual teeth to it. Previously it was, Hey, you need to achieve 120 days or else, but we won't tell you what the "or else" is. Now we know what the "or else" is and that's the applicant gets some special permission to get their application moved to the front of the line for review. We talk about that in a new section. If you are an applicant for a permit and you get requested to submit revisions to your permit application twice, you are entitled to a meeting to be scheduled within 14 days with the Department, at which you're supposed to work out what the outstanding questions are in your application process. And then when you submit items the third time, the County needs to move it forward for a decision-maker. Now the department might – if it's a Department application where the Department makes the decision, that's fine. If it's a Hearing Examiner applications, then the Department needs to kick it to the Hearing Examiner. And the Department may well recommend that the application not be reviewed because the applicant – or not be approved because the applicant didn't provide the right information or whatever. *But* the applicant gets their due process right to get in front of the decision-maker and get a decision, and that is what the legislature was getting at with this provision. They don't want applications to sit around forever without getting to a decision point because if you don't get to a decision you don't have an appeal right. And so this will help get us there. And I should point out that all of these time periods are subject to a stopping of the clock. So you submit an application on Day 1, it gets reviewed and issued maybe on calendar Day 90, and that can be consistent with the 65-day limitation if in the middle there they stopped and sent it to you and you took 30 days to get the information back. Because the clock stops if it's waiting for you or if the applicant and the County come to a mutual agreement to hold application processing for whatever reason. And you can also ask for the review to be stopped. Say you're not sure if you want to proceed with this application. There are lots of those opportunities to stop the clock. So it's not necessarily that every permit at the lower level gets processed in 65 days. What *is* the case is that the Department needs to be held to the standard of *it* doing *its* work within the 65 days, and that excludes appeal timelines.

So if you look at our chart that we had looked at before, I've added a row here at the bottom for the time to decision. So you can see how these kind of line up. Both Review Type 3 and Review Type 4 each have a public hearing so they have the same 170-day timeline. And again, the County could make some changes to this and could break it into further categories if it wanted – or subcategories. But these are the defaults. That's what I put in there until I'm told otherwise.

A couple of changes since our last draft – and this is my last slide, I think. First of all, we changed a couple of terms. Under existing code, we used the term "development permit." RCW 36.70B uses the term "project permit." So we put an instruction there to change all the uses of "development permit" to "project permit" to more closely align to the statute.

Also we have the term "decision deadline." That's mostly *not* what the statute calls it. They mostly call it a time period for review, so we changed that term to more carefully line up with the statute.

And land divisions, we've inserted a new table to try to clarify how land divisions are treated because there are various types. There are short subdivision. There's long subdivision. There's a small, long subdivision, which gets a little bit faster review than a bigger long subdivision. So we put in one table showing how fast each of those get their preliminary review and then also right next to it when they get their final review. And then the process for review if somebody wants to alter a subdivision, and then the process for review if somebody wants to vacate a subdivision.

So it now lives in its own little table. Also we'd previously injected a line for *if* the County wanted to have differences in processing of applications for land divisions within an Urban Growth Area. That's not in current code. It complicated things a little bit, and it's difficult to accomplish because of some other provisions of County code, so we took that out. It was adding complication without a substantive effect. And then we consolidated the review type for bigger land divisions, so land divisions of 50 or more lots were a reviewed type – what would be 4. But if you're review Type 4, then there's no appeal because review Type 4s are decided by the Board and there's nobody above the Board. So we moved those back down into level 3, which simplifies the table a little bit and makes sure that there *is* an opportunity for an appeal process.

We have a revised section on your ability to revise an application. And as you're reading through it, keep in mind that applications are distinct from permits. Applications provide you opportunity to do nothing. Permit is the permission to go do it. And so until it becomes an issued permit, we call it an application; after it becomes an issued permit, that becomes a permit. And so the timelines apply to applications. There are whole different timelines that apply to permits. You know, you've got a year, two years or whatever, to build your thing once you get your permit. The Department is limited in how long it takes to get to review an application. So those are very distinct concepts and we've tried to emphasize that with some applicability sections.

And then we moved application expiration to its own section so that you can see it in the Table of Contents. I'm sure you were all are looking for that. But now you can find it a little more easily because it's in the Table. We modified some of the timelines. We're trying to more or less achieve consistency with existing code. The County attorneys asked for some adjustments to the procedure for verifying abandonment, which is in our zoning code. It relates to a special use permit. So we made the changes that they asked for there. And we are now showing some edits to 14.10, 14.16, and 14.18. These are the variance section of code, the zoning section of code. Where that section of code says, Oh, you want a variance? You need to go apply for it and it will be application level 1. We don't want those other chapters of code to talk about the application level. We want all the discussion of the application level – what is now the review type – in one place in that big table that I showed you. So those get deleted with just references to say, Go see 14.06.

And then finally – and this is driven by 5290 as well – in the Zoning chapter, we modify temporary mobile home from an admin special use process to a permitted use in all zones. And the effect of this here is temporary mobile home is allowed as a use in almost all the residential zones for somebody that is caring for an aging parent or other sick relative. You get a special permission for a temporary mobile home. And previously what we did – or currently what we do is require a special use permit for that process, an administrative special use permit where we send out notification and that kind of thing. This revision would move it to a permitted use, so there wouldn't be a notification process and a lengthy special use permit process – still meet all the same standards, which include a requirement to remove that temporary mobile home once your relative dies or is no longer sick. But the important thing is that that conditional process is simplified and streamlined. And that's important because one of the things the new legislation wants us to do is make housing an outright permitted use in any zone where housing is allowed. And so we'll have checked that box by making that small change.

Commissioner Hutchison: I've got a question.

Mr. Walters: Yes.

Commissioner Hutchison: If it's meant to be temporary and it's now permitted –

Mr. Walters: Still – it will still be temporary. But, yes.

Commissioner Hutchison: How is that managed?

Mr. Walters: They'll still need to get a permit because they still have to get a building –

Commissioner Hutchison: So that'll be like with a time expiration it'll trigger something for you to follow up and –

Mr. Walters: Yeah.

Unidentified Male Voice: Correct.

Commissioner Hutchison: I like that. Thank you.

Mr. Walters: And there is a special provision for temporary mobile home in agricultural land. All the same standards apply and I actually added a little bit that calls out that no conversion of agricultural land can occur, which is in the existing code but it's kind of buried so it's a little higher level.

So this is the slide we had before. So this is what we're doing tonight. And in the future we will finalize the draft code proposal. We're on our second or so full draft and the Department has it in for staff review. We're presenting it to you here. We'll answer any questions, clarify anything in the text that, you know, addresses any of your questions or concerns. And then we've prepared a detailed staff report that is – it's really going to be fun reading for you, if you thought the draft was fun. It compares the old code to the new code and the statute to the new code so you can see kind of where things go. And then you'll of course have your regular process with your public hearing and written comment procedures, make your recommendation, and then the Board of County Commissioners will review for approval. Now in this draft we have inserted an effective date of September 1. And that may change as we get closer to that date, but the Department would like this to be effective concomitant with its launch of its new permit software. And Jack can tell you more about what they're doing to prepare for that.

I do think it will be beneficial to get it adopted well before that so it can be sent off to Code Publishing and integrated into the code as it appears online prior to its effective date.

But that's what we're looking at, and that concludes the presentation.

Chair Candler: Thank you, Mr. Walters. Does the Department have anything to add to this – just to add to the presentation portion?

Mr. Moore: No, we do not.

Chair Candler: Okay. I'm going to ask – if the Commissioners have general questions, that's great. If you're going to have a question that references this document, please just – you know, if you can, use the one that was provided so that we can all – and state your page number and we can all be on the same page literally. Or if you're going to reference a slide, maybe give Mr. Walters a moment to get there so we can all see. That's my request.

Do people have questions?

Commissioner Hutchison: I have just a little – if you could help me understand the substandard lot of record: How is the lot substandard? Is it buildable then? How did it become sort of thing. I'm just a little –

Mr. Walters: Importantly, we are not proposing changes to that section in substance. So that has to do with the lot certification code. It exists right now in 14.06.045. We're moving it because we did away with the zero-numbered sections. And we're making a couple of procedural changes, which I can talk about. But they are, for example, things like when you do a lot certification, you need to make sure that it gets recorded alongside a boundary line adjustment so that you're not having to do that again later. When if you do a land division, you're doing the lot certification at the time of the land division so it's all done and you don't have to do that later. Some of those streamlining things.

Your particular question's about substandard lots. And the point of lot certification overall is to make sure that you have a lot that is consistent with the underlying zoning code. So in a perfect world, the zoning you live in says you have a 40-acre minimum. Maybe it's agricultural land. And in that perfect world, all lots are at least 40 acres. But because that code was adopted subsequent to people dividing their lots, not all lots are that size. And that's the case all over the county, right? In the LAMIRD zones, and Rural Intermediate comes to mind as one. The minimum lot size there might be 2½ acres, but there's plenty of 1-acre lots. And those were all divided prior to adoption of the lot certification ordinance or they were approved as part of, you know, some other, more complicated land division that doesn't quite meet the minimum lot size.

So for those substandard lots, we don't say that you can do nothing with them. Under some circumstances you may not be – they may not be eligible to be developed. And so if you read the lot cert code it talks about eligibility for conveyance and eligibility for development. So some lots that are too small that weren't properly divided may not be eligible for development – meaning a building permit for anything – or they might not be eligible simply for conveyance at all. Because you're not allowed under state law to divide your property into segments without going through the proper procedures, which is a land division process and permit here from the County. So if that happened some time ago, if somebody, you know, executed a deed giving this little corner of their property to somebody else, that is probably an illegal segmentation of their property and not eligible under the law to be conveyed. A gross misdemeanor or something to sell property outside – I never prosecuted a gross misdemeanor for illegally selling a lot, but theoretically that could happen. So there's those two distinctions, and substandard lots can exist for those illegitimate reasons or for legitimate reasons. They were properly divided prior to adoption of the lot certification ordinance. And so we want to recognize both, and the process is to figure out which it is – and then write it down so we don't have to do it again.

Commissioner Hutchison: That was page 13.

Commissioner Angela Day: I have a follow-up on that. On page 8, I think there are definitions about lot certification, and I have some written comments that I'll provide to Director Moore, which I also sent to Robby this afternoon so you'll have a digital copy. I think the language is somewhat confusing about lot certification. It almost looks like there's a duplicate language in there – you know, whether it's eligible for conveyance and/or whether it's eligible for conveyance and development. So just a thought. And there's also some confusion in my mind about lot of record and legal lot of record and separating them out in the definition. And it's maybe just me that's a lay person that doesn't understand it. But in your efforts to make this have a greater clarity for that type of person, it might just merit a second look.

Mr. Walters: Yeah. I think that those comments are well taken. I tried to *not* make a lot of changes to that. I include a recommendation that we should reboot the whole lot certification text because I think it could be simpler and have exactly the same effect. And having the distinction between lot of record and legal lot of record is kind of mind-numbing.

Commissioner Day: Yeah.

Mr. Walters: But I'll take a look at your comments and see, but I don't know that I would propose to make that change. There is a whole other section of code in 14.16 about lot certification so if we start changing it we would probably have to also change it there. *And* there are a lot of recorded lot certifications that are recorded against the deeds or in the chain of title and we may not want to disrupt all that. It may be an instance of we are on a path and we're now kind of dependent on that path. But I completely agree we would not choose those terms if we were writing it today.

Commissioner Day: Fair. Yeah.

Mr. Walters: And there might be a way to simplify it without disrupting it too much.

Commissioner Day: I think that's where my comments were headed, was mainly simplifying and clarifying, not really wholesale rewriting – if that makes sense. But anyway, if I may follow up?

Chair Candler: Sure.

Commissioner Day: Overall I'm excited for the next version, the staff analysis, because this was fun reading. And I appreciated, you know, the clarity and the comments in blue explaining the changes, the strikeouts, the comments in yellow. I thought it was really well done. And I think the table explaining, you know, the different types of review was excellent. So I had a couple of questions about that. One is related to where it says "without notice" and then "with notice." You know, so "with notice" there are different things in there, kinds of things. For example, a director's interpretation. Well, how do you provide notice who's impacted by *that* as opposed to, you know, some other kind of project proposal. So that was a question that doesn't need to be particularly answered. It was just something to think about as you move the draft forward. But that's a little confusing to me. I don't know if that would merit –

Mr. Walters: There's a quick answer to that.

Commissioner Day: Yeah. Okay, let's hear it.

Mr. Walters: We have a Public Notice section in Part 2, I think, of the procedures and the public notice requirements for distribution are fairly extensive, even outside of a site-specific permit. So there's a requirement to publish in the paper and a variety of others. But where there's a site-specific permit, then you need to notify the neighbors within 300 feet and a greater distance for some types of applications. The director decision is not going to be site-specific –

Commissioner Day: Right.

Mr. Walters: – in most cases, so it just doesn't have that notification radius that the other provisions, if it requires notice is it a type 2 in the chart? This is not all. Not everything fit on the slides, so you're going to see them all here but –

Commissioner Day: Yeah, in the chart the Director's Interpretation is a type 2. And so just maybe in the part where it describes public notice you could, you know, have something that's, like, non-site-specific and then site-specific so that they're – so I'm understanding about what type of notice.

Mr. Walters: Yeah.

Commissioner Day: That was just a thought to be clear. And so then a follow-up to that is if you have notice, you take comments and there's a requirement for the Department to provide those comments back to the applicant. But what else are you required to do with them? You know, for example, in the decision-maker's obligation are you obligated to consider those comments? Should they be given substantial weight? So that's a question too. Otherwise, you know, what good is it? Why would people comment if there's no obligation to give them any sort of weight, if all the substantial weight goes to technical expertise?

Mr. Walters: And that's a good point. And I don't think we have a line in the draft about that so we could address that.

Commissioner Day: Perfect. Thank you.

Chair Candler: Anybody before we go back to – okay.

Commissioner Hutchison: I agree that this was a very easy-to-read compilation of information, so I appreciate the work that's going into it.

Mr. Walters: Thank you.

Commissioner Hutchison: My only other question is on page 20 and I don't know that you guys need to reference it. It's section 6. You were talking about the site plan review, keeping that on-record for the overflow of future use. But then it notes that if it's five or more years old it may be too old? What could change that dramatically in five years that would –

Mr. Walters: Potentially lots of things could change –

Commissioner Hutchison: Yeah?

Mr. Walters: – including the code itself.

Commissioner Hutchison: Okay.

Mr. Walters: So there definitely is a tension. I mean, this argument has already gone through one round of staff review and some staff said, Well, you know, it should be shorter, it should be two years. But, I mean, two years ago you couldn't build a house in two years. So there's a tension there between having it be *too* brief and trying to capture everything that might have happened by doing re-review. But also, you know, wanting to provide some benefit to the applicant by not re-reviewing things for some period. So the number that we've thrown in is five, based on the Department Director's call on that. But I can put whatever number you would like in there because it's just written in one spot. And that is really one of the real benefits of the rewrite of the chapter – is if you wanted to do something different *substantively* this way we can make that change pretty easily. You know, if you said, Well, comment periods should be 30 days instead of 20, or 40 instead of 30, you know, we could make that change in one part in the table. By the way, you probably can't do that because state law constrains several of those. But those types of things –

if you wanted a building permit to be a Type 2, we move it from one column to another and then it's done. And it's not referenced anywhere else so we don't have to go hunting throughout the rest of the code to make that happen. By the way, you don't want to do that either because that would make things more difficult for applicants. But the point is still: You know, you can make these changes pretty quickly.

So I think – and I think, as well, that five years is about the right number. And it's also a catchall. Because if you read that section it says, Well, if we are aware that critical areas changed, you know, well, then we're going to re-review for critical areas. If we are aware that these other things happened, then, you know, we're going to do it. But if we're not aware and it's more than five years old, well, we're going to review anyway, but (we're) certainly open to your recommendation on what the appropriate number is.

Chair Candler: I don't want to get too much into deliberations, but just so the Department is aware, I think five years goes really fast and it sounds like a good number to me. Would you go to the other chart? The earlier version of this where you had the application level IV still on there?

Mr. Walters: Hmm.

Chair Candler: Can you just – I don't know if you're able to do this, but is everything that is happening with this change based on, you know, consistency with new state changes or are we as a County adding some of our own changes? Do you understand what I'm saying?

Mr. Walters: Right. We're definitely going beyond what is required by the statute. For example, your level IV here, where we're moving final plat approval from a level IV review into new type 1. That is *allowed* by a change in state law. It's not *required* by a change in state law.

Chair Candler: Okay.

Mr. Walters: We could invent a new type 5 review and leave it more or less where it is. We're not proposing that because it is a ministerial review that in our judgment doesn't deserve the review by the Board of County Commissioners and the delay that is caused by making that happen. So that's why the change. But that's an example. You're going beyond what is required by the statute. We would not *have* to rewrite the whole chapter to comply with the statute. It would be harder. It would be harder even to see where we're complying or not complying with the statute without the rewrite. And there are other choices that we can make. Where we are *required* by the statute to do something, I have tried to explain in blue text *this is a requirement*.

Chair Candler: And I'm glad you used that example because that's actually what I was asking – wondering about. The other question that I was wondering: It sounds like you're delaying which is going to be types of review instead of application ___. Is that what you're saying?

Mr. Walters: (unintelligible)

Chair Candler: The types of review for 1 and 2, no Board of County Commissioners review after Hearing Examiner – which is a big change, I feel like. Is that – where does that fall? Was that something that was decided locally or was that –

Mr. Walters: So that is driven by the statute. So if you read the statute – and there might be a blue box about this. I'm not sure. But if you read the statute it says that you're allowed to have one – I'm going to try to get this from memory – one open record public hearing and one closed record appeal.

Chair Candler: Ah, I see.

Mr. Walters: So it doesn't say you can only have one *level* of appeal. But our understanding is pretty clearly that's what they kind of meant. And I am on part of a team that is recommending changes to the Department of Commerce that will recommend changes to the legislature to clean that up and make it very clear what they mean. But we think that that's what that means – that you can only really have one level of appeal. And for a boundary line adjustment or a simple building permit, it does not make sense from the applicant's point of view to have two levels of appeal. Those appeals might be generated by the applicant almost never. They are almost always by the neighbors or the neighborhood.

Chair Candler: Interesting.

Mr. Walters: And so to provide the opportunity for the neighborhood to hold up a building permit, which should be very straightforward, through two levels of administrative appeal is problematic. In my judgment from the point of view of permit streamlining, which is what the Board of County Commissioners has instructed, you know, us to do, that is not desirable.

Chair Candler: Thank you. That's – thank you very much. I think I'm done. Anybody else have questions?

Commissioner Day: I have a comment about that. That's a really interesting description. I mean, I think in a case that I was familiar with that they'd go through a Hearing Examiner and then to the Board of Commissioners or a council, and then to court. You know, it's up to – there's local discretion for the council or commissioners to interpret that statute. And so the problem is – I mean, I guess you call it a problem – is it becomes a political decision when it might otherwise be, you know, more of a black and white sort of a question that's out there. I guess depending on which side of the issue you're on, that can be beneficial or not. But I personally think it's problematic when you have an elected body serving in a quasi-judicial manner. I wrote an op-ed about this at one time about people being expected to wear two hats. Where you can have ex parte contact in one setting – “ex parte,” meaning you can have a one-on-one conversation with your elected official about land use policies, but then when you have specific decision you can't talk to them. It's very confusing for people and it's very hard for a political official to manage. So I think the change that you're proposing is a good one, in my opinion, for whatever that matters.

Mr. Walters: Yeah, and the counterpoint to that – to argue against myself a little bit – is that for more complicated permits that might involve lots of technical review, outside third party review, or interpretations of the code to figure out if this is an allowed use in the zone or not, those are going to still fall on this chart toward the right on type 3 or even type 2, and those do get appeal rights.

Commissioner Day: Sure.

Mr. Walters: And type 3s get to go to the Board of County Commissioners. There are some circumstances where the Board may find it very desirable to get that in front of them. For all the reasons you just said and more, they also may find it undesirable – I am writing a similar op-ed so let's compare notes! – because of those issues. At the same time, generally local government insurance companies will say, Well, you do need to offer local administrative appeal opportunities because that is your opportunity to fix these problems before you end up in court. So that's one reason why still the Board of County Commissioners is listed there as an appeal opportunity for Type 3 permits or reviews.

So there's a tension back and forth and we kind of just have to find our way there. But generally, yeah, we want to have these things be – these very complicated things reviewed by people with experience in that area. We also want to provide an appeal right but we don't want to provide so much appeal right that you provide an avenue for bogging down permits, especially simple permits. So we're trying to accomplish all those things at once with this layout here.

Chair Candler: Anybody else have questions?

Commissioner Day: I have one more.

Chair Candler: Go ahead.

Commissioner Day: I'm sorry. So one thing that I am still confused on, even after your presentation and after having read this draft, is the characterization of submitting information or corrections as a revision. So in here you discuss revisions to an issued permit, which makes sense. But revisions to an application to me mean I'm changing something about my application. If I'm following up on a request for information, that doesn't seem to be called out anywhere in here except in the timelines where if you, you know, have two requests for information you're able to request a meeting with the Department. So I think there's some confusion – I'm going to speak on personal experience here – about the difference between a revision and submitting additional information.

For example, one time it might be requested that you upload your additional information to the portal. Another time it might be requested that you email your additional information with a revision form to PDS main email. And so I'm just wondering for clarity for applicants *and* for staff if that might not merit its own little section to clarify that procedure and what you call it. Because to me calling additional information or a revision is confusing.

Mr. Walters: Mm-hmm. No, I think that's a great point. We should talk about that internally. Just as an example, maybe, you know, you apply for a permit to build a deck and your deck cannot be where you show it on your site plan, for whatever reason. So we can request more information about how you're placing it there or more information that could get you to a process where you *could* put it there, or we could say – or you could just delete it or move it or revise the boundary of it. And so some of those might be Department-initiated revisions. I don't know quite how we might treat this. But I would agree. We could expand on that in the draft. So we'll talk about that.

Commissioner Day: Yeah, thank you.

Chair Candler: Corrections, clarifications.

Commissioner Day: Yeah.

Mr. Walters: There might be some definitional tension between a correction or more information or a revision.

Commissioner Day: Yes. Yeah.

Mr. Walters: Yeah.

Commissioner Rose: My comment on that is – having gone through this – is perhaps the structural submission has a mistake and so that would be a correction. Yeah, you're going to

correct your pull-downs or whatever the thing is versus not submitting something in the first place. Or a need for – I need information about your mechanical equipment. It's not a correction. It's just more information to meet today's energy code. So I don't know. It seems pretty – but I'm in the industry so it seems obvious to me what it means, but, you know?

Commissioner Day: Yeah. I think from a lay person perspective it's obvious what the difference is. From a procedural perspective about how to submit it and what it's called it's not very clear.

Mr. Walters: Well, thank you for that. We'll talk more about that.

Commissioner Day: Yeah.

Mr. Moore: Chair, if I may: What I think I may hear Commissioner Day referring to is different procedures that may be occurring in our department and maybe others on how we take these – you know, whatever you may wish to call it – a revision, clarification, additional submittal. It might – it sounds like you might be referring to some varied procedures within the Department. So we could definitely look at that from a code perspective, if needed, but also just consistency's sake. I can tell you that Ryan had mentioned that we're doing a lot of this work and trying to run it parallel in timing with our new software. With our new software, there will be less variable on how that would occur. It'll be far clearer and have one specified process for that submittal no matter which variable of revision it is, whether it's actually revising something and making a change or just submitting additional information. It'll all go through the same process.

Commissioner Day: Yeah, I think that'll be great. And, like you said, it's great to have the opportunity to kind of do these two things in tandem. Thank you.

Mr. Moore: Mm-hmm. You're welcome.

Chair Candler: I just want to say that I really like the format of this with the blue inserts for the information. I think it's really user-friendly and I appreciate it. So thank you for the presentation.

Mr. Walters: Thank you. I've been perfecting that.

Chair Candler: You could tell! I could tell obviously! Okay, so with that I – unless you have something to add, we will conclude this agenda item for tonight and we'll move on to number 5, which is the Director's Update.

Mr. Moore: Thank you, Chair. A lot of what – I just want to share a few things with the Department. A lot of what the Department is doing these days has to do with the software upgrade. A lot of our focus is on that – working with our vendor. A lot of our teams are doing a lot of testing. So we're very happy with the process. We're still on track for the end of August on the go-live for that.

Also you are likely aware we're working on our Comp Plan Update, so we've scheduled some community stakeholder meetings. Our long range planning team, Tara and Robby, have been getting those scheduled and starting to do interviews and meetings with other stakeholder groups.

Another thing that's coming up that we do on a regular basis, a minimum of twice a year, is we meet with the Swinomish Tribal Community regarding our MOU. It's something that we have an agreement there for joint review of projects within the exterior boundaries of the Swinomish tribal land. And the planning departments, we get together and discuss procedurally how that happens

and how we interact and how we jointly participate in that review so as not to create any unnecessary slowdowns for the applicants themselves.

Another item: The Shorelines Master Plan has been in Department of Ecology's hands for several months now. They have indicated this week that they are reaching the conclusion of their review and have asked for a meeting with staff to go over some just final questions and points of clarity. At that point, it'll be ready for broader analysis and introduction to the Board, the public, PC – Planning Commission. So look forward to that coming soon, I hope. And then it'll go _____. It'll definitely go through then end of the year in the official adoption process – consideration, public hearing, and adoption process. But we're very excited to have it this close. So I'm very hopeful.

A mention in the Fire Marshal end of things: It's a busy time of year. We are coming up on the typical timeframe where with a burn ban would be enacted, and we're having a lot of people come in for permitted burns and unpermitted burns. Quite a number of those have gotten away with people already. It's been a bit dry lately and the Fire Marshal team has been busy working with fire districts on education, outreach, response, et cetera, for those burns.

I think that is the conclusion of my brief update, unless there are any questions on things that either I presented or any other items that I can share.

Chair Candler: Any questions?

Commissioner Rose: I have one. Just an update on the battery thing that Puget Sound Energy wanted to do. Is that under construction?

Mr. Moore: I'm sorry, Commissioner. Which one?

Commissioner Rose: Weren't they going to build some facility with storage and batteries?

Mr. Moore: Mm-hmm, mm-hmm. Mm-hmm.

Commissioner Rose: What's the status of that?

Mr. Moore: No project underway as of yet. So we had an application for a special use permit but there's no construction project. We've not received an application for a construction project.

Commissioner Rose: Okay. Just curious. Thank you.

Mr. Moore: Yep, yep.

Chair Candler: I have a question. Just a comment, maybe. If Ms. Satushek would let us know if there are any community events about the Comp Plan that we might want to attend, I would appreciate just if you – _____. If you have some scheduled, let us know when and where those are happening?

Ms. Satushek: Definitely. We have some tentatively planned that I can share.

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

Ms. Satushek: They are in June. I apologize. I'm pulling them up right now.

Chair Candler: That's okay.

Ms. Satushek: I believe they are – gosh. So June 26th will be at Sedro-Woolley. I'm sorry. I will email the Commission. We're just still in the drafting phase of getting the meetings set up.

Chair Candler: And that's fine. But if you do know them, I'd also like them to be announced at the meeting just in case the public's watching.

Ms. Satushek: Definitely. Will do. Thank you.

Chair Candler: It's another way to notice people and so we'll appreciate it. Okay, that concludes your Director's Update then, I suppose?

Mr. Moore: Yes.

Chair Candler: We'll move on to agenda item number 6, which is the Planning Commissioner Comments and Announcements. Let's start – well, I don't care where we start. Let's start down at this end.

Commissioner Hutchison: I have nothing. Thank you.

Commissioner Rose: Nothing.

Commissioner Henley: I have nothing at this time.

Commissioner Hughes: Nothing.

Commissioner Day: I don't really have anything to add other than thank you for the excellent work and really easy-to-follow draft. I appreciate that and the presentations. It's really great work and it's great to see things having a priority toward people who are maybe not professionals and just adding greater clarity and consistency and simplifications and tables and those sorts of things. I think this is all really nice progress, so thank you, guys.

Chair Candler: I don't have – I mean, I would certainly agree with that. I don't have any other comments so, with that, we are adjourned (gavel).