

Skagit County Planning Commission
Public Hearings: 2008 CPAs and Sanfi Acres Remand
October 20, 2009

Commissioners: Jason Easton, Chairman
Carol Ehlers
Mary McGoffin
Dave Hughes
Kristen Ohlson-Kiehn
Jerry Jewett
Annie Lohman
Matt Mahaffie

Staff: Carly Ruacho, Senior Planner
Kirk Johnson, Senior Planner

Commenters: Irene Schroers (Stockinger) NOT RECORDED
Jerry Shull (Stockinger)
Richard Stockinger (Stockinger)
Sue Stockinger (Stockinger)
Andre Pomeroy (Pomeroy)
Bill Schmidt (Sanfi Acres)
Mike Janicki (Sanfi Acres)
Rob Janicki (Sanfi Acres)
Nancy Cox (Sanfi Acres)
Steven Van Valkenburg (Sanfi Acres)
Kevin McGoffin (Sanfi Acres)
Bill Stiles (Sanfi Acres)
Scott Hale (Sanfi Acres)
Bill Schmidt (Stiles)
Pat Hayden (Stiles), Attorney for Stiles
Lacy Lahr (Stiles)
Jim Miller (Pomeroy), Planner for Pomeroy

Chairman Jason Easton: (gavel) I call this meeting of the Skagit County Planning Commission to order. Please note, Commissioners, your agenda in front of you. Without objection, I need to change the order, and we're going to move the Stiles portion of the hearing to the last one.

Again, like I said earlier, I want to repeat for the record that these are four stand-alone public hearings. We will have disclaimers to be read at the opening statements at the beginning. We'll also ask each Commissioner to make sure that they don't need to recuse themselves for any conflicts of interest. We'll give you instructions about testimony times and we will reserve the right –

Commissioners will reserve the right – to ask you questions if they choose to, but those questions need to be answered very quickly. That’s for time purposes. All right?

So the purpose – we’re going to do the Stockinher – Stockiner –

Carly Ruacho: Stockinger.

Chairman Easton: Stockinger – yep. The purpose of the public hearing is to receive testimony and written correspondence on Comprehensive Plan amendments written in the request PL08-0460, submitted by Richard S. Stockinger. There is a sign-up sheet in the back – which is now here – of the back of the room for those of you who would like to testify on this matter. An opportunity will be given at the end of the hearing for those that wish to testify who did not sign up to speak. Please limit your comment to a five-minute period so that everyone will have a chance to speak. Special interest groups, associations or those representing others are encouraged to designate a spokesperson for your group to allow greater participation and cross-representation.

Before you testify, please clearly state your name, spelling your last name, and your address. A recording system will record your comments. Written comments are also being accepted and can be placed in the box located on the staff table near the front of the room. Written comments may also be submitted to the Planning and Development Services Department through 4:30 p.m. Monday, October 26th.

(NOTE: DUE TO TECHNICAL PROBLEMS, A BREAK IN THE RECORDING OCCURRED AT THIS POINT, LASTING FOR SEVERAL MINUTES. IT APPEARS THAT THE ENTIRE TESTIMONY OF IRENE SCHROERS WAS NOT RECORDED, AS WELL AS THE BEGINNING OF JERRY SHULL’S TESTIMONY. THE RECORDING STOPS DURING CHAIRMAN EASTON’S INTRODUCTION AND RESUMES IN MID-SENTENCE DURING MR. SHULL’S TESTIMONY.)

Jerry Shull: on Lake Cavanaugh for the last forty-three years and my permanent residence eleven years. The problem with this section is the slope is at over 40 degrees. It slides. You could check with your department; they have to clean out the ditch and part of the road every year. It has been partially logged. It was unable to log the rest of it because of the slopes – were too steep to log. What we’re afraid of, and everybody I’ve talked to up there, is if that slope is touched – I’ve been an operating engineer for forty-five years and a developer – it will come down.

And I want to tell the Planning Department that they did a very good job of investigating this and I have the results here. I think if everybody read them, their

concern is exactly what most of the people at Lake Cavanaugh is. If that slides – if they're allowed to do this and that slides, we will never probably have another road completely around Lake Cavanaugh. It is the narrowest point of the road. It measures fourteen feet at the narrowest part. That's the part that was damaged when they illegally built the driveway that's there and it's never been repaired. They put a cone there and that's it.

The Schroers are relatives of these people. And neighbor-wise they have not been good neighbors. They sue every chance they get. That's on record. Thank you.

Chairman Easton: Any questions? Thank you, sir. Joseph Brown.

(inaudible voices)

Chairman Easton: Okay. Barbara Busby. Excuse me?

(inaudible voice)

Chairman Easton: Okay. Great. Is there anyone else who didn't sign up who would like to testify? Actually I was supposed to wait because I've got one more still to testify. Mr. Stockinger?

Richard Stockinger: I don't know how to begin. I've never – I'm not experienced at this. I'm just a retired –

Chairman Easton: The easy part would be to start with your name, the spelling of your last name and your address.

Mr. Stockinger: Okay. Richard Stockinger, S-t-o-c-k-i-n-g-e-r, 34989 North Shore Drive.

Chairman Easton: Excellent.

Mr. Stockinger: I just wanted to address a few of these items, and I assume that it's okay for me to reduce my comments to writing and submit them as part of the process. Is that correct?

Chairman Easton: Yes. Yeah, that's available to you till Monday.

Mr. Stockinger: Okay. First of all I just wanted to say that when my wife and I bought this property we didn't have anything specific in mind. We just thought it was really a nice piece of property, even though it had been logged off. We wish we could have bought it before it was logged off, but that wasn't possible.

I want to bring it to your attention that we actually do have our property in Forest land designation under the Assessor's office, and that document is available. I can give you the – the Auditor's file number is 200903120090 and it was dated – it was filed March 12, 2009.

Not that that's a huge thing, but it does – it does substantiate our interest in that property right now. We had thought about other things like having a gun range or maybe an interpretive center with the Indian tribes, or maybe having a kind of a base for Kenmore Air Harbor to fly their airplanes in, and so on and so forth. But we decided against all those and we decided we would just do it forestry.

But one of the problems we have – and it should be helpful for you to have the history of this property. It was owned for fifty years by Skagit County, during which time they did nothing with it except let the trees grow. During that time there were several encroachments on the property that didn't come to light until the County decided to sell the property. They had a survey done. And on one end of the property there was a – somebody had built a log cabin and their driveway, half of it was on the County property. On the other end there was a cabin built that was built right on the property line instead of being the proper setback from the property line. They also put the septic system on the property – on the County property – and their walk-up was on the County property. There was no driveway because the property didn't have enough room to put a driveway on it. And that is the cabin property that we purchased in 2007, which we now have permits in for putting a driveway.

Part of our intent was to remove encroachments and to make the property usable. There was no driveway so we really needed a driveway there and so we've proceeded with the idea that even if we weren't granted the zoning, we were assured by Skagit County if we put in for an easement to add that land to the other parcel as an easement that we could do that.

So we're not – you know, this is nothing new. These permit applications are all on file.

We also have been working with the property owner on the other end to resolve the encroachment of their driveway. We originally gave them an easement. But now they want to add twenty feet of our property to theirs and we're willing to work with them on that; however, it makes it a little difficult when there's dual zoning involved and the County doesn't like dual zoning, et cetera.

Also you should be aware that it – unless I misunderstood what Carly was saying about adding building units, if we're adding a piece of land to an existing parcel I don't understand how that's considered an additional building unit, because it's adding land to an *existing* building unit, not adding a new one.

On the other end, where the 2-1/2 acres would be, that is a new unit that is part of what we already have in terms of that zoning. So we're not even trying to get all the 7 acres down along North Shore. We tried that once. We decided well, maybe we're expecting too much, and so now we've toned it down and we think it's pretty reasonable.

I think it should be pointed out that we're not tearing down the forest –

Chairman Easton: Sir? You have about thirty seconds.

Mr. Stockinger: Okay – we're not tearing down the forest. Any of that land along that North Shore Drive will remain forested under all the regulations that DNR has in place. If we were to forest – if we were – see, we are doing forestry there anyway, and if we were to ask DNR to log it then they would have to consider the application and accept or deny it.

So that's all I have to say right now. I'll submit a complete response later.

Chairman Easton: Hold on just a second. We have a question, and make your response brief, please. Go ahead.

Carol Ehlers: I have two questions.

Mr. Stockinger: Yes.

Ms. Ehlers: This property that's uphill and behind –

Mr. Stockinger: Which?

Ms. Ehlers: The 7 acres that you – a residential property that's behind –

Mr. Stockinger: If you look at the map, the 7 acres is shown up in the pink area.

Ms. Ehlers: Exactly.

Mr. Stockinger: Yes.

Ms. Ehlers: So that's residential.

Mr. Stockinger: Yes.

Ms. Ehlers: You have no access to it.

Mr. Stockinger: No, except by – there is a goofy driveway already on the property that was put in by the timber company that logged it off, but it's very

steep and I don't even know if we could put a concrete driveway there and make it work.

Ms. Ehlers: Do you pay residential taxes to the Assessor on that?

Mr. Stockinger: We have been paying taxes based on vacant land until we were able to get our designated Forest land, which the tax base is different on that.

Ms. Ehlers: Okay. The 1.8 acres that your cabin's on –

Mr. Stockinger: Yes?

Ms. Ehlers: Is it to the left of this parcel?

Mr. Stockinger: It's on the far bottom right corner.

Chairman Easton: You can point with your finger, if you'd like.

Mr. Stockinger: Yes, I'm sorry. Okay.

Ms. Ehlers: Yes, that's much more helpful.

Mr. Stockinger: Okay, this is approximately where our cabin is located and we're just trying to add that little piece of land to it.

Ms. Ehlers: And the other is at the other end of the parcel next to –

Mr. Stockinger: Yes, next to the other platted lots right here.

Ms. Ehlers: Which says 14 and 18.

Mr. Stockinger: Yes.

Ms. Ehlers: Okay. Thank you.

Mr. Stockinger: Thank you.

Chairman Easton: In your submittal to us, did you submit a map with those proposed lines?

Mr. Stockinger: Yes.

Chairman Easton: Okay, good. Let me just – we're going to close the hearing in just a minute, but we – for those who testified tonight – we will be deliberating on this on November 17th, and we reserve the right to ask you questions during our deliberations. You won't get to testify and I'll be clear about that, but you may be

asked questions, so if you want to be here on the 17th you'll also get to hear staff's presentation to us then, okay?

Mr. Stockinger: On the 17th. Thank you very much.

Chairman Easton: Do you have a question?

Sue Stockinger: Is it too late for me to say something?

Chairman Easton: No, it's not. I was just going to ask if there's anybody else who wants to say something, so you're right on time.

Mr. Stockinger: My wife, Sue.

Chairman Easton: Great. Come on up, Sue.

Ms. Stockinger: Okay, my name is Sue Stockinger and I live at 3 – what is it? 34989 North Shore Drive. And the only other thing I really wanted to say was that where we live – and I think that this person over here was talking about these runoffs and washdowns and everything in the county – that's on the property that we bought recently. And there's kind of a little stream that comes through that's seasonal. To my knowledge it has never gone over the road, though there's somebody in the neighborhood that keeps blocking it and then the County has to come in and clean it up, because he blocks it so that it makes a mess. And he keeps burying it and he does it on his own, and then the working people – the road crew – comes up and they dig it out again, and it's all covered up again, so we have to call them and ask them to come up and clean the culvert out again because he doesn't want it going down by his house. So there's never – that's just a normal thing. He's been doing it for thirty years. To my knowledge, there has never been a landslide on North Shore. That whole thing along there is totally steep all the way down and then all the way down to the Royal Post area, which is identical to ours, is zoned Rural Village and – Tract D – is zoned Rural Village all along there, but his is even steeper than ours.

And the last thing I would say is that at the left end of the property, where we would like to have a lot either maybe at some point to sell or to give to one of our kids to build a house, right there there are no trees; there's never been a slippage; the house that is right – would be within a short area of our property – right next to it has been built there; and where a house would be built on that property would not be on a hillside. There'd be a shared driveway.

Mr. Stockinger: It's exactly the same kind of terrain –

Ms. Stockinger: – as the person that already has a big log cabin there. And it could be even pushed back a little bit. But there's never been a landslide there ever, so I don't know where that even came from. And that's all I have to say.

Chairman Easton: Okay.

Mr. Shull: Can I speak again?

Chairman Easton: No. We're only taking – you can submit written material, but at this point, with as many folks as I have in front of me, I appreciate your understanding.

Mr. Shull: No problem.

Chairman Easton: Okay. So, again, we will – is there – do any other Commissioners who have any questions? Okay, we will deliberate on this on November 17th. You're welcome to join us on that night. It'll be a public meeting and it'll also be on channel 21.

All right. With that, Carly's going to give us – well, let me close this hearing. All right, we close the hearing (gavel) on the Stockingers and now we move on to public hearing number 3, Pomeroy. I call that hearing to order (gavel).

Ms. Ruacho: Okay, the next item on the agenda is Andre Pomeroy. This is a proposal that seeks to add the Mineral Resource Overlay designation. So we're not changing the underlying zoning. They're currently zoned Industrial Forest.

Chairman Easton: Pardon me, Carly. I want to make sure that there's no – does anyone have a conflict of interest on this piece? Okay. Sorry, Carly.

Ms. Ruacho: Oh, no; don't apologize. So as I was saying, the property is currently zoned Industrial Forest and it would retain that for its zoning but it would add an overlay, as you can see on the – it might be hard to see. I'm not sure if it's coming through. You see the striping right here? That's the Mineral Resource Overlay, so that is what would happen to this property. As you can see, under that striping it still retains the zoning underneath. So what would happen is this property would become stripped. And what that does is it adds an additional use to what is currently allowed through the Industrial Forest zone, which are mining activities. So it gives the landowner the right to extract and process the minerals that are on the property, which – it's an interesting – it's not like sand or gravel – it's an interesting rock that is used for decorative and kind of aesthetic-type uses, and what this gentleman does is he uses it – he's a sculptor. And it's an outcropping of rocks so the rocks lay on top of the land and he picks them up and uses them to sculpt. However, that is what this gentleman does with the land, but giving it the Mineral Resource designation would allow any type of mining operation, including those in excess of what he currently uses the land for.

Chairman Easton: Clarifying that they'd have to receive – this designation doesn't give them permission to put a mine in; it gives them the permission to *apply* to put a mine in.

Ms. Ruacho: Correct. It only opens up the opportunity to apply for the use. That would still have to go through all the permitting processes and meet all the requirements.

Chairman Easton: I don't want to confuse anybody into thinking we're approving, you know –

Ms. Ruacho: Yeah, a mine!

Chairman Easton: – gravel mines tonight.

Ms. Ruacho: No, this is just the zoning that would allow a person to pursue that type of activity, if they so chose. And I would just like to point out, as you might be able to see here on the map, you might be noticing some small, residential-type lots. This is the Cascade River Park neighborhood. And although in this instance – we generally, on Natural Resource Land designation proposals that propose to change the designation, we notice folks within 500 feet – I believe they're somewhere around the 700-foot mark and we decided that it was close enough that they should go ahead and get a notice. So we did notify that neighborhood of this proposal, if you were wondering, as well as all the neighboring property owners surrounding the property boundaries within 500 feet.

Ms. Ehlers: Carly? I think you're the one to ask this question, rather than the applicant.

Ms. Ruacho: Okay.

Ms. Ehlers: Did you tell those people at Cascade River that having a mine within a quarter of a mile ends any right they may ever have to object to what the future owner might be doing in that mining area?

Ms. Ruacho: We just noticed the neighborhood – the same notice that went to you – that there was a hearing tonight regarding a change to the property and that they were seeking Mineral Resource designation. If they have further questions – I have not received any calls from anyone asking, you know, what that means for them. But the notice was just the standard notice that went out in the paper and that you all received is the same notice that they received – just that there was a hearing tonight that they could come to and listen in or testify.

Chairman Easton: We will continue our questions of staff at the deliberations.

Ms. Ehlers: We will have some questions.

Chairman Easton: Yes, we will. I have no one signed up to testify on this – at this hearing. Is there anyone here who wishes to testify?

Andre Pomeroy: Yes.

Chairman Easton: Okay, great. It's fine. We took the list up before you got here – no worries. What I'd like you to do is come forward, sir, state your name, spell your last name, tell us your address, and then we're going to limit your comments to five minutes.

Mr. Pomeroy: Okay. My name's Andre Pomeroy and I did happen to be down here and I'm glad I made it because my planner's not here yet.

Chairman Easton: Okay, can you spell your last name for us?

Mr. Pomeroy: P-o-m-e-r-o-y.

Chairman Easton: And can you give us your address?

Mr. Pomeroy: It's actually on the property. It's a quarry so it's a P-number and I don't know the P-number, but I could call it the old Londonderry Quarry Road because it was a **mine to market road**.

Chairman Easton: So you're not living – you don't have an address there?

Mr. Pomeroy: It's a P-number; no address.

Ms. Ehlers: You don't have an address at all?

Mr. Pomeroy: It's a parcel number.

Chairman Easton: Do you have a physical address where you receive mail?

Mr. Pomeroy: Yes, it's P. O. Box 121, Marblemount, Washington 98267.

Chairman Easton: That should be enough for what we need. Great. Thank you. Go ahead, sir.

Mr. Pomeroy: Okay, yes. I'm sorry my planner's not here yet; he is on his way. I called him. He thought it was tomorrow night. Jim Miller's my planner.

Anyway –

Chairman Easton: We hope Jim gets here soon.

Mr. Pomeroy: Oh, I sure do, yeah! I happened to be – I just happened to bring an injured dog down and I thought I was going to check on the meeting, even though I thought he was definitely going to be here.

Chairman Easton: All right, go ahead and give us five minutes of testimony.

Mr. Pomeroy: Okay. I will just say that yeah, I've been a sculptor for twenty-five years. I've had the property for twenty years. I had a lease with the state a number of years ago which I didn't – basically a proposal for a lease that I didn't go with for a mining contract for the expedition of talc and other carvable and sculptable materials on the property. I do have also some different types of material (inaudible as speaker moves walks around)...and that's a sculpture that's in Bellevue right now of some dolphins made out of argillite. Off the property – all this stone, this stone is off from the property – so that's a serpentine, and then an argillite and then a royal argillite, I call it. It has some sulfites like silver and some white highlights – very beautiful stone. This one I've been using and been working for a while.

I didn't know my zone changed – the zoning went through the changes in '06, so at the last minute I told my lawyer last year, a year or so ago – he's a partner of mine – which did not include being able to acquiesce the minerals. And under the former zoning when the state – because the state actually owns the mineral rights, so by making this available it's just making those rights that they have viable, and plus whatever surface rights I have viable to be able to expedite the materials I've been working with as a sculptor for, like, twenty-five years. So – actually twenty years; I've owned the property for twenty. It's been my livelihood, and I was basically trying to safeguard that.

But then since then I'm also trying to build up some market for – and also enough of a business to where people up in the upper Skagit can actually have some more – let's say some more income from the stone industry producing beads, producing jewelry, producing stone countertops, architectural stuff, landscape materials. There's an alluvial deposit fan, one of five, I think, in Skagit County. I think it's five – something like that. Anyway, I saw it on the map. And it's well away from the water of the Nugget Creek, which had a big – forty years ago was when some flow came in – about forty to sixty years ago – and filled up that whole area. Now it goes straight down to the Cascade if it was ever to happen again because it's so full of boulders. Thirty to fifty feet of boulders on the property of about twenty acres' worth.

This other material, which I do have samples of – but it's really a beautiful, kind of a jade-like, very pretty material. In fact, if you want, we can just take it off and try to look at them. That's the type of material that's called _____. It's a Russian term from the **earls** of Russia. And it's also called mariposite from California. It's also called chrome **fengay**, for some of the materials in there in Australia.

It is a – it's a suture fault zone area but it's a very stable area in the sense that alluvial flow from alluvium, and scree is something that happened a long, long time ago. That particular knoll of rock is a very prominent, stable area to work and it can be – could be – worked with quite ___ we'd actually control what's going on very easily without having/causing downflow problems into the aquifer and into our wonderful watershed that we have.

You know, all this is a – well, this is why we've had this proposal to have a rezone because it had been a quarry up into the '80s producing talc. And it kind of got caught in between things and just got out of the loop in '83 or '82. It was active in '83 or '86. Walter Youdy had it last. I bought the property in '89. The bank had a lease for the mineral rights at that time, which they resented to the state because they found out I was the surface owner. They were trying to sell it for a bunch of money and I said well, I still do own the surface, and so I ended up taking it up from the state and went through a big education of how to speak, say what to who, and how to say it! I'm still learning!

But I didn't know I was going to be here speaking about my own place by myself. I thought Jim would be here. But there's a lot of beautiful stone there of all different types: jade-like materials, the soap stones are beautiful, argillites, chlorites. Some of those samples in there are just a little sampling of some of the stone. And then the boulder field – there's just boulders sitting, trees are growing maybe thirty feet tall – forty – and dying out because it percs so fast. I mean, if you were ever to go there you'd actually just see boulders piled on boulders with a little fern, a little moss in a lot of places, and it doesn't really grow trees. Now if it could be expedited where it could be – bring those levels down, bring in soils and actually plant trees, we'd actually get some trees out of that place again someday. But for right now, geology is a wonder there and the assets and materials there is phenomenal. It's outside of the city, it's not too close to people but it's not out in the wilderness. It's just right in a – it's like almost when you say like a perfect type spot for that type of activity.

So that's basically what I have to say about that, and I'd love to be able to keep sculpting and I'd like for the Upper Skagit to be able to produce a lot of wonderful art work and things for the communities around and maybe at-large.

Chairman Easton: Thank you for your testimony.

Mr. Pomeroy: Thank you very much.

Chairman Easton: We have a question. Can you give us a brief answer to it?

Mr. Pomeroy: Yes.

Ms. Ehlers: Sir, you've talked a lot about the sand and the boulders. Is this rock the sort of thing that you have to blast to get access to it?

Mr. Pomeroy: No. No. I've never – I've only had one small blast I did once with two little holes to bump out something I probably could have pulled out with a piece of heavy equipment, but to save wear and tear on the heavy equipment I just bumped it to move it. But other than that.... It's like in a – being that it's faulted for the most part, that whole thing – even the place – the rock that's in place in veins – can be actually pulled out just with machinery. Now I may – it may be like I said to save wear and tear on machinery we'd sometimes expedite using a little bump to move that material, rather than just tearing up the equipment. But, no, it's a – and if we ever got to the point to where it was like a ___ lift or like very (hits table) solid like that, then that would be another thing we'd address and take a look at that.

Chairman Easton: Okay. Out of respect for the fact that your planner got his dates twisted – he's not here yet, right?

Mr. Pomeroy: Apparently not.

Chairman Easton: Okay. If the Commission doesn't object – I conferred with the Vice Chair – we'd like to just do a short continuance for Mr. Pomeroy and he could – with the intention that we'll take testimony from his planner when he arrives at the end of the evening. Does anyone object to that? Okay. So this hearing will be continued until the – we'll say approximately eight-thirty.

Mr. Pomeroy: Okay. Thank you.

Chairman Easton: With that, we will move on. All right, I'd like to call – actually I'm supposed to be reading these each time, aren't I? You're going to have to train me.

All right, I call this public hearing to order (gavel) – the Planning Commission – Skagit County Planning Commission. The purpose of this public hearing is to receive testimony and written correspondence on a remanded Comprehensive Plan amendment request known as Sanfi Acres. There is a sign-up sheet at the back of the room which I have now for those who would like to testify on this matter. An opportunity will be given at the end of the hearing for those who wish to testify but did not sign up. Please limit your comments – and on this one we're going to limit them to three minutes so that we will have a chance for everyone to speak. Groups, please designate a spokesperson so we don't have – we allow for more representation. Before you testify, please clearly state your name, spell your last name, and your address. A recording system will record your comments. Written comments are also being accepted with a box here at the front table, and written comments may be submitted to the Planning Department by 4:30 on Monday, October 26th. Before we take public comment we will hear

from staff, and before that we will give Commissioners the ability to share where they're at on the fairness side on this one.

Mary McGoffin: Yes, I'll be recusing myself. I am related to the applicants. Thank you.

Chairman Easton: Thank you. All right, with that, Carly's going to – I know this one's got a lot of history and I spent some time with a lot of paperwork on it today.

Ms. Ruacho: It's going to be real brief.

Chairman Easton: Give us a brief – give us something brief on this one, and then I'm sure we'll have lots of questions for you on the night of the 17th.

Ms. Ruacho: Right.

Chairman Easton: Thank you.

Ms. Ruacho: This one is a little bit different in that it's coming back to the Planning Commission on a remand. So this matter has been heard before you, recommended, and also a decision made by the Board of County Commissioners. And through a settlement agreement on an appeal to the Western Washington Growth Management Hearings Board, it is coming back for reconsideration.

So what has been provided to you is the record on the matter, including anything that has come forward from the applicant. And then you will be receiving – obviously – the comment letters when the comment period closes. The Department has not added anything to the record on this matter. We have developed a chronology just to try to guide you through the documents that you received, which was the record in the matter.

The proposal seeks to re-designate approximately 1120 acres of Industrial Forest-Natural Resource Land to Secondary Forest-Natural Resource Land. The area included in the proposal is south of Lake Cavanaugh Road to the east and west of Granstrom Road, and it goes – it follows through to the Skagit-Snohomish County line, as you can see on the map – the area indicated in red.

The effect of the change would be an increase from thirty residential lots currently allowed – so they do have currently thirty development rights on this property. It would increase that to fifty-six residential development rights, so the addition of twenty-six residential development rights if this proposal were to go through. The Department has recommended in the past – as you say, it has a complicated history – recommended both approval and denial at different times.

And, again, we are not adding anything to the record for this matter. It's strictly on remand for your reconsideration, and that's been provided to you.

Chairman Easton: Great. Carly, for deliberation purposes, I would like you to bring the excerpt of our transcript from the last time that we voted on this, and including in that the record of how the vote – who voted for what – before we gave that to the Commissioners.

Ms. Ruacho: Okay.

Chairman Easton: Thank you.

Ms. Ehlers: I'd like to read the whole discussion.

Chairman Easton: Well, that's what I mean is the discussion over this –

Ms. Ehlers: Not just a short excerpt.

Chairman Easton: No, I mean the whole – anything that had to do with Sanfi during that meeting I think would be a helpful tool.

Ms. Ehlers: I think it would be crucial. I also want a map because I don't see a map in this package you gave us. And the maps the last time were crucial in our understanding of what was existing, what was proposed and the whole context of all of it.

Ms. Ruacho: This is the attachment that you should have received. It says "Attachment A" to Sanfi Acres chronology. It lists the Sanfi application materials and there're *several* maps.

Chairman Easton: Okay. Well, we'll trust that you and Carol can get together and make sure that that happens later. With that, we're going to go ahead and open public testimony. Thank you, Carly.

The first person I have here to testify on this one: Bill Schmidt.

Bill Schmidt: Good evening. My name is Bill Schmidt, S-c-h-m-i-d-t. I live at 6939 Gallagher Road, Concrete, Washington. I'm not trying to brag or get any discredit, but I just want to say a few things just to put some reference to where I am.

I'm a past Planning Commission member, but I'm also a retired state forester and I was nationally certified Wildfire Division Supervisor. Presently I'm a private environmental consultant and I manage several tree farms in Skagit County.

What I'd like to do is just briefly go over some statistics and the RCW which I think applies in this case with Sanfi Acres, which I feel Skagit County has made many errors in their forestry, and forestry's kind of my passion.

If you go to RCW 76.13.010 that I just handed out and you look at item number 2, when they're talking about the "department" in these definitions, it's for the Department of Natural Resources. When you go to item 4, they give a definition of "nonindustrial forest and woodlands," and it says that those are "suburban acreages and rural lands supporting or capable of supporting trees and other flora and fauna associated with the forest ecosystem, comprised of total individual land ownerships of less than five thousand acres and not directly associated with wood processing or handling facilities."

Chairman Easton: It might be good if you took the map off for a second and put that on the overhead, and then folks in the crowd could read that, too. Thank you, Bill.

Mr. Schmidt: All this high tech gear! Okay, so ____, my problem is the mapping that we did for forestry. The County arbitrarily put a quarter-mile buffer around the rural forest lands and called that "Secondary Forest." If you turn the page over that I gave you – I guess I'll turn this one over, too – you can see Skagit County is approximately 1.1 million acres and of that we have Secondary Forest – and this is of June of '08 when I was with Kim Berry in the GIS section – we had 38,010 acres of Secondary, 319,635 acres of Industrial, 26,872 of Rural. Then we had OSRI (sic), which is the Open Space of Regional Statewide Importance, of 519,000. If somebody's wondering what that is, that's basically our parks, DNR natural area preserves and conservation areas, and the Mount Baker Snoqualmie National Forest.

And then Skagit County forest land, if you total those up, is basically 903,874 acres, which is 81-½% of the county.

So the first point I want to make is we have plenty of forest lands designated and we have lots of trees growing, so some of this give or take a little bit in and out of Industrial Forest is really a drop in the bucket and doesn't make a lot of sense to me. What we should do is focus on the RCW, and the small, nonindustrial landowners that are mapped in Industrial Forest should come out and the large Industrial landowners that are mapped in our other resource areas should go into Industrial Forest. If you were to do the compliance with RCW 76.13.010, you would approximately change from Secondary to Industrial Forest – which is over 59% of what's mapped – 22,522 acres. And if you change from Industrial to Secondary and take out those small, nonindustrial landowners, you take 4858 out. And if you also did correct mapping for your Rural Resource, you'd put another 5,071 acres into Industrial Forest.

Chairman Easton: Mr. Schmidt?

Mr. Schmidt: Yes?

Chairman Easton: I need you to wrap this up – thirty seconds.

Mr. Schmidt: Yes. Also Steven was going to give me his minutes there, instead of both of us.

Chairman Easton: I'm not – oh, you're going to represent both? You're representing a group then?

Mr. Schmidt: Yes. One other person.

Chairman Easton: Okay, we'll go ahead and give you – extend it for a minute and a half.

Mr. Schmidt: Okay, thanks. So the results of the proposed changes: You have a gain of protected Industrial Forest land of 22,735 acres, which puts 5.7 times more acres into Industrial Forest than taking out.

Secondary Forest transferred into Industrial Forest is 59.3% of the Secondary Forest, which shows you how poorly it's mapped and doesn't show the nonindustrial versus industrial landowners. And the Rural Resources transferred to Industrial Forest would be almost 19% of the Rural Resource zone.

So if you ever want to talk more about forestry or get involved with it, I'll be glad to do any consulting or donate some time. But we have really screwed up some of our mapping of forest and we have no respect for the small, nonindustrial landowner. Thank you.

Chairman Easton: Any questions for Bill? Yes, we have a question.

Ms. Ehlers: How does this relate to the hearing at hand?

Mr. Schmidt: Yeah, Sanfi Acres – if it's less than 5000 acres it should come out of Industrial Forest as long as they're not involved with wood processing plants and – what it said is "...not directly associated with wood processing or handling facilities," as the RCW says. I think if we came in a tighter compliance with the RCW, we would have less problems. Earlier when we had to vote on it, I voted against it because I thought the way it was presented with the timing and part of Janicki Industries I thought it was part of a forest industrial thing and out of timing. But now that I review what paperwork you have, I feel like it's miss-mapped.

Chairman Easton: Okay. Thank you, Bill. Mike Janicki?

Mike Janicki: Hi, I'm Mike Janicki, 810 Talcott Street, Sedro-Woolley, J-a-n-i-c-k-i. I'm one of, like, nine people that own Sanfi Acres, and the idea was is we bought this property from basically Trillium and the idea was is to try to make it into a tree farm. And I think we've done a pretty good job of making it into a tree farm. Part of the deal was is that because Trillium wanted a lot of money for it we paid a lot of money for the building rights, and what I'd like to do with the building rights is not use them. But if I have to use them to save the tree farm, there's areas on it that I'd rather give up 20-acre pieces of the lower end than to have to sell 80-acre pieces. And so basically that's the main thing.

And then when we bought it, I know – I kind of feel like the Burlington School District sometimes! – we thought we had these building rights, and we didn't have them secured. And so what we've been trying to do from 2001 till now is secure them so that we can go forward with this piece of property as a tree farm in our – that's our goal. You know, we want to have the rights. Thank you.

Chairman Easton: Any questions for Mike? All right. Thank you, Mike. Rob Janicki.

(some mostly inaudible discussion about maps)

Rob Janicki: Rob Janicki – that's okay; this is the one I want you to look at anyway.

Chairman Easton: Okay.

Ms. Ehlers: Well, sooner or later I want to look at *that* one because that's the one that gives us a perspective.

Mr. Janicki: Sure. That would be great.

Chairman Easton: Go ahead, Rob.

Mr. Janicki: Rob Janicki, 16432 Cultus Court, Mount Vernon, Washington. A couple of things: This started several years ago and what we tried to do – like my brother Mike said, when we bought this property we basically – the seller knew that they had already done legal lots of record. There's actually fifty-six legal lots of record, not thirty, as staff said. Some of the lots may not, under current building code, may not be able to do a building but they could still be sold as individual lots and people could use them for other uses. So we spent a lot of money and actually had lot certifications done and we have fifty-six legal lots of record. And there is approximately thirty lots that are within all the requirements in order to pull a building permit, like being within a fire district and having within I think it's 200 feet of a county road. And whatever those things are, the County has pointed out to us we have about thirty of those.

So with those thirty lots, I think it's important to point out that thirty 20-acre lots – especially today in today's market – is worth significantly more than fifty-six small lots. We aren't doing this necessarily for economic reasons. We're doing this because we're third generation timber people and we want to save this tree farm, and the way you save this tree farm for long-term timber use is you don't end up with thirty 20-acre parcels and basically have these small, mini-ranches similar to what they have in Carnation, where Weyerhaeuser sold fifty 20-acre lots and we've been down there thinning them and they have blow-downs and neighbor fights and all the kinds of things you would expect when not every person manages to the same extent.

All we want to do is, if necessary – and, again, we're hoping we don't have to; we're hoping the economy turns around – but if necessary we would like to cluster all the development rights so that we would basically take 50, 60, 70 acres of 1100; put all the homes in one place; and save a thousand-acre tree farm. That may or may not happen, but in Industrial Forest it won't happen. The only choice we'll have is to sell thirty 20-acre parcels, plus the other twenty-six which we could sell to people for non-building uses.

But in Secondary Forest you have the ability to cluster. That's all we're looking for when this was originally done back in the '90s. The Assessors inaccurately picked up the legal lot segregations, so when they went to do the zoning if they had seen the 20-acre parcels they would have done the same thing that was done here on Lake Cavanaugh Road. This peninsula, which points into an Industrial Forest, is that way because it's on a county road and most of the lots are small – 20 acres or smaller. In the same respect, if they had seen that this is also all 20-acre lots they would have just extended that same logic, which is what the code requires you to do.

Now it's important to point out that the code at the time that we made our application specifically states that if you average 20 acres in size then you should be Secondary Forest. You *shall* be. It doesn't say you *should* be; it says you *shall* be. And if you need me to I can read that, but it is in the documentation that we presented to the Planning Commission.

Chairman Easton: I need you to wrap it up.

Mr. Janicki: So the only thing I want to point out is that there was some confusion when the Planning Commission met last time, because that code is no longer – that potential – that sentence is not in the code anymore. But it was when we made that application and this application has standing with that code. So I think it's important that as you go forward with your deliberations that you do it with that in mind. Thank you.

Chairman Easton: Thank you. Carly, please make sure that we're – I'd like a side-by-side comparison between those two codes to make sure that I'm judging this on the right piece of code when we go forward. Thank you.

Any questions for Rob?

Ms. Ehlers: With – no, an addition to Carly – with the right dates attached.

Chairman Easton: Thank you, Rob.

Mr. Janicki: Thank you.

Chairman Easton: Nancy Cox.

Nancy Cox: Can I ask questions and not make statements?

Chairman Easton: Hmm. Who did you want to ask questions of? I don't know the answer, so you're going to have to help me first. Why don't you get on the microphone, let's get you sworn – you know, kind of in the system, and then we'll go from there.

Ms. Cox: My name is Nancy Cox, C-o-x. I live at 33124 Finn Settlement Road, Arlington, Washington.

Chairman Easton: Okay.

Ms. Cox: My property line is the Skagit-Snohomish boundary where the first arrow is there.

Chairman Easton: Okay.

Ms. Cox: And I would like to ask some questions about – first of all, we have never been notified. We've lived there for thirty-five years and we've never been notified of any of the things that have been going on in that area. And it just seems to me that I should – somebody should have let us know that they were changing that from forest land that we bought next to to whatever they changed it to in 1990 so that we would know that these things were going on, because we purchased our property to be next to forest land, not to be next to residential, 20-acre parcels. And so that was one of my considerations.

I just felt that that would be something that they should have done. We wondered if there was going to ever be like a buffer zone between – well, we didn't know where they were going to put the 20-acre lots – he said he was going to cluster them or something and we were wondering where in that area they were going to cluster them. Is it going to be right next to my house or is it going to be at the north end toward Cavanaugh Road?

Chairman Easton: This is just a zoning – what we're looking at making is a zoning decision, not a platting decision, so that question probably can't – we can't answer that question.

Ms. Cox: Okay. The other thing I wanted to know, too, I suppose would be at the same time then: If they do plat those things and when we find out where they are, what that will do to our water level because there's a shortage of water on the road up there – what that would do to our water rights. Just those are some of the questions that I had and I didn't know whether – we just heard about this tonight from a neighbor. Nobody had even been notified about this hearing either.

Chairman Easton: Well, you have – you have between now and Monday to put anything you'd like – you or your neighbors would like – to put it in writing, as long as it's here received by 4:30 on Monday, the 26th. And I would – you know, I'd recommend that you – maybe before you do your written statement – that you contact the Planning Department and they could – they're helpful people and they'll help you with some of the questions maybe before you write your written response. And then before we deliberate, we will see what you put in in the written record.

Ms. Cox: Okay.

Chairman Easton: Okay?

Ms. Cox: Okay.

Chairman Easton: I hope that helps.

Ms. Cox: Thank you.

Chairman Easton: Thank you. Steve Van Valkenburg – Valkenburg. How close was I?

Steve Vanvalkenburg: Pretty close.

Chairman Easton: Pretty close – Valkenburg. Okay.

Mr. Van Valkenburg: Steven Van Valkenburg, V-a-n V-a-l-k-e-n-b-u-r-g, 33015 Finn Settlement Road. Some questions I have or comments I want to make – I'll try to keep it pretty short. I spent my life as an agriculture instructor involved in farm land and forestry preservation/conservation. We're going to be putting possibly some houses in the middle of a commercial working forest and that's something I think you have to consider, that commercial forests and houses don't get along. It's a pretty tough neighbor.

I also want to say that I think the landowners have done an excellent job of being commercial foresters. In the thirty years we've been in the area it's been reforested – parts have been reforested – and thinned at least twice, and I think they've done an excellent job of that. And I understand the economics of forests right now. I've worked in that business for a number of years and it is tough, but is housing the answer?

Another question I have is some of this property straddles Pilchuck Creek. There's some major concerns about water quality in this creek. Are we going to degrade that water quality further with housing plats and possibly small farms, as another speaker already alluded to what happened in the ___ Carnation area, I think, is a good example of what we *don't* want to happen to that area.

And that concludes my comments. Any questions?

Chairman Easton: Any questions for Steven? Are you on the – you're on the Snohomish County side?

Mr. Van Valkenburg: Correct.

Chairman Easton: And you weren't noticed also?

Mr. Van Valkenburg: That's correct.

Chairman Easton: Okay.

Mr. Van Valkenburg: I found out about it, just so you know, from a large tree farm in that area, Pilchuck Tree Farm. One of their assistant managers contacted me and asked if I knew about it. He knew I was a close neighbor. And he couldn't be here tonight, but he is going to – he's planning on submitting some written testimony.

Chairman Easton: Kirk, help me out here. Does the responsibility of notification end at the county line?

Kirk Johnson: I don't know.

Chairman Easton: I definitely will need to know that by the 17th.

Ms. Ehlers: Mm-hmm.

Chairman Easton: You know, whether – so you guys have plenty of time to get it with legal on that, but I would definitely like to hear that. And, you know, I mean it's – are you close enough that if you were within 300 feet that you would have been – are you within 300 feet?

Mr. Van Valkenburg: My north property line is about 330 feet from Skagit County.

Chairman Easton: So you're close. Okay. And would you be within 300 feet?

Ms. Cox: (inaudible)

Chairman Easton: Yeah, I think you would. Okay. Great. All right, well, that'll be a topic for definite consideration at deliberations.

Mr. Van Valkenburg: Thank you.

Chairman Easton: All right. Thank you, sir. June Kite. Hi, June.

June Kite: (inaudible)

Chairman Easton: Okay. Kevin McGoffin?

Kevin McGoffin: My name is Kevin McGoffin, M-c-G-o-f-f-i-n, 268 Burrows Lane, Sedro-Woolley, Washington 98284. And since I'm also a member of Sanfi Acres, I'll keep my comments very brief. I don't want to monopolize it.

Just two points I'd like to make: First of all, the latest recommendation from the Planning Department was for approval of our application.

Chairman Easton: Right.

Mr. McGoffin: Okay. Second of all, with Carol, I'm impressed by visuals and maps and the map in front of you down there. Back when this property was zoned Industrial Forest, it was three large parcels. That's because the segregation that was done in 1990 was not picked up by the Assessor's office and so you didn't have the fifty-six 20-acres; you had three large parcels, okay? Now I think you can see accurately those legal lot segregations. I think looking at that map and seeing the peninsula of Secondary Forest to the north is very telling as to what is logical or not logical here. Thank you.

Chairman Easton: I have a question, Kevin.

Mr. McGoffin: Yes?

Chairman Easton: Has the County admitted that they missed that in '90? I mean, they're taking responsibility for the fact that those weren't caught?

Mr. McGoffin: I can't speak for the County and I don't know if anyone has admitted that there was a mistake or not, but I think there's clearly a mapping

error and there's no question that at the time in 1996, '97, when the Comprehensive Plan mapping was done the mapping was not accurate.

Chairman Easton: Okay. Any other questions for Kevin?

Ms. Ehlers: I might just as well ask *him* as anyone else.

Chairman Easton: Sure.

Ms. Ehlers: You're saying that the map – which you folks can't see. Why don't you haul it up for them so that there's a reference in the video as to this map I'm referring to that nobody can see? This map, which shows the context of the entire discussion, including the one on Lake Cavanaugh – are you saying that the parcelization that is shown on this map you're holding is accurate according to the Assessor's map, without any further recognition on anybody's part? So if it shows 20-acre parcels, that's what currently exists. If it shows 60 or whatever the parcelization is, that that map is accurate?

Mr. McGoffin: To answer your question, I received this map from the mapping office here in Skagit County and I presume it's a legitimate zoning map, and it does show accurately the fifty-six 20-acre parcels that Sanfi owns.

Chairman Easton: Okay.

Mr. McGoffin: Does that answer your question?

Ms. Ehlers: Yes.

Mr. McGoffin: Okay.

Chairman Easton: Is there anyone else – thank you, Kevin – is there anyone else who would wish to testify? Mr. Stiles?

Bill Stiles: My name is Bill Stiles the Third, S-t-i-l-e-s, 601 Virginia Avenue, Sedro-Woolley. I was on the Planning Commission when this came before us as part of the GMA stuff. It was – the County staff recommendation at the time was that there was a mapping error. These 20-acre parcels existed before the Growth Management requirements. It was a simple mapping error. If it would have been mapped properly, we would have never been anywhere near where we are now. So I think anything that the County does to correct that situation is what they should be doing.

Chairman Easton: Any questions of Mr. Stiles? Thank you, Bill. Sir?

Scott Hale: My name is Scott Hale, H-a-l-e. Address is 33115 Finn Settlement Road. And I just would like to confirm my property is adjacent to the Skagit

County line, so essentially it would be somewhere on this area right here. We're definitely within one or two feet of the subject property. I can confirm that we did not receive any written mailing notification of this hearing, so I would certainly ask the Commission to consider double-checking to see if there's a requirement that we be notified since we are technically in Snohomish County. I don't know that we necessarily have a problem with this plan change, because unfortunately we found out so late that this is actually being considered – because we weren't notified; we believe we weren't. It might be that once we had a chance to look at it we would not have an issue with it, because a lot of it will depend on where the access would be to the property.

And so I'd certainly ask the Commission to double-check. Find out if, in fact, notification was required. If it was required I think holding this over ___ for proper notification so we can investigate might be in order.

Chairman Easton: Okay. Let me give you a couple of short-term remedies. I would seek out the staff report and the applicant's written comments when they can be made available so that you can review them, and then you have till Monday to make some comments. Because we are going to investigate – I mean, as the Chair, I've already made it clear we will investigate notification issues, but that's – you know – that's no guarantee that this will get extended. So you do have that window from now until Monday to try to do some of that.

Mr. Hale: Sure.

Chairman Easton: So I hope that will be helpful.

Mr. Hale: May I ask a question, though?

Chairman Easton: Sure.

Mr. Hale: If you find that there is a requirement or RCW to notify the property owners outside of the county – again, we are the property owners immediately adjacent, the most directly affected by this project – if that notification has not been made would that be cause to continue this over?

Chairman Easton: In the hypothetical situation that you just gave me, I would definitely not steer this or ask this Commission to vote in favor of breaking the law.

Mr. Hale: Okay.

Chairman Easton: So what we will – we're going to have to – because we don't have legal counsel here tonight, we're going to have to – we'll have consultation with legal counsel either at our deliberations or prior. And you're – again, I want to make sure – we're about to close this hearing – but that everyone realizes

they're welcome to come back on the 17th during our deliberations and, if you did testify, there may be a need after we hear the staff's report for members of the Commission to ask you a question. So they won't be taking any additional public testimony, but that would be available to you.

Mr. Hale: Thank you.

Chairman Easton: Thank you. And, with that, is there anyone else who would like to testify on this issue in this public hearing? Okay, with that, we will deliberate on the 17th and – yes?

Jim Miller: (inaudible)

Chairman Easton: Can you do that from the mic?

Mr. Miller: Absolutely.

Chairman Easton: Because we want to get you on TV.

(laughter)

Chairman Easton: I think you're here to testify at a hearing that we started to have and we extended on your behalf.

Mr. Miller: Thank you.

Chairman Easton: Okay, we're going to get to you in just about thirty minutes, I think.

Mr. Miller: Thank you. I think you're right.

Chairman Easton: You're welcome. All right, with that, I'm going to close this public hearing (gavel). All right, Commissioners, we're going to move to Stiles.

Thanks for coming.

Hey, Mary – who's out there watching us on the big screen – you've got to come back inside now. Oh, she's already here. All righty.

All right, I call this public hearing of the Skagit County Planning Commission to order (gavel). The purpose of this public hearing is to receive testimony and written correspondence on Comprehensive Plan amendment request PL08-0455, submitted by William A. Stiles, Jr. There is a sign-up sheet that is now here in the front of the room for those who would like to testify in this matter. An opportunity will be given at the end of the hearing for those that wish to testify but did not sign up to speak. Please limit your comments to five minutes. We have a

limited amount of folks who want to testify so we'll use the five-minute rule. If you're with a group, please designate one person to speak on your behalf.

Please testify clearly. State your name, spell your last name and give us your address. We're on TV and that's how we're recording this tonight. Written comments are also being accepted and can be placed in the box on the staff table, and they can be submitted to the Planning and Development Services Department through 4:30 p.m. Monday, October 26th. Before we begin taking public comment and staff comment, I'm going to ask the Commission if anyone needs to recuse themselves. All right. Seeing that no one does, we will turn to the staff for a brief presentation.

Ms. Ruacho: Thank you. This proposal seeks to re-designate approximately 6.2 acres of currently designated Rural Reserve-zoned land to Rural Freeway Service. It's this area indicated in the red on the map. The property is near the Cook Road and I-5 interchange outside of Sedro-Woolley and Burlington, north of the commercially developed property that's there. A lot of people are familiar with the Bob's Burger & Brew. That's kind of the geographic marker that would get you into the right area. So this property is directly to the north of that.

This property – this *proposal* – in various stages and revisions has been reviewed before, as recently as in 2005, and was recommended for denial. The Department currently recommends denial of the proposal for the reasons outlined in the staff report.

Chairman Easton: Thank you, Carly.

Dave Hughes: Question.

Chairman Easton: Mr. Commissioner.

Mr. Hughes: The only reason I bring it up now is that in case the other people here can make a comment. In the Skagit County Comprehensive Plan under the Profile – Rural Profile – and then under the Rural Freeway Service, it talks about, oh, the – because I know the staff report has some of this jargon in it – but it's talking about “existing commercial development,” and then in parentheses it says, “or development commitments as of 1990.” And I didn't see that in any of the staff report or some of the report from the proponents, and whether it's now or later, maybe I could get a comment on that – what it –

Chairman Easton: A definition of “commitment” would be helpful.

Mr. Hughes: – what that means. “Development commitments.” Because a lot of this is – you know, I mean we're looking at 1990 as kind of a magic number here and what happened before and what didn't happen before and what does this mean and so on.

Ms. Ruacho: I think the staff report went fairly in depth into commitments and what a commitment is and when commitments were made and to what property, in our professional opinion. There's a chronology as an attachment, and let me know if maybe some things didn't come through – what have you. But there's a lengthy chronology for the Stiles proposal and then quite a lengthy narrative regarding – what we're really kind of talking about here mainly is a commitment to sewer service. And I believe the applicants, just from my brief conversation today, will go into length regarding that very point, so I think you're going to hear some information tonight from their point of view on that regard.

Chairman Easton: In reading the staff report today, the one concern I had is that I don't feel – I mean I understand the chronology and sort of the different things that were going on around it. I don't, from an interpretation point of view, understand the phrase – you know, the written relationship to “commitment.” And how that's interpreted by the Growth Hearings Board and the state law will really play a factor for me in trying to deliberate on this issue. So if we could do some –

Ms. Ruacho: Okay, so for your deliberations you'd like clarification in what the Hearings Board terms is a commitment?

Chairman Easton: Yeah, yeah, because I think that's lacking from what I'm seeing right now. I mean, you guys did a good job addressing the particular issues around this piece, but I need a broader understanding of how to apply the law here.

Ms. Ruacho: Okay.

Ms. Ehlers: Well, and in that context I'd like to know – I remember in the beginning of all this discussion down in the south part of that area where a man filled in a narrow space with three feet of gravel and he and the Planning Commission were astonished that you couldn't use three-foot gravel ground for agriculture. And this fight that I remember for this whole intersection has been over agricultural land.

Chairman Easton: Okay. We need to go ahead and –

Ms. Ehlers: We need to find out how this relates within that history of the fight, because it isn't anymore.

Chairman Easton: Okay. All right. If you need a clarification on the question, you can get that from Commissioner Ehlers later.

Ms. Ruacho: Thank you.

Chairman Easton: And, with that, we're going to move to public testimony. The first person I have signed up for this one is Bill Schmidt.

Mr. Schmidt: Bill Schmidt, S-c-h-m-i-d-t, 6939 Gallagher Road, Concrete, Washington. Just five fast points.

As a past Planning Commission member, I've always thought that the zoning should be Commercial/Rural Freeway Service of this parcel. I was not able to attend the meeting when deliberations were held on this parcel – one of only a few that I ever missed. But I would have voted and lobbied for the rezone request had I been there.

My understanding of the GMA designation criteria for a Limited Area of More Intensive Rural Development, or LAMIRD, would permit this type of amendment, and I also believe any reasonable person looking at the property would agree that Commercial zoning is the most appropriate use for it.

In summary, I support the rezone request and felt the most logical boundary was to the north, the railroad right-of-way; to the east, Old Highway 99; and to the west, Interstate 5. Thank you.

Chairman Easton: Carly, the staff report reflected that there were nine Commissioners present. Can we get some clarification on that when we pull that record? Thank you.

All right, I guess we – no questions for Bill, so we'll go to our next speaker. Pat Hayden.

Pat Hayden: My name is Pat Hayden. I'm an attorney in Sedro-Woolley and I'm representing Mr. Stiles. With me is Lacy Lahr. My address is PO Box 454, for mailing purposes. Lacy?

Lacy Lahr: 45237 Duffy Street, Concrete, Washington.

Chairman Easton: Great, and that's L-a-h-r?

Ms. Lahr: L-a-h-r. Correct.

Mr. Hayden: Ms. Lahr is the former Sedro-Woolley City Planner and I'm the former Sedro-Woolley City Attorney, as that might relate to working on planning matters. That's the end of our horn tooting.

We brought a PowerPoint presentation and we have had an interesting technology interface with the County system. We are using a more current program but it works apparently. Ms. Lahr is going to begin and at some point I have some comments.

Chairman Easton: Okay.

Ms. Lahr: Okay?

Chairman Easton: We're to keep this under ten.

Mr. Hayden: That's our goal.

Chairman Easton: That's our reality.

(laughter)

Ms. Lahr: All right, thank you for giving us the opportunity to present this application and for bearing with us through our technological problems.

Chairman Easton: Thank you for your patience.

Ms. Lahr: And so the application is for William and Betty Stiles and it's actually 5.49 acres of the 6.2 acres on Cook Road that we'd like to have you consider rezoning from Rural Reserve to Rural Freeway Service. And I'll go into that further.

So as an outline of our presentation I'll go through the introduction and discuss the property and then I'll go into the infrastructure that's to the property and the issue of split-zoning, a pretty significant mapping issue that we'd like to discuss. And then we'll go into the legal issues and then wrap up the presentation with a conclusion.

And so I'm going to use the mouse here to outline. This is an aerial photo of the property and the interchange, as well as the existing commercial development. And so this is the southeast corner of the property and it swings around to approximately here, then follows the I-5 right-of-way up to approximately this line, and then over to Old Highway 99, and then back to the beginning.

And these are panoramic photos of the Stiles' property. On the top is the view from the southern property boundary, as well as the drainage swale looking to the west. So it includes the new hotel, as well as the swale, and then further up north. And then the photos on the bottom are the view from Old Highway 99 of the property looking south to show the extent of the commercial development.

And so the application summary: The applicants are William and Betty Stiles. They'd like to change their property designation, approximately 5.49 acres of their 6.21 acres near Cook Road, from Rural Reserve to Rural Freeway Service. And the goal of the application is to provide for infill commercial development without promoting low density development or sprawl. And a portion of their

property is currently zoned Rural Freeway Service but the majority is zoned Rural Reserve.

And to go into the history of the property, there was originally a single-family residence on the property. It was demolished in 1994 in anticipation of future development. Mr. Stiles previously applied for a zoning change and then it was remanded and then withdrawn. Mr. Stiles is providing new information to supplement a previous application and has reduced his zoning request from 16 acres down to just under 6.

And the property is intended for commercial development. It was part of a 1977 short plat. It meets the required characteristics of the Rural Freeway Service designation and it should be considered as an amendment to Rural Freeway Service.

Mr. Stiles sold the property to the south but required construction of infrastructure to serve this parcel as part of that sale in 1990, and the parcel has split-zoning and already has a partial zoning of Rural Freeway Service.

Chairman Easton: Do you have a map that shows those – the partial –

Ms. Lahr: Yes, we'll go into that as issue 3.

So infrastructure: A May 1990 agreement for infrastructure was executed. The purchaser to the south were (sic) required to construct a sixty-foot easement and utilities to serve the property and it's included in the statutory warranty deed dated – it was recorded May 24, 1990. And of those requirements it included a sixty-foot-wide easement; an asphalt roadway; sewer and pump station; water, fire, storm drainage; electrical; et cetera. And the cost of the sewer was borne by all property owners, *including* Mr. Stiles, on a pro-rated basis, based on the square footage of the property that was served.

Ms. Ehlers: So we're to understand that that bill was paid.

Ms. Lahr: Correct.

Mr. Hayden: To clarify, there are two bills at issue: One is the bill to Samish Water District, which runs a sewer line. The portion of the property that was in – of this property – that was included in that agreement was conveyed to the Duffys for their development to the south; however, there's a portion of – but the actual infrastructure costs are pro-rated among all property owners according to the agreement between the property owners. So there're actually two agreements for infrastructure at issue before the July 1, 1990, deadline. And we'll discuss those in more detail, if you wish, if you have questions.

Ms. Lahr: It has a complicated history for sure.

Ms. Ehlers: And you'll tell us who the Duffys – what the Duffys built?

Mr. Hayden: I don't have the dollar amount, but I have a copy of the agreement in your packet.

Chairman Easton: I broke my own rule by asking a question in the middle, so forgive me, fellow Commissioners, but we're going to let them finish and then we'll ask a plethora of questions, I'm sure.

Ms. Lahr: Wonderful, fantastic. So the infrastructure that's built to the property includes utilities, so public facilities and urban services are constructed and dedicated to the property in a manner that won't promote low density sprawl. And the utilities are designed to serve the Stiles property and not to be extended any further. Sewer, water and power's constructed within sixty feet of the southern property line in an easement to serve this parcel. And the parking area and future roadway is in within ten to thirteen feet of the southern property line, so it's clearly intended for future development.

And these are as-built drawings of the infrastructure to the property. And I'm going to use the mouse to point out landmarks, and you can also notice in red this structure right here is Bob's Burgers and the dark area is the parking lot. And this shaded area is the paved roadway. This is the Stiles property line, indicated with a red arrow. And this is going to become an issue that we'll go into further, but right here is the location of what we believe to be the Rural Freeway zoning boundary. It's the centerline of the swale that was identified by a County ordinance. I'll go into that further. **So notice with an as-built drawing**, it shows a culvert in the drainage area.

So these are photos of the as-built road and utility corridor to the property. This is the utility corridor and road looking north. So this is Bob's Burgers' parking lot and here is the railroad trestle right here and this is the Stiles property looking to the north. And this photo also faces north. This is the Stiles property right here. You can see how the road clearly ends at their – right at the end of their southern property line.

So, again, a summary of the infrastructure: Major utilities are already installed to serve the property; existing twelve-inch PUD water main; sanitary sewer __ main is located approximately sixty feet south of the property line. And there's an agreement for sewer infrastructure prior to 1990 that we will discuss a little bit further.

Other utilities are in place and, again, there's an easement for ingress/egress and utilities recorded in 1982. The easement is intended for future infrastructure improvements for the Stiles property. And the transportation facilities are also adequate to serve the Stiles property and future commercial development.

And so we'll go into the split-zoning issue further. County ordinance 17938, passed in July of 2000, established the center of the drainage swale on the Stiles property as the RFS zoning boundary. A 2001 survey – it's a topographical survey – located the center of the swale, which is stationary due to culverts in the roadway. And we believe the staff report incorrectly locates the zoning line based on a 2001 aerial photo of the swale. And we have engineer calculations based on a 2001 topographical survey that shows 31,191 square feet of the Stiles property in RFS zoning, with the remainder in Rural Reserve zoning.

And so it's our belief that the 2001 survey is more accurate than the aerial photo that was interpreted by the County GIS Department. So here is a view of the County zoning map. And this is the 2001 topographical survey of the zoning boundary. The survey is dated August, 2001. The department staff report appears to rely on a 2001 aerial photo to determine the center of the drainage swale. The Stiles property and the center of the drainage swale are shown in this survey. So, again using the mouse here, this is the Stiles property line and this is the center of the swale based on the topographical survey. And, again, this is based on 2001 topographical survey. And the hatched areas would be the area that we believe would be currently zoned Rural Freeway Service.

The area between the southern property line and the center of the swale, based on the 2001 survey information, would contain approximately 31,191 square feet, or about 12% of the property.

Chairman Easton: You've got four more minutes.

Ms. Lahr: Oh. So I'm going to let Mr. Hayden go into the legal basis.

Mr. Hayden: There are a number of reasons why Mr. Stiles feels his property should be rezoned Rural Freeway Service. In a sense in planning there are legal issues everywhere. For example, property which has split-zoning between two zones raises a number of issues about highest and best use, treating someone fairly, and there may be constitutional issues. But the issues that seem to draw the most attention are the Growth Management Act issues and I'd like to address those.

RCW 36.70A.070(5)(d) in the Growth Management Act discusses more intense development, and one of the requirements of that is that there needs to be infrastructure – particularly sewer infrastructure – in place. The sewer aspect of the infrastructure was clarified by the Board. Usually water and electricity don't count. A lot of people have water, but that doesn't mean you can zone your property for commercial use. But sewer is considered the key mark of development.

In the *Anacortes v. Skagit County* case, which is the 49c case under the Growth Management Act, the Board issued an opinion on January – I believe – 31st of 2002, I think it was, which clarified – which dealt with Rural Freeway Service-zoned property. In that opinion, the Growth Management Hearing Board, in dealing with arguments from Friends of Skagit County, went through a number of issues. Friends of Skagit County made the argument Gee, there is nothing built on this property; it can't be developed. The Hearing Board, under the County's argument, went through and looked at a number of things which might constitute development for purposes of a rezone. Those include sewer to the property; a contract for sewer; prepayment of sewer expenses; previous construction on the property, whether there's sewer there or not; and a number of factors. And in that opinion no one factor was decisive. A variety of factors were considered by the Board and various applications were upheld – the County's decision to designate property Rural Freeway Service was upheld – for a variety of reasons; however, the most black and white issue is whether or not there is an agreement to put sewer in place if there's not a structure on the property already. In this case there was a structure on the property through 1994 when it was torn down in anticipation of development. That structure was a single-family residence.

In terms of preexisting agreements for this property, there were two. The first one was made in 1977 and was an agreement with the Samish Water System, which operates a sewer trunk line from Burlington on up to Lake Samish. And that agreement concerned property that was originally part of this parcel. All of that property was eventually defined as being within a – I believe – a thousand feet of the I-5/Cook Road intersection. That was conveyed to the developer to the south, so this piece was a piece that did not have an agreement with sewer. At the time that property was conveyed, there was no requirement that you have sewer in place or an agreement, so the developer had no understanding that that would have an effect fifteen years later.

The second agreement that's in place – and this is in the application under Exhibit E – there is an agreement with – yeah, go ahead – there is an agreement with the developer to the south – the Duffy parties; there're actually more than one developer to the south, but we'll call them the Duffys for short – and that agreement was part of the sale agreement of the property. And in an agreement recorded with the deed, dated before July 1, 1990, the parties agreed that the Duffys and their development would construct all the infrastructure for the property to the north – Mr. Stiles' property, which is part of this application – and that Mr. Stiles would pay a pro-rated share of the cost of putting in the sewer line and the pump station. So Mr. Stiles, with respect to this property, has a recorded agreement with financial obligations for sewer. But that agreement was with the property developer to the south.

Chairman Easton: Mr. Hayden, I need you to wrap this up – like one minute, tops.

Mr. Hayden: Yes, sir. It is not possible to get an agreement at this date with the sewer district without the County consent and that's been the law since 1980 by an agreement between the County and the sewer district.

So to summarize the GMA issues: There was an agreement with the Samish Water District; that property was conveyed; Mr. Stiles does have a similar agreement with the developer, which was implemented and remains in effect; the County approved the development to the south, including the infrastructure to this parcel.

And again, the Growth Management Act decision recognizes a variety of factors: sewer pipe in place; sewer connection paid; structures on the property, whether there's sewer there or not; or a commitment for sewer and infrastructure. And I believe that we meet three out of four of those requirements. No one factor is exclusive in that case.

I'd like to point out last the comment in the staff report. The current Cook Road northeast quadrant comprises 10 acres. The Planning Department acknowledges that the proposed 6.2-acre expansion of the LAMIRD would likely comprise infill development since it would not exceed the capacity or amount of land already developed within the LAMIRD, and therefore it would not likely result in a new pattern of low density sprawl.

So your staff report, while it recommends *against* this application, finds a number of factors that would *support* this application.

Chairman Easton: Okay, with that we're going to move on to Mr. Stiles.

Mr. Hayden: Okay.

Chairman Easton: Introduce yourself. We're in another public hearing, so –

Mr. Stiles: Oh, okay. I'm sorry. My name is Bill Stiles, S-t-i-l-e-s. My address is 601 Virginia, Sedro-Woolley, and I'm here speaking for my parents, who are the applicants here.

The photo that's up here now is – it's basically the photo – the upper photo, it's exactly the same photo; it's got some different coloring for some reason. The split-zoning situation – the maps that the County's used every time this has come up – and it's basically this map here – it's not correct. I've had considerable discussions with them about correcting the map and they just refuse to even listen, apparently. But even on this map you can see the line where the – this is the centerline of the swale and yet, that being the zoning boundary, they've got the zoning boundary way down here. So they came up with this map as a justification for where that zoning boundary should be – the upper map. And if you'll look – where's it at? – this line right here they claim is the swale. This line

here, that's what they're claiming is the swale. This is the same photograph and basically what they're saying is this is the swale here, that this is the line indicating the swale here and up here.

Now I lived on this property for four years. Right here is a three-car garage. Right here is the house. You can see the driveway coming in. Right here is a barn. This is a small little orchard, none of which are in the swale. You can kind of see the difference right in this area right here, if you – that's where the swale is.

So the County's attempt in this to justify not correcting the zoning boundary, based on this aerial photograph, is completely incorrect. We have and it will be submitted for the record an engineering report from John Ravnik, who was the engineer on the Bob's Burger & Brew stuff, and he's the one who calculated this area here of where the swale is. Now the swale is indicated right here. There's a culvert. That culvert's always been there since we've owned the property in the '70s. It's never been moved. And you usually put the culverts in the lowest point, which is the centerline of the swale. Up here is another culvert that goes under I-5. It's been there ever since they built I-5 in 1959. Those two things indicate the centerline of the swale.

Chairman Easton: You've got two minutes, Bill.

Mr. Stiles: Okay. And in their staff report the staff says that we have altered the swale. Now that's not true and partially what John Ravnik has stated in his deal is that in their development of the Bob's Burger & Brew stuff, which is – Bob's Burger & Brew is right here – they built out to the property line, they never crossed the property line, they've never been in the swale.

I will go one more back to this deal. I don't think you can see them here, but it's in our things that we have submitted. But if you'll look at the tops, all of these points here are topographical information on heights, and this line right here is indicated – it says "top" on it. That "top" means that's where the level ground goes and then starts dropping down into the swale. And that's never been altered. This map was done in 2001. It indicates where the swale starts. The culverts indicate where the centerline of the swale is. And I don't understand how the County – they had this information, and yet in their staff report they say after exhaustive research they couldn't find anything to support our claim about the centerline of the swale. And I guess I'll ask you guys a question. After seeing this information, do any of you have a question about where the centerline of the swale is and how much property is zoned Rural Freeway Service?

Chairman Easton: Is that your close?

Mr. Stiles: That's my close.

Chairman Easton: It's sort of rhetorical, unless the Commissioners want to ask a question at this point. Thank you, Bill. Any questions? Oh, please, let's remember we have to finish one more hearing and we're going to have access to hopefully all of Mr. Stiles's team during our deliberations.

Ms. Ehlers: All I would like to know is this map as we have gotten it is so reduced that it's difficult to read.

Mr. Stiles: We have the entire map that's been – it's been given as part of our written comments. So you have the entire one if – I have another one here – but –

Ms. Ehlers: Yeah, I know we have it. It's just so small that you can't really read it.

Mr. Stiles: I understand.

Ms. Ehlers: So –

Chairman Easton: Are you guys submitting a readable version?

Mr. Stiles: Yes. This is the whole thing.

Chairman Easton: Okay, okay. So we're going to get it.

Mr. Stiles: This map here, you'll get the whole thing. We wanted to show where the swale and stuff was on a map that you could see.

Chairman Easton: Okay, so here we are. We're running into the 8 ½ by 11 law then, where – Carol – where we're – the County's not allowed to take written testimony any larger than 8 ½ by 11, according to the Department's ruling on a number of occasions and according to the statement I make at every – you know, the beginning of every Commission meeting about written documents. We need a solution.

Kristen Ohlson-Kiehn: Why can't they photocopy it on several 8 ½ by 11 pieces?

Chairman Easton: They could. They could, then give it to us as a proposal.

Ms. Ehlers: Well, there's something I think you could do. If you were to take this map and trace on it just the really crucial lines and identify the culvert more clearly, so that whatever it is that you wish to highlight for us is clearer, that might bypass the difficulty.

Mr. Stiles: Okay. Now this is – it brings up a question as a suggestion for the Planning Commission. One of the things about this whole process is you don't

see the application that we submitted. You don't see the information that we submitted to the Planning Department as this proposal. All you get is a summary from them. Our proposal had all of this stuff in it. But you don't see it. All you get is what the staff decides you should get.

Chairman Easton: Now I'm going to assume that you're going to submit all that for us.

Mr. Stiles: Oh, yeah. It's already been submitted.

Chairman Easton: On this example, on this case.

Mr. Stiles: Yes.

Chairman Easton: Okay. Because anything you submit is supposed to be transmitted to us, and I'm not – I know the Department's clear on that, that those things are supposed to come to us.

Mr. Stiles: That doesn't happen. What you get is their staff report summarizing what our proposal is.

Chairman Easton: Any written comments –

Mr. Stiles: I'm just talking about – we're going to submit written comments, which will include resubmitting our application, because you don't get that.

Chairman Easton: So that we can see that.

Mr. Stiles: So you get to see all the stuff that you're not –

Chairman Easton: I understand what you're saying. I was just recommending that you submit –

Mr. Hayden: Mr. Chairman?

Chairman Easton: Go ahead.

Mr. Hayden: We have submitted probably a hundred pages of material and the application is part of the formal record. My understanding is you don't have it in front of you. I would like to submit another copy of that for your group perusal. We would have made copies for everybody but we –

Chairman Easton: That's okay. The County can do that.

Mr. Hayden: Okay.

Chairman Easton: Just submit a complete – anything you want to submit – again, I hate to say this, but on 8 ½ by 11 – will be reproduced and given to every member of the Commission prior to – correct, staff?

Ms. Ruacho: If it meets the submittal standards.

Chairman Easton: As long as it meets the submittal standard, which is 8 ½ by 11. So I would suggest that between now and Monday you consider which parts of the map at what size would be the most beneficial – on an 8 ½ by 11 – so that we can review it. I recognize what you're saying, Bill, that we don't get the complete application unless you all walk it over there and put it in that box or give it to them during the comment period.

Mr. Stiles: Exactly. Exactly.

Chairman Easton: Which does create some interesting situations.

Mr. Stiles: I know that on large deals like Comp Plan updates it's not possible, but for individual things like this you guys should have got that stuff. You should get our application that shows all of the stuff that people submit – their reasoning, their support. You don't get any of that. All you get is the summarized staff report.

Chairman Easton: Okay. We're – we're –

Mr. Hayden: We submitted a photocopy-ready version – you just have to put it in the copier, 8 ½ by 11 – and then we submitted a notebook version for staff because it's more convenient to keep together with indexes.

Chairman Easton: Okay. I think the biggest concern the Commission has is making sure that we have readable maps to help realize that we're not looking at such a small version of a survey. So I trust your folks will figure out a way to get that to us in the best way possible within the confines of the rules.

Are there any other questions for any of the folks on this one? Jerry?

Jerry Jewett: I've got a question on that pro-rata expense of the sewer and stuff. Did you pay for the .716 that's zoned Rural Freeway Services or the 5-point-some acres that you want?

Mr. Stiles: In 1977 when we first bought sewer connection – that's what our predecessors-in-interest, Regency Investment – it was limited to 1000 feet because they had a contract rezone with the County, zoning 1000 feet radius from I-5/Cook Road as Commercial. And we paid for service for that – anything south of that 1000-foot radius. We paid a sewer connection fee to the water district. Since then when the property was developed – Duffys started doing the

development – they paid their connection fees that they had to pay for the restaurant and the gas station and those things, and installed a pump station and some gravity lines inside the development. They basically collect sewer, take it to the pump station, and then it pumps into Burlington. And they were required, as part of the agreement with my dad when he sold them the property, that they extend the sewer lines to a point where, you know, they had to go for their development, and then he had the option to then connect on to that to extend it into his property. And the same with the roadway and all that stuff. And that's basically been done. And that was part of the agreement when my dad sold the property. He hasn't paid any money for any of the sewer stuff that's in there now since the original sewer connection fee stuff they paid back in '77.

Chairman Easton: Okay. Any other questions? Just keep them brief.

Ms. Ehlers: How is the – where does the hotel fit in all this discussion?

Chairman Easton: What do you mean?

Mr. Stiles: That was – it's south of the 1000-foot zoning line. What the property my dad sold to the Duffys, who own Bob's Burgers & Brew and the hotel, was all – lies south of that 1000-foot. In fact, we sold them everything that was zoned Commercial that was covered by the contract rezone, which was that 1000-foot, and that's the radius that you see on this map.

Chairman Easton: It was all pre-GMA?

Mr. Stiles: Yes, this was all pre-GMA. And that's this line right here, the 1000-foot radius.

Chairman Easton: Any other questions? All right, is there anyone who would wish to testify who *didn't* testify on this? All right. Again, this will – written comment through the 26th and we'll be deliberating here in person on the 17th at six o'clock. You're welcome to join us. I'm going to close this public hearing on the Stiles (gavel). All right, with that we're going to reopen briefly, hearing number 3, Pomeroy, which we continued until later. So, with that, I'm going to call this meeting back to order (gavel) in the matter of Pomeroy and we are continuing the hearing from earlier this evening, and that is for the Comprehensive Plan amendment request PL08-0462.

Sir, you have five minutes. State your name, your address, spell your last name, and give us your best five minutes.

Jim Miller: Certainly. My name's Jim Miller. I'm a land planning consultant. My address is 299 Mackenzie Drive, Camano Island 98282, and I'm here tonight on behalf of Andre Pomeroy in his request to include this 80-acre parcel with a Mineral Resource Overlay designation on the Comprehensive Plan.

We're in full agreement with the staff report on this item. We have no issues to argue at all. I want to indicate that this is brought before you because of an oversight when the Mineral Resource Overlay mapping was done for the County by a consultant. In fact, this has been shown as the old Londonderry Quarry on the U.S.G.S. quad maps for fifty or sixty years. So it's – and the property has been worked as their mineral resource. The County has confirmed the nature of the material on the property and it qualifies for the designation.

Again, we have no issues with the staff report. We're in full agreement. We'd be happy to answer any questions. Our application *does* indicate that there is absolutely no blasting intended. We will rip what we have to take from the property.

Chairman Easton: Okay. Are there any questions? All right, hearing no questions – any questions? Okay. Hearing no questions, I'll close this public hearing. Thank you, sir (gavel).

So that public hearing's closed but we're still in session. So let's go back to the agenda. Thank you. Thank you all for coming. You're welcome – again – to submit by the 26th and be here in person on the 17th.

We have a "General Issues – if any" item. Mr. Johnson?

Mr. Johnson: I don't have any general issues. I don't know if Carly does or not.

Chairman Easton: We'll wait till Carly gets back to a microphone. Obviously this is the first night that y'all had to deal with me telling people to talk shorter. I think we still gave the public plenty of chance to speak and I think we're moving at a pace that was healthy, so I want to – if you guys have any concerns about that, let me know. But that's going to be our – unless I'm told otherwise – that's going to be our marching direction from now on on the hearings.

Carly, do you have anything to add? Not about that. Just do you have anything you want to tell us?

Ms. Ruacho: Not that I can think of. Not that you want to hear that I have the stomach flu and I'm not feeling very good at the moment. I'm trying. This is like about the worst night this possibly could have happened.

Chairman Easton: I'm sorry.

Ms. Ruacho: It's okay! So, right, we have your deliberations coming up on the 17th. You guys have given me a list of items that you want. If there's any further, I just ask that they be funneled through your Chair first and then any requests that the Chair agrees to he can get to me, you know, in a fashion that I can get

that material to you in time. All the materials are on our website, for those – especially those folks in the Snohomish County situation where they didn't receive direct mailing. The staff report, and the maps and all those things are available at skagitcounty.net/planning. So those can be reviewed and their applications can be faxed to the Department. We don't accept e-mails, but they can fax them on Monday.

Chairman Easton: Okay.

Ms. McGoffin: Chairman?

Chairman Easton: Yes, Mary?

Ms. McGoffin: I have one comment. I'd like to suggest that when an applicant has a visual display as a poster or, in your case, you had a larger size piece that was folded and folded. At our deliberations, that would be an appropriate time for us to get to see a full-scale one. Rather than send us all an 8 by 11, let us see one big one. Put it on a poster board. We can walk around and look at it. That would be more useful to me.

Mr. Hayden: We'll bring that.

Chairman Easton: Yeah, that's a great idea. You're not on the mic, but we'll go ahead and recognize _____. It's a great idea.

Ms. McGoffin: For anybody, staff. I would recommend that for any applicant. That'd be an appropriate place at deliberations for us to get to see a full-scale, and then you don't need to try to reduce it and –

Chairman Easton: My only concern with that, Mary, is that if someone submits and doesn't then come to deliberations and present the larger version, you're bound right now by the rule that has to be that you only reproduce and only accept an 8 ½ by 11. I think that I would like you to – you've got to touch base with legal anyway. Let's find out if we have the freedom within state and local – what freedom we have to maybe change that. Because in this day and age, particularly with this complicated of issues, I think that we should try to find some way to alter these rules so that we have access in the written record – and I know that that's going to create some storage issues for you all, but we should have the chance for people to submit maps.

Ms. Ruacho: Well, they do. They can submit anything they like, and I tried to make it clear in the memo that attached for you are portions of their application. And we always have their original, entire application on record in the department that any of you can come and look at at anytime. If they submit a poster we will put the poster in the record, and we have their full-size, you know, surveys in the record and they're available for viewing at any time. We won't reproduce them

for you just because we don't have the capability. We'd have to go to a blueprint company to do it, it costs –

Chairman Easton: Okay, then let's do this. Then let's do this: Anything that's large that's submitted to you that we're going to deliberate on bring it with you on the night of our deliberations.

Ms. Ruacho: We can bring the entire record. That's no problem.

Chairman Easton: Yeah, I mean, I don't – just particularly the ones that are – you know – that are large.

Ms. McGoffin: Oversized.

Chairman Easton: Oversized. All right.

Ms. Ruacho: And if they want to submit *eight* oversized copies, we will forward them to you. We just won't reproduce them.

Chairman Easton: Got it. All right, I think that should be – make sure if that's not in the application, I think that's something that should be considered added to the application because that would give them – let them – notify them that they have that option.

Ms. Ehlers: One of the issues on the –

Chairman Easton: I'm out of public hearing at this point.

Mr. Hayden: Procedural question.

Chairman Easton: The only point of orders that can be raised at this time would be by Commissioners, so I'll probably handle – I can handle that question from you after the meeting.

Mr. Hayden: Okay.

Ms. Ehlers: One of the issues in the Pomeroy case is the water quality of Lake Cavanaugh. I would like the Planning Commission to see what the County aquifer map is for the Lake Cavanaugh region because it's Category II, and I'd like to have the Planning Commission see 14.24.320, which essentially abandons Category II areas in Skagit County to any drinking water protection. All the talk there is about septic, for example, within Category II, it is permissible for Skagit County to accept an application to inject untreated sewage. So, for example, up in Lake Cavanaugh, since it's a long ways away from the Mount Vernon sewer plant, it is quite possible that a septic inspector who needs to pump may need to go get rid of it. This individual, under current Skagit County

law, may apply to have a permit to inject untreated sewage anywhere in the area around Lake Cavanaugh.

Chairman Easton: Okay.

Ms. Ehlers: And so I think the Planning Commission needs to see how this critical areas law combines with planning law so that you start to under – see – how it will affect other places. Thank you.

Chairman Easton: Okay, here's where we're at on that. You're going to have plenty of time in deliberations to make that case.

Ms. Ehlers: No, I want us to have access to the map.

Chairman Easton: Let me – that's fine. Access to the map is fine, but the extended part of your remarks where we're going to go into a lengthy discussion about water quality and how it connects to the CAO –

Ms. Ehlers: It's not going to be extensive.

Chairman Easton: I just want to let you know that that's not something that – we're going to stay on-task about Pomeroy when we get to Pomeroy.

Ms. Ruacho: Pomeroy – I don't think she means Pomeroy. I think she means Stockinger.

Ms. Ehlers: No, it wasn't Pomeroy; it was Stockinger.

Chairman Easton: Stockinger. Okay.

Ms. Ruacho: But – and then if you want a map, I'm completely unclear as to what map is being requested.

Ms. Ehlers: The aquifer map that Skagit County Planning drew when I said you can't rule on the critical areas ordinance differing between Category I and Category II, if you don't know which area of the county is one or the other.

Chairman Easton: Okay, so the aquifer map. Okay. I will let – we'll let this happen between you and Carol to maybe help you find that.

Ms. Ruacho: If Carol – yeah, if you want to come to the office and show me which map, I can certainly bring the map. But I don't want to, you know, guess as to which map you mean and have it be wrong.

Chairman Easton: Sure. Let's do it that way.

Ms. Ehlers: I went to mapping and bought it so I can show it to you.

Chairman Easton: Okay, we're moving on. Let me clarify one thing. Carly, you said earlier that you want requests for other information between now and deliberations to come through me.

Ms. Ruacho: Correct.

Chairman Easton: Why?

Ms. Ruacho: That's the procedure that we've been doing. They're funneled through the Chair. It's not one individual member asking for information. It is the Chair that decides the Commission as a whole –

Chairman Easton: – needs it.

Ms. Ruacho: – needs the information for deliberations.

Chairman Easton: All right, so that's clear to all the members then? Because that means that there's a chance that I'm going to reject your – the desire for what you want brought in. I mean, under that policy.

Ms. Ehlers: Mm-hmm, and there's a chance that we can vote against something because you have done something.

Chairman Easton: I guess I'm just trying to get a clarification here. So I get to decide whether it's actually something we need?

Ms. Ruacho: I mean, if you do it – if they bring it up in a meeting, you all could vote or, you know, you could run it however you want.

Chairman Easton: But you're talking about between now and deliberations. All right. Okay.

Ms. Ruacho: Rather than just, you know, a bunch of requests coming, that's the only way that I can –

Chairman Easton: Okay, with that, let's review the calendar. We have the November 17th with the deliberations on all four of these. And then December 1st is our regular scheduled meeting, if I remember right. Do we have – are we going to meet again in December, do you guys know?

Ms. Ruacho: We would – we're holding December 1st out just in case you don't complete your deliberations on the 17th, but –

Chairman Easton: But we may not meet on the 1st?

Ms. Ruacho: We'd prefer to give you guys off between Thanksgiving and the first of the year.

Chairman Easton: Aw, aren't you nice?

Ms. Ruacho: But we have to hold it out just to make sure we get done.

Chairman Easton: Okay. All right, well, we'll keep holding those dates. All right, any questions?

Annie Lohman: I have a question.

Chairman Easton: Annie.

Ms. Lohman: Do you anticipate any Thursday meeting dates?

Ms. Ruacho: Those would be the only two meeting dates for the rest of the year. Do you mean ever, like next year?

Ms. Lohman: Going into 2010.

Ms. Ruacho: In 2010 there will probably be some Thursdays. That's our next – that's – you know, if not a Tuesday it's a Thursday. We try to go first Tuesday, third Tuesday, and then – or pardon me, first Tuesday – did I say that right? I'm delirious. First Tuesday, third Tuesday, and then the next after that if that doesn't work are Thursdays – first Thursday, third Thursday.

Chairman Easton: But just so you know from the past, we talk through scheduling issues well before the dates are set, and if you're not available we'll – a lot of times we can juggle things to make it work, okay? All right, anything else? All right, we're adjourned (gavel).

END OF MEETING