

**Skagit County Planning Commission
Deliberations: Permit Procedures Code Update
June 25, 2024**

Planning

Commissioners: Kathy Mitchell, District 1 (absent)
Vince Henley, District 1
Angela Day, District 1
Amy Hughes, District 2
Tim Raschko, Chair, District 2
Joe Woodmansee, District 2
Tammy Candler, Vice Chair, District 3
Martha Rose, District 3
Jen Hutchison, District 3

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

Others: Ryan Walters, Consultant

Chair Tim Raschko: (gavel) Good evening. Welcome to the June 25th, 2024, meeting of the Skagit County Planning Commission. We are missing Commissioner Mitchell. Everybody else is present. Public Remarks: There's nobody in the building? Is there anybody online?

Tara Satushek: There's nobody _____.

Chair Raschko: All right, so we will dispense with Public Remarks and we'll go straight to our Deliberations on Permit Procedures, Skagit County Code 14.06, Update. Does anybody have any questions for staff before we begin? Not that we want to get inundated with – because I do have one question, if you don't mind, and that's regarding the part of the document about a site plan review. Will a site plan review be required?

Ryan Walters: The way we've constructed it is either an optional step that an applicant can take independent of submitting, say, a building permit application, or it's a step that the Department takes internally. And basically the items that are covered in a site plan review are things that the Department is doing today, and so the add-on here is the ability to skip over those things for subsequent applications. Once they've been done once on a site plan review, they need not be done again for your next building permit application within the limits that we outlined – by within five years, for example.

Chair Raschko: Okay. If I understand what you said – please correct me if I misunderstood, but it's optional for the applicant and it can be imposed by the County, if it so chooses.

Mr. Walters: Let me restate it because I think that's not quite right. It's optional for the applicant. So, for example, you may not be ready to submit a building permit for your house but you have the piece of property and you want to do site plan review because you know you want to put the house right here so you want to get everything squared away. Once that's done, you could then

go and get building plans drawn up and submit a building permit application. But you're not required to take that course. In the alternative, you could just submit your building permit application for that location that you've identified on your parcel. And then the site plan review steps are done internally by staff. You still have to do your critical areas review and your stormwater planning but those steps are done internally. It's not a separate step or a separate sequence that would be imposed on the applicant.

Chair Raschko: Okay, taking the example in the document – somebody wants to build a garage. Let's say that person wants to build a garage and nothing else. He's not a – he has no ADUs or outbuildings or anything else in his plans. Will he be required to have that site plan?

Mr. Walters: You would always have to submit a site plan unless you're proposing only internal remodeling. You're always going to have to submit a site plan. It's that review step that would occur. It occurs today. But you could do that optionally separate from an underlying application. It's typically expensive to do, say, your building plans, and you could skip that step. Maybe you're looking at a piece of property and you want to have the area that you want to build your house or your garage on identified and make sure that – you want to verify with the Department that you *can* build there. You can do that independently from submitting a building permit application. That's the virtue of having it available as an optional step. But if you don't want to take that optional step, no requirement to do so. Just submit your building permit application and all of those reviews, which happen today because they're in other chapters of the code, will happen by the Department, and then the Department will have on file as a result of that review, a record that it can refer to. And if you do come back in and submit a future building permit application, you don't have to go through those reviews again.

Another example of this is if you subdivide a piece of property all of these reviews are typically done at the time of your land division. And a favorite example of mine is when we did a land division – I think it was five years or so ago – it had been done a week before the building permits came in and they had to redo all of those site plan review steps. We want to avoid having to do that, and the way we avoid having to do that is memorializing all of those steps when the land division occurs and then the building permit can move in a more expedited fashion through without having to start over.

Commissioner Angela Day: I have a follow-up. Tell me if this is correct. So there's kind of two options. One is the optional site review that you're describing, which is sort of an incentive to a potential applicant so that they don't have to go through this process again if they want to submit a subsequent permit within – I think it's five years. So the alternative is a building permit application or a project application. But if you submit a project application, is the site plan review not restricted to what you would call the "four corners" of that application? So you're looking at it with an eye to that particular project. Alternatively, if a person just comes in and says, Hey, can you take a look at my site, that sort of opens up the door to anything that might be going on on your property.

Mr. Walters: Yes, so that is another benefit of having an optional site plan review process.

Commissioner Day: Or drawback?

Mr. Walters: Probably not a drawback. So, for instance, if you submit a building permit application for a building that's right here, in all cases including under today's code we're going to look beyond that location to see if there's a stream within 300 feet or, you know, whatever. Those types of reviews happen today. So it probably isn't accurate to say it's within precisely the four corners of

your application, if you were to submit a building permit today. Because we do look beyond to identify if you would have an impact on a critical area or its buffer. You've got to identify access. You know, if you're proposing a house right here, well, if the county road is over there we're going to have to have you show how you get all the way to the county road and we're going to have to review all of that – the entire driveway.

So it's probably not quite ever as limited as you might think, but the benefit of the site plan review process is you can identify all of your limits. You know, these are your setbacks from adjoining properties, and once you know those setbacks you can maneuver your house wherever you would like within those setbacks. Here's your setback from a stream and then you've got to stay out of that setback unless you want to go through some variance process. But then you have knowledge of where else on your site you can position your structure to avoid those problems. Similarly with stormwater. You can make some choices upfront about where you want to convey your stormwater that falls on your roof and gets collected by your gutters. And if you aren't making those choices upfront, then you may get into trouble if you proceed all the way to building permit application. The key here is to put this responsibility on the applicant. If the applicant knows what they're doing then we would not prevent them from simply just jumping to the building permit stage and applying for that. If the applicant needs more help, then they can get more help by going through the site plan review process independently.

Commissioner Day: Thank you. I appreciate that. I think when I said the “four corners” of the application, I didn't literally mean, like, the four corners of the building. I meant what's relevant to that particular application versus just taking a look at your whole entire site – if there would be any drawbacks to an applicant to that. But it sounds like you're saying not.

Mr. Walters: I think mostly no. I mean, you looking at your parcel with the site plan review process is intended to identify the place that you can develop, I think, most easily, and sort of the safe area within which you don't need variance processes or those kinds of things, and is capable of being developed without a lot of additional review. There're so many pieces of even a single-family dwelling application. I mean, you've got to figure out where your septic is going to go and your drain field and your backup drain field and your well – if we still allow those here. And you've got to figure out how all of that fits together on your site. So the Department now definitely emphasizes that you need to be thinking about those things well in advance and you need to do that work of planning your site before you submit your building permit application. On the other hand, some sites are very simple. And so we don't want to prescribe a process that is onerous for the simple sites or for the developer that knows exactly where everything is and has high confidence. So that's really what we're trying to achieve here – is get out of the way of people that know how to do this but also provide an assist to people that need that help.

Commissioner Day: Thanks.

Chair Raschko: Okay, so this won't happen: I go in owning my garage and find out that my septic system is too close to my well and my well is too close to the property line and I don't even have gutters on the roof. Will I be unable to build a garage because I have to replace the septic system and all of that?

Mr. Walters: So I certainly invite Department staff to jump in here. But I would say no, because those are *not* the subject of the application. Those are preexisting, assumedly legally constructed at the time. But the codes change over time. And those structures that were legally preexisting structures don't need to be upgraded to current code. I mean, the building codes change every couple years and it's actually pretty onerous to change to meet the current building code. I'll give

you an example of that. A kitchen island: Do you put your outlets in the kitchen island in the face of the cabinet or up above? I understand that changed in the last version of the building code. We don't make you go back and retrofit and change those things. So in your scenario, your house with poor gutters or whatever deficiency it has should not be affected by this process and it shouldn't be affected by a new permit. Now on the other hand, if you have a completely illegally unpermitted dwelling, I think today staff would identify that and you might hear about it.

Chair Raschko: Anybody else? Joe?

Commissioner Joe Woodmansee: So this site plan review process is actually pretty in-depth. I mean, it's not like it's a simple step ahead of submitting for your building permit. It's like *everything* you have to submit to get your site approved to build on. Your critical areas has to be figured out. The only thing you don't *have* to do is have a stormwater plan. And so the same information that this is going to get people would have been in the past done at a preapplication meeting. Yes, that's true, because I've done it. Not – let me back up a step – not like an approved site plan comes out of that meeting, but the criteria. You know, your buffer for wetlands – this type of wetland is x; your septic system in this has to meet today's thing. Here's the information for that. So if you set me up for this site plan review without a building – without an actual structure use or land use, how long – what's the timeframe going to be on that? Is it going to fall under the new timeframes that we're talking about going with here?

Mr. Walters: Oh, for how quickly it would be ____?

Commissioner Woodmansee: Is it the same as doing a land use as far as the legislative requirements, the new code – state law?

Mr. Walters: That's a good question. Give me a second.

Commissioner Woodmansee: And the reason I'm asking is because if you go through all that and it's going to be, you know, 65 days or, you know, 200 days because of whatever, you know, you're going to – if you've done that, how is that going to stack up to, Okay, now all I need to add is my plans for my house. And so the only thing you should need to do at that point is get your plans reviewed and kicked back out to you to go start building your house – from the building side. So how is that going to get memorialized in there so that – because nobody would do this if they have to do however many days for the site plan review and then it's going to take that same amount of days once you submit a building permit. You might as well do it all at once because *most* people are going to be working with people – you have to get a critical area review so you're going to have a professional who's going to come and tell you, Here's what you have on the ground. Here's – they're going to *tell* you what the code is. It's just how it works. And so at a preapplication meeting, you're just getting criteria, right? You're not getting any kind of approval or anything, you're just getting criteria. If you go through this process and you don't do it with an actual application for a land use or building of some kind permit. I'm trying to find out if you do this, how fast will they be able to get this – you know, what's the advantage at that point? I understand if you're just a complete novice and you have no idea what you're doing, maybe you would do this ahead of time, but nobody that has a professional working for them's going to do it ahead of time without bringing their plans in. So how would that work?

Jack Moore: If I may – I think your assessment is accurate. This started out as a way – to build into our permit procedures a way that someone with experience and confidence in their project – that they would not be required, to do a pre-review of any sort. You may remember that a few years back we eliminated a number of the pre-reviews and consolidated them within the building

permit. The only one that was left outstanding was critical areas, so we were looking at a way to consolidate critical areas as well. The drawback to having it all consolidated into one shot, it would be that for people who aren't as savvy, they would be spending potentially quite a lot of money on construction plans, stormwater plans, et cetera, and they may not have the confidence that something would need to change because of the site. They may not be as familiar as a contractor would be. So we didn't want to eliminate that option for those folks.

Now, do I anticipate, you know, the majority of people utilizing that optional site plan review process? Probably not. I think a lot of them, if they're working with professionals, will likely see the advantage of doing it in one shot if they have confidence in their consultants and their contractors. So that will both – to answer your – maybe answer your other question, it will save them time. It's going to be far – an expedited procedure to run it in one shot. You're just taking more risk that way. But we want to allow people to take the level of risk they're comfortable with and the level of money they're putting out ahead of time, if they so choose. That's what we prohibit right now under today's regulations. So we want to allow for that but not eliminate that service for the people who want it.

Commissioner Woodmansee: What do we prohibit now?

Director Moore: We would not allow someone to submit a building permit application unless critical areas review was complete.

Commissioner Woodmansee: Correct.

Director Moore: Mm-hmm.

Commissioner Woodmansee: So that was something that we were working on because we talked about that a while back, because it's not really a one-step thing because that has to be done before you can even apply.

Director Moore: Right. So we looked at it, you know, a couple years back. We used to have a number of things that were pre-reviews, just for a lack of a better term. We would have lot certification; we would have, you know, water review; we'd have septic review; we'd have critical areas review. So we had all these reviews set up in series. We looked at it and *at best* – if everything was 100% complete and no additional information was needed at any of those steps – building permits would take seven-and-a-half months from start to finish, if you counted the very first review to issuing the building permit. So by consolidating almost every review except for one, we were able to trim that period of time dramatically. I mean, we got it down from seven-and-a-half months to closer to three months. And so *this* would actually allow us to trim it even further, for those people who choose to do it in one shot.

Commissioner Woodmansee: You mean doing the site plan review ahead of time?

Director Moore: No. No. By doing the full consolidated review process, applying –

Commissioner Woodmansee: I see.

Director Moore: – for the building permit, and having all of the site plan items reviewed under the umbrella of the single application.

Commissioner Woodmansee: So then in this scenario here then, it kind of answered the question I had a few months ago about critical area. Because you're saying that critical area could be part of their master application if they're confident in their situation.

Director Moore: Correct. And that will reduce the timeframes from initial application to approval.

Commissioner Woodmansee: Right.

Director Moore: Yeah. But the optional process is for those folks that might want some level of certainty about the development of their property prior to investing a lot more money in engineering and architects.

Commissioner Woodmansee: And my comments are not that I'm against this change or whatever, and I can see where somebody who has no interest in building something but owns a piece of land but wants to advertise it as having an approved site plan could then say, Here's my piece of land. I'll sell it to you for x. By the way, it has an improved site plan. You can submit for a building permit as fast as you can draw your plans. I mean, there's other aspects – the complete opposite of somebody who really doesn't know what they're doing to somebody who *really* knows what they're doing, they're like, Hey, I'm going to market my lots with approved site plans. I'm going to spend the time to do that. I just did my long subdivision. My critical areas is done. My stormwater's done. So here's – now I go and I get a – because that should make this site plan review a simple process because those are the two main things. And once you're done with that, now you could come in and have an official site plan review and approved site plan. Market your land that way. So I can see it being a tool for the novice *and* the experienced –

Director Moore: Makes sense.

Commissioner Woodmansee: – where you have no intention of actually building.

Director Moore: Mm-hmm, makes sense. Just provides some certainty for your buyer.

Commissioner Woodmansee: For a period of time.

Director Moore: Yeah. Absolutely.

Chair Raschko: Commissioner Henley?

Commissioner Vince Henley: Yeah, let's assume you get all the way through all the nuances of getting a site plan approved. Does that approval have a shelf life?

Director Moore: Yes, five years.

Commissioner Henley: Five years. Okay.

Director Moore: Mm-hmm, that's what the proposal includes. So that way they are doing it one time and then they could come back for subsequent permitting, whether they build their house now, come back for a detached garage later, a larger, you know, covered deck off the back of their house at a later time. They don't have to go back through all of that other review.

Commissioner Henley: Okay, good.

Commissioner Woodmansee: May I ask a question based on what he just said?

Chair Raschko: Why don't you go ahead, Joe, and then Martha, and then we'll start deliberations?

Commissioner Woodmansee: Oh, I'm more than happy to take my turn.

Commissioner Martha Rose: Well, I just wanted to clarify or have you clarify that when – let's say you do the initial site plan and you're going to be putting a house and then a garage and then maybe a barn or shop. That initial site review would have to include a certain allowable amount of impervious surface, right? And if you came in and exceeded that then you'd have to go through another review.

Director Moore: That is correct.

Commissioner Rose: Okay. I just wanted to make sure that that was on the record.

Director Moore: Yes. So we would ask that the applicant identify, you know, their projected future plans for the property, if they so chose. If they wanted to do all this. So they could say, Well, I have this idea that I may want to do this and this in the coming years in phases. We could look at it for that. They could go so far as to have their stormwater plan designed for more impervious area than they are truly building in their first phase to accommodate future development. So thereby making it easier later and potentially saving money by not having to relook at it multiple times. But you are correct: Then if they did exceed their guesstimate, then that would have to get looked at again.

Commissioner Rose: Thank you.

Chair Raschko: Are we ready to – Joe _____.

Commissioner Woodmansee: So my question to – so the critical area's good for five years, but that's a standard thing. If you submit a stormwater plan, how long is that going to be good for?

Mr. Walters: The site plan review doesn't ask you to submit the full site plan for a stormwater site plan.

Commissioner Woodmansee: But you can.

Mr. Walters: You *can*. You can if you're submitting it along with a development application.

Commissioner Woodmansee: So only if it comes in with a development application – your stormwater?

Director Moore: Well, they likely could submit it with either. So we didn't anticipate that we would require that for the optional site plan review process. It would be more general in nature. They would identify area that the stormwater system could be installed. But if they so chose, I don't think we would say no. The difficulty is that there are state laws that do say that stormwater doesn't vest. Now if they – so that is a bit of a wrinkle. If the state law changed substantially, it may need to get looked at again because we cannot supersede that law.

Commissioner Woodmansee: Yeah, that's why I asked that question.

Director Moore: Yes. Good point.

Mr. Walters: We included two provisions in the proposed code to handle that, one in the vesting provisions, another in the site plan here. That five years is sort of the maximum, but if the code has changed in a material way then you are going to be subject to the new code within the five years.

Commissioner Henley: So there really *is* a potential shelf life that's less than five years.

Mr. Walters: Oh, yes. Because it's not providing you vesting, which is complete insulation from changes in the code. It's providing you an exception from having to get these reviews done – the time-consuming reviews.

Chair Raschko: Okay. Commissioner Candler?

Vice Chair Tammy Candler: I'm just hoping that maybe before we move on if we could – if we're going to use the screen at all, if we can get technical help on this flashing situation? I don't know if there's anything that can be done, but it's not going to be very functional if we're going to need the screens for our deliberations.

(squeaking sounds)

Vice Chair Candler: It's flashing now? Okay? I'll just turn it off.

Chair Raschko: Yeah, I'll turn mine off too. Okay, let us deliberate. The floor is open.

Commissioner Day: Mr. Chair?

Chair Raschko: Yes?

Commissioner Day: I move that we adopt the new permit procedures ordinance.

Chair Raschko: I'll second that. It's been moved and seconded to adopt the permit procedures ordinance. Is there any discussion?

Commissioner Day: Well, I'll speak to my motion. I think we've had several very helpful briefings. We've had very helpful memos explaining all the changes and I think that the changes do advance the code in ways that are the stated goals. I think it's more readable. I think it's more streamlined. I think it's more user-friendly for people who are novices. And I think it moves us closer to compliance with the new state laws and the requirements for the timing of review of applications. And I think that the levels of review make a lot of sense and I really appreciate the chart. I think that's a helpful addition to the code so that people can understand the different types of review and how long they take and what's required and what's involved. So overall I think it's a very good update.

Chair Raschko: Please.

Commissioner Jen Hutchison: I support the motion to approve for all of those reasons. You really summarized it well, especially considering the state changes the code that are necessary. I believe that the user's experience will be much better. It's beneficial to everybody. And I believe

that the Department's efficiency should probably have an uptick as well. So it's really all-around a good update.

Chair Raschko: Nothing else?

Vice Chair Candler: I'll go if nobody else wants to.

Chair Raschko: Commissioner Candler.

Vice Chair Candler: I generally support that as well for all those reasons. I just didn't know if there was going to be any discussion or question about whether we're taking a look at the whole thing or if we wanted to piece it out, but –

Commissioner Henley: It's a lot of pages.

Vice Chair Candler: It's a lot of pages so I'm not necessarily recommending that, but the nature of the discussion made me wonder if there were certain parts that we were concerned about. But that's – otherwise, I support the motion.

Chair Raschko: I was concerned about that one part but I'm satisfied.

Commissioner Day: I guess the only question I have goes back a meeting or two ago about what the Department does with comments that they receive from members of the public, both during the application review and potentially during a Hearing Examiner hearing. I think I had asked that question previously and I'm not sure where we ended up with that.

Mr. Walters: And I think the relevant code section is 14.06.340 regarding public comment generally, or 14.06.350 regarding the staff report. But I don't know that we included a specific line providing very direct instruction about what to do with public comments. The code, for example, says the staff report must include the comments, both of County departments and other agencies and the public comments.

Commissioner Day: Is –

Mr. Walters: There are potentially multiple decision-makers here. The Department makes some of the decisions, the Hearing Examiner makes some others. So it's probably in that public comment section that we could add some line describing that the comments should be taken under advisement. But I don't think we have that line in there now, despite your mentioning it.

Commissioner Day: Yeah. I mean, that's fine. There's a lot of code language here. But I think the question was if you're required to accept comments as the decision-maker, whichever decision-maker level this is being reviewed under, are they required to give weight to those comments?

Mr. Walters: And I think the objective is yes, to consider those comments. I'm not sure I would use the phrase "give weight to," but "consider." And I think we could insert a line in one of these sections making that clear. Sometimes the problem is it's kind of understood, and we may have missed that. So I do think the point is well taken and we could add a line to that effect.

Chair Raschko: Do you wish to –

Mr. Walters: You can include that in your recorded motion, if you would like, as well.

Chair Raschko: Is it better in the recorded motion or amending the motion to recommend adding that?

Commissioner Day: Yeah, I'm not sure what the language should be. I guess I'm – I was thinking that you guys might have had a proposal in response to the question. And I wish that I had a better note about the comment. I think that there's some description in the new code that the decision-maker *shall* in some cases do things and the decision-maker *may* in some cases do things, and I just didn't know. You know, as a citizen commenting on a proposal, you know, why would I comment if my comment won't be considered, you know? Is that a "shall"? Is it a "may"? I don't know. And so I would hate to try to prescribe the exact language. I don't know. Maybe Commissioner Candler can help.

Chair Raschko: Commissioner Henley.

Vice Chair Candler: I thought I read that "shall" is now disfavored and we don't use it anymore. So it's "must" maybe or "may." I don't – yeah, it's under 14.02.040. But I don't think you can say that they – obviously I think the idea is that they're considered, but you're going to have comments that are contradictory to each other. So you can't – you know, you can't, I don't think, bind the Department to do everything that's in a comment. So I would not be supportive of really specific language like that, but something general that states the obvious, which is that the comments should be considered. I mean, people come up with great ideas and the Department probably wants that input most times, but when comments don't agree with one another you can't make everyone happy. So I certainly would not support "must" language.

Commissioner Day: Yeah.

Commissioner Rose: So I would add to that that sometimes comments come in that are contradictory to what the code allows, and those should not be considered. If a person is submitting a permit application and they're following all the rules, but let's say you submit a comment or somebody submits a comment that says, Don't do it, or Don't let them do it, why should that be listened to? I mean, maybe it's considered. Maybe they have a good reason or maybe the reason is just that they don't want a house next door to them. You know what I'm saying? I've had that happen to me, you know? When the code's allowed it – you know what I'm saying? – but the people next door didn't want it.

Commissioner Day: And I think that it mostly applies in circumstances where there's a lot of subjectivity and discretion, like traffic, dust, noise.

Commissioner Rose: Well, but then you're into bigger projects, master use projects.

Commissioner Day: Definitely. Yeah.

Commissioner Rose: And those require public input and those require a more comprehensive review and that's a different animal. So yeah. That's probably already covered in here, like under the SEPA review, I would imagine.

Commissioner Day: Yeah. I mean, that's a question, if it is.

Mr. Walters: It's interesting. Once you start digging into RCW 36.70B even, you find things that you expect to have definitions or be well spelled out and they are not. I challenge people to find the definition of the term "building permit," yet there it is. Everybody kind of knows what it is but

the definition is missing in the statute. I think this is a good point and we should have a line that addresses this. I think “consider” is probably the right word. And even when comments are in conflict with the code, still the decision-maker can *consider* the comment and consider sort of the motivation or the concern behind the comment. I heard a famous Hearing Examiner one time say that his job was to be the translator of the public from their comments into enforceable conditions in the permit that he was considering. And so I would craft language that would be fairly open-ended but would, I think, use the word “consider.” You know, a general instruction to the decision-maker on any given permit to consider the public comments that are received.

Commissioner Day: So regarding that, I would hate for the Planning Commission to try to wordsmith something when I think you would be the better person to do that. And so if there’s – if you – if everybody’s in agreement that that would be a helpful thing, then I would defer to you to add that in.

Mr. Walters: Well, and I would propose we add a line to your recorded motion instructing us to add that – a line saying something like that, addressing that question.

Commissioner Day: If the other Commissioners are in agreement.

Vice Chair Candler: Well, that’s not in front of us just yet, I don’t think.

Commissioner Day: Should I make a motion towards that?

Chair Raschko: If you – I would think that if being in a recorded motion is sufficient, then we should just move on and table that until we’re in the recorded motion.

Commissioner Day: Yeah. Okay.

Vice Chair Candler: Unless it changes whether or not you want that motion that you already made.

Commissioner Day: No, I don’t think so.

Vice Chair Candler: Okay.

Chair Raschko: It doesn’t change it.

Commissioner Day: No. It’s just – the only reason I raise it is that I’ve seen instances (of) very complex projects where this has become an issue of what happens with public comments and how they’re weighed and considered, and so I think it would be beneficial to have something in there that – in the future – so that people know what, you know, what happens with comments and how are they factored into the decision-making. So *everybody* has clarity – people who are project proponents and people who might not want them.

Chair Raschko: Okay. So we’re going to put a further discussion of that off until we get to the recorded motion. So we have a motion for us to recommend approval of the permit procedures update. Is there any more discussion on that before we vote?

(silence)

Chair Raschko: Okay. All those in favor of the motion, say “aye.”

Multiple Commissioners: Aye.

Chair Raschko: Those opposed, say “nay.”

(silence)

Chair Raschko: And did anybody abstain?

(silence)

Chair Raschko: Okay, so that’s approved. Excellent. Thank you.

Mr. Walters: So I’m a little out of date with your practice, but I assume you now go into the recorded motion.

Chair Raschko: We’ll do a recorded motion, and our draft is very much appreciated.

Mr. Walters: So I included in the draft just kind of some boilerplate recitations of state law and the fact that this is Chapter 14.06.

Vice Chair Candler: Can I ask a question?

Chair Raschko: Commissioner Candler?

Vice Chair Candler: When you included number 9, do you feel that that language is important to be in there? I mean, I know it could be Findings of Fact that we made, but we don’t normally recite that when we do our recorded motion. Do you think it’s important?

Mr. Walters: It was in the template that I was provided.

Vice Chair Candler: Who made it? Does someone over here think it’s important to be in there?

Robby Eckroth: I think it could go either way. I can’t remember which template I provided you.

Vice Chair Candler: Oh, sorry. Do you want me to tell you what 9 is?

Mr. Eckroth: No, I see what you’re talking about here. I just can’t remember which template I provided Ryan. So I think you could really go either way there.

Mr. Walters: Importantly, those dates are in the header, so it’s kind of duplicative.

Vice Chair Candler: Yeah. I’m going to move that we adopt the reasons – I think they’re great, by the way, whoever drafted them. I think for my purpose here, I’m going to move that we agree that our recommendations include 1 through 8.

Commissioner Hutchison: I’ll second that.

Chair Raschko: It’s moved and seconded to accept the Findings of Fact and Reasons for Action, except for number 9. Is there any discussion on that? First of all, has everybody even gone through them all the way?

Commissioner Rose: Can you repeat what you just said?

Chair Raschko: Has everybody sufficiently –

Vice Chair Candler: – had a chance to review?

Chair Raschko: – had a chance to review this?

(sounds of affirmation)

Vice Chair Candler: Okay, I made the motion. I just – I don't have a strong feeling if somebody wants number 9 in there. I just – and we can add – obviously we can add things. So I just wanted to say that. I don't have a strong feeling either way but I like 1 through 8 and that's my motion.

Commissioner Hutchison: (inaudible)

(laughter)

Chair Raschko: The only think I'd ask is whether number 9 implies that the public's very comfortable with this whole thing. There's no opposition. Whether that's important or not, I don't know.

Commissioner Hutchison: It doesn't hurt anything that it's there.

Chair Raschko: Commissioner Woodmansee.

Commissioner Woodmansee: My thought on number 9 is that the fact that we didn't get any comments would have nothing to do with whether I would approve this or not. Because it has to be approved based on the merits of the document, not based on whether there was 10 people or 100 people talking with their points of discussion.

Chair Raschko: Very good point.

Commissioner Day: I don't know. I apologize. I can't read this small of a print so I don't know what number 9 is. But regarding your comment, I do think that we are here to hear public comment and that we should consider them in addition to staff recommendations and the merits of the ordinance that we're considering.

Vice Chair Candler: Are you able to read it on the screen?

Commissioner Day: No. That's why I prefer to have these types of things ahead of the meeting.

Chair Raschko: It says "On the dates identified above, the County published a Notice of Availability, public comment, and SEPA Threshold Determination for the proposal and the Planning Commission held a public hearing on the proposal and no comments from the public were received." So that's just reviewing ____.

Commissioner Day: I think it's important to review the public records, such as it is. There is really no public records. I don't see any problem with stating that.

Chair Raschko: I think my hearing is that what we're putting down are our reasons for our action, and the fact all these things are done had nothing to do with that. Am I wrong?

Commissioner Rose: I read it slightly different. I read it as that the Department did every – they went through the steps they were required to go through and they're just stating that and, therefore, they finished that process of going through the prescribed steps.

Chair Raschko: Well, that's a Finding. Okay, Commissioner Woodmansee?

Commissioner Woodmansee: I would be fine with it if "and no comments from the public received" was taken out. If they just want to memorialize that we went through the process as listed above, that's fine. But my point is that whether we – and I agree you have to listen to public comments. But if you get a comment that's out in left field, it's not going to make you change what you may approve. So the public comments are information that we get and we, you know, we do have to take them into consideration, but the fact that we didn't get any is, to me, immaterial. And so it's not one of my reasons for approving this, and this is why did we – Findings of Fact and Reasons for Action, the fact that nobody commented is not – like, Well, nobody cares so I'm just going to approve this. It's not. I'm not saying that that's like an exaggeration, but...so for me, it's because that's not a reason that I voted to approve this – the last sentence is not.

Chair Raschko: Commissioner Hutchison, have you something?

Commissioner Hutchison: Well, the more we talk about it the more it stands out as there was no contest. So the public didn't have any problems with it, there was nothing presented to us that seemed like there was concern that we're overlooking, so it almost helps. I guess it doesn't hurt to have it there.

Chair Raschko: I'm sorry? Can you repeat?

Commissioner Hutchison: I guess it doesn't hurt anything to have it there. I mean, it's for clarity.

Commissioner Day: It *is* a factual statement.

Vice Chair Candler: Sorry, can I? I think I got us offtrack by starting to talk about 9. The motion is whether we approve 1 through 8 and maybe we should talk about 9 separately, unless other people want to go through every single one separately. But 9 isn't even on the table and we're spending all our time talking about it!

Commissioner Henley: We don't actually need 9.

Mr. Walters: And maybe I should clarify: 9 was in the template that staff provided except for that clause after the comma, which I added for completeness, and that seems to be the problematic clause, so ...

Vice Chair Candler: Well, again, we're not really talking about 9, but if we were I would think that might be number 1, too – if we're going to make it – because those *are* facts and we could use those as facts. But I think it would be moved to the top and then the reasons. But it's not even on the table.

Chair Raschko: Did anybody second that motion? Did you make a motion?

Commissioner Hutchison: I did.

Commissioner Woodmansee: Jen did.

Chair Raschko: Okay.

Vice Chair Candler: The motion is 1 through 8.

Commissioner Rose: We could call for the vote and then vote it down and re-motion it.

Vice Chair Candler: Well, or we could just say someone wants to make a motion to add 9.

Commissioner Rose: Oh, okay.

Vice Chair Candler: As 1, or whatever.

Commissioner Rose: I'll make a motion to add number 9, minus the "and no comments from the public were received."

Vice Chair Candler: I meant after we vote.

Commissioner Rose: What's that?

Vice Chair Candler: We have a motion on the table –

(many voices speaking at the same time)

Vice Chair Candler: Does anyone have concerns about 1 through 8, is my question.

Chair Raschko: Okay, it's been moved and seconded to approve the Findings of Facts and Reasons for Action 1 through 8 and not 9. All those in favor, say "aye."

Multiple Commissioners: Aye.

Commissioner Rose: I'd like to make a motion to add number 9 –

Chair Raschko: Wait a minute – we ____? Okay, all those opposed?

(silence)

Commissioner Rose: Oh, I see.

Chair Raschko: Are you opposed?

Vice Chair Candler: No, she has another motion. Sorry.

Commissioner Rose: Well, I was told that I could have another motion to add 9.

Chair Raschko: Well, we haven't finished this vote yet.

Commissioner Rose: Okay.

Chair Raschko: Okay, so who's on aye?

Several Commissioners: Aye.

Chair Raschko: Well, it's passed. Okay.

Vice Chair Candler: Sorry, can she make another motion?

Chair Raschko: She certainly can.

Commissioner Rose: So I will make a motion that we add number 9 minus the last half a sentence that stated "and no comments from the public were received." I'm suggesting we add number 9 minus those words.

Commissioner Day: Second.

Chair Raschko: Okay, it's moved and seconded to add number 9. Is there comment?

Commissioner Woodmansee: With the deletion of the last sentence.

Vice Chair Candler: The last half-a-sentence.

Several Commissioners: Last phrase.

Vice Chair Candler: And my comment would be can we also move it up to number 1? But that's a different motion. Whatever.

Chair Raschko: Do you want to change your motion to add number 9, delete the last phrase, and move it to the top?

Commissioner Rose: I will change the motion to reorder the numbers and to take number 9 – along with deleting the last small portion of that last sentence – to move number 9 into the first position.

Vice Chair Candler: Is the person who seconded it okay with that?

Commissioner Day: Yes, I agree with that.

Vice Chair Candler: Okay.

Chair Raschko: All right, is there any more discussion?

(silence)

Chair Raschko: Okay, all those in favor of the motion, say "aye."

Multiple Commissioners: Aye.

Chair Raschko: Opposed?

(silence)

Chair Raschko: Okay. So that carries.

Mr. Walters: So on your screens that aren't functional, I have moved that up to number 1 and deleted that last clause there.

Chair Raschko: Okay. Is there anything else or does that conclude our deliberations? I believe it does. Okay.

Commissioner Day: Can I add one thing?

Chair Raschko: You certainly may.

Commissioner Day: I move that we direct staff to have language in an appropriate place describing consideration of public comment, how that will be – that public comment will be considered by the decision-maker at whatever level. Is that sufficiently clear?

Chair Raschko: Do you want that in the Findings?

Mr. Walters: I would propose you put it here in the Recommendation line, recommending adoption with the addition of the line that you mentioned.

Commissioner Day: That's what I meant.

Chair Raschko: It's been moved that – could you restate it, please?

Commissioner Day: My motion is that we add a recommendation to ask staff to add language describing how public comments – how and when public comments will be considered by the decision-maker.

Chair Raschko: Is there a second?

Commissioner Hutchison: I'll second.

Chair Raschko: Okay, it's moved and seconded. Discussion?

Commissioner Amy Hughes: I have a question.

Chair Raschko: Yes?

Commissioner Hughes: If we look at number 7, I'm not really sure how that pertains to maybe this issue, but it does deal with "procedures should ensure an appropriate amount of public comment opportunity."

Commissioner Day: "Opportunity" but then what?

Commissioner Hughes: Okay, so let's – I'll read it for you. Would that be okay?

Commissioner Day: Okay, sure.

Commissioner Hughes: "County permit procedures should ensure an appropriate amount of public comment opportunity is provided for an application based on the complexity and the

amount of discretion in the type of application.” So did that comment pertain to this conversation about public comment, or is that a whole different –

Mr. Walters: I would say, as the person who wrote that line, that the objective there is to talk about differentiating between types of applications. But I think we still have the deficiency in not having this sentence that Commissioner Day has pointed out we should add. So I would –

Commissioner Hughes: Okay.

Mr. Walters: I think it still makes sense, the commendment to the recommendation line.

Commissioner Hughes: All right. Thank you.

Chair Raschko: Okay. Can I clarify? What you’re talking about – the public comment – isn’t pertaining to building permits and that. I thought you were talking about process as far as government workings.

Commissioner Day: There are certain types of proposals that allow public comment, and then it describes – in a section that I don’t remember the number, but I bet Mr. Walters does – the obligations of the decision-maker, whoever the decision-maker is at that point. It’s most likely the Director, but it could be the Hearing Examiner or it could be the Board.

Chair Raschko: So you’re talking about pertaining to permitting.

Commissioner Day: A project proposal. Yeah.

Chair Raschko: Okay, thank you.

Mr. Walters: Permitting, yes. Almost never a building permit unless it’s not SEPA-exempt, I guess.

Commissioner Day: Because they’re not subject to public comment.

Mr. Walters: Right.

Chair Raschko: Commissioner Hutchison?

Commissioner Hutchison: Thank you. I don’t know that we need an entire addition of a sentence but perhaps phrasing would be a better way to put it. I’m imagining you could add “for decision-maker consideration” into a sentence that’s already there perhaps.

Mr. Walters: Is your monitor working now?

Commissioner Hutchison: Phrasing versus –

Mr. Walters: Okay. So what I added was “The Planning Commission recommends the Board approve the permit procedures as proposed with the addition of a description of how and when public comment will be considered by the decision-maker on an application.”

Commissioner Day: Perfect.

Vice Chair Candler: Is that what you’re asking?

Commissioner Day: Yes, absolutely. Thank you.

Chair Raschko: Commissioner Woodmansee?

Commissioner Woodmansee: So I'm not sure what the definition of "how" and "when" is. So what's the "how"?

Vice Chair Candler: I'll just add to that so you can answer both. Yeah, I thought that what you were trying to say is just that you wanted something in there that just kind of reiterates that those comments should be considered, not a whole description of the Department innerworkings, which we've been talking about, (and) is not generally part of code.

Commissioner Day: I think that's right.

Vice Chair Candler: Okay, then the "how" and "when" doesn't belong there. Do you agree?

Commissioner Day: I think that is more complicated than what I was hoping. Maybe it's just "clarifying consideration of public comments."

Vice Chair Candler: I think I like that.

Mr. Walters: So it reads now: "...with the addition of a note that public comments will be considered by the decision-maker" on an application.

Commissioner Day: A note in the code?

Mr. Walters: Yeah.

Commissioner Hutchison: "Phrase"?

Mr. Walters: "Phrase"? It could be "phrase."

Commissioner Day: Yeah. Thank you.

Commissioner Woodmansee: Well, I just want to – if I could follow up?

Commissioner Day: Yeah.

Commissioner Woodmansee: So now I'm looking for the definition of "considered."

Chair Raschko: A definition of what?

Commissioner Woodmansee: Of "considered." Because what I'm trying to get to is the public testimony is there, the public comments are there, all that's there, and I'm trying to make sure that we're not trying to tell the public that if they come and make comments that they could actually cause something to go against what the actual code is because they made public comments that didn't match code. And so I'm just trying to protect the – I mean, because the process is in place and the public comment laws are all in place. So do you see where I'm going?

Unidentified Commissioner: I would be, yeah.

Vice Chair Candler: Would you be more comfortable with the word “reviewed” instead of “considered”?

Commissioner Woodmansee: Yes.

Vice Chair Candler: That way they’re required to look at it and acknowledge it and know that it’s there.

Commissioner Woodmansee: That’d make me feel better.

Vice Chair Candler: I know that’s not exactly what you said but –

Commissioner Woodmansee: That’s already happening in the process. I’m fine to say “reviewed.” To me, that’s like somebody would hold on to hope that, Hey, they might take my idea or this other guy, and whether I’m saying something that’s allowed in code or against something that’s allowed in code they still – you know? That’s kind of where I’m – I’m an extreme, right?

Vice Chair Candler: No, it’s true. I have the same concern. But I don’t know if that then addresses *your* concern.

Commissioner Day: It does, and I think I’m just looking for clarity for everyone – for applicant or for someone who wants to weigh in on a project and give comments. I think I’m just asking for clarity and I wish that I had come prepared with that section where it described the obligations of the decision-maker, because I felt that it was missing. But I’m fine with the language that’s up there if you guys are.

Chair Raschko: So “considered” will be changed to “reviewed.” Jen? Do you want me to read it to you? I’ll read it to you. “The Planning Commission recommends that the Board of County Commissioners approve the permit procedures update as proposed with the addition of a phrase that public comments will be reviewed by the decision-maker on an application.”

Commissioner Day: Sounds good. Thank you.

Chair Raschko: Is that what’s in the motion now?

Commissioner Woodmansee: Could I ask one more question?

Chair Raschko: Sure.

Commissioner Woodmansee: On this. So it’s my assumption that we’re talking about public comments that are *in the record*, and it’s not after the fact in the middle of the thing where it’s not actually part of the record. I’m kind of looking at the Director to help me with this. So if there’s an official public comment on an action it becomes part of the record of that particular action. And then the process is the decision-maker takes that whole body of work, reviews it, and then determines – makes a recommendation, you know, with or without conditions depending on the circumstances. And so that’s where that public comment is coming – so it’s tied to the record, I’m assuming. Am I wrong about that?

Director Moore: You are correct, yes. And, you know, for what we’re describing here, this is standard practice, as Mr. Walters pointed out earlier. We do take public comments during the specified public comment period; we consider all of those; we decide, you know, using

professional judgement whether they are applicable to code, whether they are relevant; and then possibly alter our recommendations accordingly.

Chair Raschko: Commissioner Candler?

Vice Chair Candler: Is there any issue with the code writing a check for the Hearing Examiner that they might not cash? See what I'm saying? Like, can we bond the Hearing Examiner? How would that – what would be the practical effect of us saying, Your comments, public, will be reviewed. We have this Hearing Examiner. Is there a code of ethics that correlates to that or how do we know that that is – I assume that's true every time. Is that always true, or how do we know that's true?

Mr. Walters: Well, the Hearing Examiner is hired or contracted with to follow the code and apply the code –

Vice Chair Candler: Okay.

Mr. Walters – in its entirety. I think for completeness it is valuable to have a line that says not only are we to receive and stamp the comments that come in but we're going to read them and, I guess not *consider* them, but *review* them as part of the decision-making process. And when we go to craft this line, I think we'll make it clear it's on the *record*. It's not public comments at the Safeway, it's comments that are on the record and it's comments that don't lead to some outcome that's contrary to code. Code still controls. And I think we can make that clear in this line.

Vice Chair Candler: Perfect. Thank you. Perfect answer.

Commissioner Day: I'll just add one more bit of context, if I may. I was involved in reviewing cases of land use appeals and one of the concerns that was raised by proponents and people who wanted to testify as citizens – as lay citizens – the proponent said they are not experts so their opinions should not be weighed and considered. This is really not saying they'll be weighed and considered. It *is* saying they'll be reviewed. But I think that citizens' input is important and I think that the reason that I remember this piquing my attention was because it does require, you know, putting the notice out for public comments and it makes specific provisions for that but it never says what they'll do with the comments. And so I think just saying they'll be reviewed – it isn't saying they'll be considered or weighed as lay citizens. It just is acknowledging that if you comment on this we'll review it.

Vice Chair Candler: Yep. I think it's great.

Chair Raschko: Okay, are we ready for a vote?

Commissioner Henley: I call for the question.

Chair Raschko: Thank you. All those in favor of the motion, say "aye."

Multiple Commissioners: Aye.

Chair Raschko: Opposed?

(silence)

Chair Raschko: No abstentions? Okay. That's approved. I think that concludes our activity on Permit Procedures Update. So thank you to everybody involved, and we'll move on to Planning Commissioner Comments and Announcements. Martha, would you like to go first?

Commissioner Rose: I don't have anything today. Thank you.

Chair Raschko: Jen?

Commissioner Hutchison: Thank you. I noticed that our June 11th meeting minutes were not on the agenda tonight for approval.

Chair Raschko: That's because staff is behind because they're having so many, so we're going to approve them *en masse* maybe next time. Okay. I mean, it doesn't have to be if you can't get it done. Okay. Joe?

Commissioner Woodmansee: I guess I'd like to thank staff and consultants for the work done on this. I love the fact that the objective is to improve. And it's not always easy to do that and so I'm very pleased that we're trying to improve in the areas that – in some areas that need improvement and can take improvement. So I appreciate all the efforts and hard work going into this.

Chair Raschko: Vince?

Commissioner Henley: I also would like to congratulate staff on their attempts at improving. I think it's going to be a harder job than they think. There's always going to be a glitch or two. So I give you all the encouragement you might need, so keep up the good work.

Chair Raschko: Have you anything?

Vice Chair Candler: No. Thank you.

Chair Raschko: Commissioner Day?

Commissioner Day: I just want to also say thank you. This is really impressive work and I appreciate all the responses to our questions and efforts to make improvements. I also appreciate my fellow commissioners. I feel like working together as a deliberative body we come up with a good outcome and I appreciate all of your patience and dialogue.

Chair Raschko: Okay, and Amy?

Commissioner Hughes: Nothing more to add.

Chair Raschko: I would just echo what everybody said. I appreciate all the hard work done by staff and Ryan Walters. Good to see you again. So with that, we'll stand adjourned (gavel).