

**Skagit County Planning Commission
Work Session: Shoreline Master Program Update
April 1, 2014**

Commissioners: Annie Lohman, Chair
Josh Axthelm, Vice Chair (absent)
Jason Easton
Kevin Meenaghan
Dave Hughes
Robert Temples
Matt Mahaffie
Tammy Candler
Keith Greenwood (absent)

Staff: Dale Pernula, Planning Director
Ryan Walters, Civil Prosecuting Attorney
Betsy Stevenson, Senior Planner

Public Commenters: Nancy Fox, GIPAC
Richard Ward
Stuart Charles, GIPAC
Carol Ehlers

Chair Annie Lohman: (gavel) I call to order the April 1, 2014, Planning Commission meeting. If we could look over the agenda and any changes to the agenda. Okay, seeing none, we'll move right on to item number 2, which is the Public Remarks, so anybody from the public that would like to speak, come on up. Please give your name and your address.

Nancy Fox: Hello. My name is Nancy Fox and my address –

Jason Easton: Point of order. Sorry. Madame Chair, can you remind the audience about their time limit?

Chair Lohman: Three minutes.

Mr. Easton: And Chairman Kevin has decided – Commissioner Kevin has decided to help with the timing.

Kevin Meenaghan: If I can figure this out.

Ms. Fox: I'll talk really fast. My address is 7202 Channel View Drive, Anacortes. I'm a member of the Guemes Island Planning Advisory Committee, which we call GIPAC, and I'm here tonight to submit a letter with some comments on the Shoreline Master Program that you currently have under review. I do have it in letter form so when you cut me off I can give you the letter and you'll get the rest of it. But I just wanted to hit on a few high points.

Most of you probably know that we have an adopted community plan on Guemes Island. It's the result of twenty years of work by the community, with some professionals and help from County staff. It was adopted by the Board of County Commissioners almost three-and-a-half years ago, and we have, unfortunately, in that three-and-a-half years we have remained low enough on the Planning Department's work plan that we have not gotten implementation of the Plan up into the County's attention. So that's the bad news and that's been very frustrating, and you'll probably hear more from us about that.

The good news is I'm happy to report that the first step toward implementation of the adopted Guemes Plan is incorporated in the draft Shoreline Master Program that you have before you now. The draft includes specific – Guemes-specific dimensional standards which were worked through the community in our community plan, and we're very happy to get that first step and get the County's support in beginning implementation of our Plan. We're continuing to work with the staff on the wording in the dimensional standards to make it understandable, but we're very happy with that first step.

There are some – a few – outstanding issues. I'm just going to list them because I know I don't have time to go into any detail. For one thing, our Plan, the maps that are in the Shoreline Plan before you don't exactly match the maps from the Guemes Plan. And we feel that since our Plan was very localized, was based on extensive field work, and it was also our understanding from the County a while back that our adopted recommendations on the map would be incorporated. They are not yet incorporated precisely. So there're a few issues that we still want to work on there.

County staff has suggested that we get some Guemes Island-specific policies in the Shoreline Plan and we agree. They're not in the draft you have before you but we have submitted a proposal and will be working with the County on trying to get some Guemes policies in the Plan.

There's a public notice provision in the Guemes Plan that says all public notices affecting projects on Guemes Island should be submitted to our local newspaper, which is kind of the way that we communicate on Guemes Island. That is not happening. We have written to Mr. Pernula about that. We'd like to follow up with you about that notice issue, and perhaps it needs to actually get into the Shoreline Master Program to make it more official and make sure that that notice starts happening.

Fourth and last, we do have some concern about the proposal to expand the discretion of the Planning Department to make administrative decisions reducing the shoreline setbacks as much as they do in this draft. And we're particularly concerned about that in light of the fact that we're not getting the notice that we think is required by our Plan. So to be reducing administratively setbacks when our Plan calls for bigger setbacks, and then no one other than the immediate property owners get notice of that, we have some real concerns about. So those two issues kind of go hand in hand.

Mr. Meenaghan: That's three minutes.

Ms. Fox: Thank you. We are going to continue working with the County. We just appreciate your being aware of our interests and our concerns. I'll – should I just give this – who should I give the letter to?

Mr. Easton: We'll get a copy.

Chair Lohman: And we will get it.

Ms. Fox: Okay. I'm sorry. Allen Bush meant to be here – our Chair – and he couldn't and so you've got my signature on one copy in lieu of his, but that's the way it goes.

Chair Lohman: Thank you very much.

Mr. Easton: On that point, I happened to run into the Chair –

Ms. Fox: Oh, you did?

Mr. Easton: – and he was very adamant with me last Friday that he was going to try to be here but that he feels very strongly about these issues – about the maps – and he wanted to make sure that I was aware of them and that –

Chair Lohman: Allen Bush.

Mr. Easton: Allen Bush did. So I'm glad that you guys were able to come and share.

Chair Lohman: Thank you very much. Next?

Richard Ward: Good evening. My name is Richard Ward. I'm a homeowner at Lake Cavanaugh. Address is 33076 West Shore Drive. I'm not here representing the Community Club up there but they're very interested in this document.

I presented a note-kind of format to Betsy and sent it to her by e-mail yesterday. The more substantive items – the last one on there – where I'm suggesting that the dimensions on the recreational floats, as written on page 109, be expanded. Right now the wording calls for a float that is 8-foot by 8-foot. If any of you have been on the water and rough water, an 8-foot by 8-foot float is not a very stable device, and I'm suggesting that those dimensions be changed to 12 by 12, which also is relatively small, but more likely to 12 by 16 and suggesting that that be something you might want to look into.

Wave heights at Lake Cavanaugh commonly go to 2 feet. One of the popular recreational activities is with boats with ballast tanks on them so they can surf behind the wake of a boat. That throws a 2-foot wake. I've been up at Lake Cavanaugh when the storms throw 2-foot waves and the docks rumble and roar at their floats. If you look at some of my neighbors who have floats their dimensions, I think, are over that 12 by 16 recommendation presently. That's a float. That's an independent float from the dock or the floating part of a fixed dock. The fixed dock would provide some stability in rough water but the independent float, which is what is referenced in the document, does not.

Those are my comments.

Chair Lohman: Thank you very much. Next? Come on up.

Stuart Charles: My name is Stuart Charles, first name spelled S-t-u-a-r-t. Address is 4453 Guemes Island Road and I'm a part of the GIPAC planning committee as well for the island. And the only thing I would like to underline – and I think that Nancy touched on it – but that within your work plan you move the Guemes Island Subarea Plan up the ladder a bit. We're kind of down and out of sight. And I think Nancy was pretty clear about that – that we want to

be involved, we want to get through this thing and have it come out so all parties are satisfied with the results.

That's the only comments I have. I'm not going to get into the specifics, other than I'm pleading to move us up on your work plan priority. Thank you.

Chair Lohman: Thank you. Anybody else?

Carol Ehlers: Carol Ehlers, Wind Crest Lane, west Fidalgo Island. Last time you met Jason asked what geomorphology meant, and we've had an unfortunately huge illustration of it down in Snohomish County.

Mr. Easton: Actually I have a point of order, Madame Chair. Before they leave, I need to make a comment. Could you all wait for just a second, please? I need a point of order about the issue of with the attorney. I'm sorry, Carol. You'll get your time. With people submitting written – I'm a little concerned about people submitting written information believing that it's a part of the record. If we're not in a public hearing and we're in a work session, Ryan, can you clarify whether that's going to be a part of the record?

Ryan Walters: It will be part of the record. Anything anyone submits at any time will be part of the record, it's just not part of the invited public participation process so if you ever wanted to appeal, you might want to resubmit during the public participation time.

Mr. Easton: That's an important thing for you both to note. If you ever wanted to appeal any decision that was made by us, and the only place you submitted a letter was at a public work session and not a public hearing, you wouldn't be able to. So you don't have standing.

Mr. Walters: Yeah. When we invite public comment you definitely want to submit then. So we'll take your comments now –

Chair Lohman: You're better to repeat.

Dave Hughes: Basically when the public hearing starts –

Mr. Easton: I just don't want anybody to be confused about that. And the other –

Ms. Fox: (inaudible)

Chair Lohman: In the formal time.

Ms. Fox: Really what we want is not to end up appealing anything –

Mr. Easton: Agreed. The second thing I just want to say to the Guemes group is we don't control the – we appreciate your testimony about wanting to get moved up on the Department's work plan and our own work plan. We have very little control over those. That's Commissioner-based and Director-based, so just an informational point of view. Thank you. I'm sorry I cut you off, Carol.

Mr. Ehlers: Well, that's a good illustration of the problem those of us in the public have.

The geomorphology: There are – that is a comparatively new branch of geology founded, I gather, at Columbia University about 1937. It came from the Dust Bowl, in terms of wind, because of the movement of soil, and it's best illustrated by sand dunes.

The second item is water. Rivers meander and that's what's referred to on page 63, number (7) that Jason was asking about. But water also comes down in the form of surface water and rain, which is what Keith talked about last time, and sub-surface water, which is what has been a large part of the difficulty at Snohomish County. The only way to deal with the relationship of water and the surface, which is in this area glacial – some of the glacial till is rock hard – very difficult to dig. It had 3,000 feet of ice on it and it's solid to put a house on. If it is a moraine, whether it's a lateral – lots of words – lateral moraine, terminal moraine – all kinds of technology – it's loose, unconsolidated soil, and water that's added to it in any form lubricates the soil. And if you have – if the angle of repose is disturbed – that is, the angle that the hillside feels comfortable at – and you disturb it by cutting the toe of the slope; by cutting the trees on the slope; by putting a trail along the slope; by putting a building that's too heavy – sometimes any building – on the slope; or in almost any case, adding water to the slope – which is what I commented on some time ago with the County deliberately draining road water across and over the lots and onto the slopes. That's what has caused a lot of the problem. If you keep water off of these slopes as much as possible, you reduce the likelihood of slides enormously.

Now the Natural Hazard Mitigation Plan has a section called “Land Movement.” You'll find it's entirely inadequate but I wish you would look at it because there's about thirty-five slides listed in it and that's the beginning of the list. There is a meeting of the Natural Hazard Mitigation Committee on April 29th – a Tuesday on which we do not have a Planning Commission to go to – in the Burlington City Council, and I understand that a County geologist will be there talking about landslides and the issues involved. That is the kind of development I've been pushing for ever since you started listening to me. Gary Christensen brought up a basic issue in his letter to the editor that there has to be a relationship between code, the science and the Comprehensive Plan. And John Cooper has told me again and again the last couple of years he is not authorized to do certain things that are basic common sense because the code doesn't let him. So it has to.

Now, finally, there is a hearing next Monday at 11:45 in the morning before the County Commissioners on the Enforcement section of Title 14, 14.44. Most of the language in that document makes perfect sense *except* what's in the paragraph one and particularly paragraph two, where it says the County *may* enforce. And if you look at the law dictionaries and you do the other things that Ryan has been telling people to do, you find that “may” gives you permission to enforce but it sets it up for the County to do the kind of selective enforcement that they used to do.

Mr. Meenaghan: That's three minutes, Carol.

Ms. Ehlers: And selective enforcement is as corrupt as you can get. Go to the hearing at 11:45 Monday in this room.

Chair Lohman: Okay. Anybody else wish to speak?

(silence)

Chair Lohman: Okay.

Mr. Easton: Madame Chair?

Chair Lohman: Go ahead, Jason.

Mr. Easton: The stuff – could you make a note of sending the e-mail – an e-mail – to everyone about the Hazard Mitigation meeting sent to the whole Commission, because for the two that aren't here I think they would be interested in that also? Thank you.

(Skip to work session on the Shoreline Master Program.)

Chair Lohman: Okay, shall we move on? Okay, item number 4, the Shoreline Master Program work session. Betsy, you're on.

Betsy Stevenson: Okay.

Chair Lohman: We're going to – I believe we're going to start number VI where we left off.

Mr. Easton: Well, there was confusion.

Ms. Stevenson: I was under the impression that you wanted to start with number VII, is what you said.

Chair Lohman: Oh, okay. Yeah.

Mr. Easton: So there's confusion about that. There's two things in writing. One says that we insisted that we do VII before VI and then the other one – our agenda listed VI before VII.

Ms. Stevenson: What's your pleasure?

Chair Lohman: Yeah. I thought we wanted to start where we ended.

Mr. Easton: So where do you want to start?

Ms. Stevenson: As long as we get through both of them, it doesn't matter to me.

Mr. Easton: Well, we should really hit the first two, I would think.

Chair Lohman: What did you say?

Mr. Easton: I think we should be able to accomplish both of those tonight.

Chair Lohman: I agree.

Mr. Meenaghan: Well, this is a hard one.

Robert Temples: Well, VI is –

Mr. Easton: No, I'm not saying it's easy!

Mr. Temples: I was going to say VI is ahead of VII.

Ms. Stevenson: Okay. I mean, it doesn't matter to me – whatever you guys want to do.

Chair Lohman: Let's just do it in the order on the agenda.

Ms. Stevenson: Okay.

Chair Lohman: That means on the memo we're going to jump to page 2 to Roman numeral VI, Legally-Established Pre-Existing Uses and Structures.

Mr. Easton: Number 13?

Chair Lohman: Item number – well, the chapter.

Ms. Stevenson: Item 13, it would be page 163 in your draft.

(unintelligible remarks from several Commissioners)

Mr. Walters: By the way, we figured out the page number thing. A couple of you have drafts printed from the Internet and that's where we fixed the footers. The footers were taller so the page numbers gradually get different –

Mr. Easton: Ah, gotcha. It just might a split second longer to catch up to you.

Ms. Stevenson: Okay. So, anyway, it's 14.26.600(2) and we just made – take out what was there and use this one. Does that make sense?

Mr. Easton: Yeah.

Mr. Temples: Are there any modifications or changes to this section?

Mr. Walters: Number 13 through 15 in the memo.

Ms. Stevenson: Right. On page 2 of the memo.

Mr. Walters: And to reiterate, this is –

Chair Lohman: Page 2 on the memo.

Mr. Walters: – this is an opportunity for you to highlight *any* section in this chapter, not just the things we changed in the memo.

Chair Lohman: Okay. So you are going to propose to strike the original language and insert the language from the memo?

Mr. Walters: Right.

Chair Lohman: For number (2).

Mr. Meenaghan: Trying to get it for Applicability.

Chair Lohman: Okay, good, because I have a whole bunch of notes written on the old one!

Mr. Easton: It's cleaner and a lot easier to work with.

Chair Lohman: Yeah.

Mr. Temples: Much more straightforward.

Ms. Stevenson: We're trying.

Chair Lohman: I mean I had to kind of almost draw a path on the original. Okay.

Ms. Stevenson: Okay, so I'm going to keep going through the things in the memo. If you have something in between, jump in.

Mr. Easton: Okay.

Ms. Stevenson: Okay? So the next one, number 14, is on the same page. Again, we're just inserting a new section of (2)(a) to read as it's there in the memo.

Mr. Easton: This would be in addition to what is already there?

Mr. Walters: Correct.

Ms. Stevenson: Yes. So where we started with "Minor," this would go right in front of that.

Mr. Easton: Okay.

Chair Lohman: So I have a question on that. If I have something there – a residence there – and I just want to add a second story, so I'm really not changing the footprint but I'm going up, and as long as I meet my height requirements is that allowed?

Mr. Walters: This is Jill's section. But in your hypothetical you're conforming – does this paragraph address that, then? – you're conforming with respect to height?

Chairman Lohman: Yes.

Mr. Walters: So you want to go up. You're too close for current standards but you're already too close, so yes.

Chair Lohman: So I can go up, even though theoretically my square footage might have increased. But I haven't enlarged the actual footprint, I haven't –

Mr. Walters: Right. The footprint would only matter if you run up against the lot coverage maximum so you wouldn't – and you probably are not running up against that. So, yeah, we added this paragraph to make it clear that you can do things like that.

Mr. Easton: So it's intended to then communicate that as long as I'm making changes that don't take the actual part of my property that is nonconforming and make it *more* nonconforming –

Mr. Walters: Right.

Mr. Easton: – then I can look into opportunities to expand the footprint in a way that doesn't – as long as it doesn't contribute to a new form of nonconforming. So her example – the Chairman's example of going up a foot and the footprint idea being the conformity issue makes sense to me, but if she would have asked to put a closet in and bump – or bump out four feet for the kitchen, her example would be then void. That would be expanding the nonconformity, correct?

Ms. Stevenson: Yeah. Did you guys pick this up? This is the discussion that we had when we discussed this topic before that Ryan tabled, and I just figured having the pictures would help.

Mr. Easton: Yeah, I've seen it before. Could you pass those around?

Ms. Stevenson: What we're trying to do is make it more in line with how we handle it through the critical areas ordinance. So this kind of gives you three different scenarios, and I'll wait till they come around so that you have it in front of you because a picture really does help with this.

Mr. Easton: So while we wait for that, probably some of the most passionate testimony – top ten passionate testimony I've heard since I've been on the Commission – was during critical areas about a gentleman who was trying to expand the bathroom of his dad's existing cabin for a father who was now ADA – needed (an) ADA-compliant bathroom and they – but that expansion on that side of the house was going to be expanding the nonconformity. It was going to go closer to the lake. And we wrestled with this issue in the critical areas ordinance for quite a bit during deliberations. Do you feel like the solution for those situations is explained by the way and what this is saying is consistent to what's in the critical areas ordinance?

Ms. Stevenson: Yes. To answer Annie's question, under our existing Shoreline Program, going up a second story even if you're not increasing the footprint and you're not getting any closer to the water, if it's within the existing setback now you'd still need a shoreline variance under our current code.

Mr. Easton: Plus you'd have to stay under – plus you have a height restriction, too.

Ms. Stevenson: Right.

Matt Mahaffie: I'm not reading it the same as you're explaining it, I guess, Ryan, when you look at (2)(a) number (iii). If you're going to a second story as a minor expansion the enlargement does not increase the height of the existing structure.

Tammy Candler: It would.

Mr. Mahaffie: What would?

Ms. Candler: If you put a second story.

Mr. Mahaffie: Yeah.

Mr. Walters: Right, which is why we added the new paragraph – because (2)(a) says "Enlargement...that would not otherwise be allowed..." But with the new paragraph, number 14 in the memo, it would be allowed.

Chair Lohman: So what are you striking then in (2)? On 14.26.620.

Mr. Walters: We're not adding anything, just inserting – inserting that new paragraph.

Mr. Easton: So all of that comes before the first word of (a).

Mr. Walters: Right.

Chair Lohman: Before “Minor”?

Ms. Stevenson: Right. (a) becomes (b) and then this becomes (a).

Chair Lohman: Okay.

Ms. Stevenson: Sorry I didn't say that loudly enough.

Mr. Easton: This is not going to be attached to the current (a)?

Ms. Stevenson: Right.

Mr. Easton: It's going to become the new (a)?

Ms. Stevenson: New (a).

Mr. Walters: Whole new paragraph.

Mr. Easton: Whole new paragraph and then everything slides down. Okay.

Mr. Mahaffie: Then I guess my question is, Why would you need number (iii) if you have in there “does not increase the extent of the nonconformity”? So if it's under 35 feet or – it just seems kind of confusing to have number (iii) in there.

Chair Lohman: Yeah.

Mr. Temples: I agree.

Chair Lohman: Number (iii) makes it choke.

Mr. Easton: You mean by (iii), “Replacement is authorized consistent with the provisions...”

Chair Lohman: No.

Mr. Mahaffie: No. It would be “the enlargement does not increase the height of the existing structure.”

Mr. Easton: Oh, *that* number (iii).

Chair Lohman: Roman numeral (iii).

Mr. Easton: Sorry.

Chair Lohman: Little (iii).

Mr. Mahaffie: To me, height would fall into “the extent of nonconformity,” regardless of what nonconformity is. If you’re going over –

Mr. Easton: Height would fall – say that again? Height would fall into “the extent of nonconformity.”

Mr. Mahaffie: If you have nonconformity, it could be this way *or* this way.

Mr. Easton: Right.

Mr. Mahaffie: It’s three dimensional.

Chair Lohman: But just being there makes it nonconforming too –

Mr. Walters: Yeah.

Chair Lohman: – in certain situations, regardless of anything else.

Mr. Mahaffie: I just find number (iii) confusing.

Mr. Walters: Well, we can look at that and see if there’s any reason for that. There may very well not be.

Mr. Mahaffie: Just because you say it’s okay, you know, ten years down the road somebody else might not.

Ms. Stevenson: Yep. No, I agree. We need to look at that. Okay, now you should have the picture in front of you which hopefully – if you want to go through it real quickly, it’ll give you a sense of what we’re getting at here. So there’s a potential for expansion that could happen just with an approval by the Administrative Official if the structure is located landward of the ordinary high water mark and the proposed addition isn’t going any closer than the existing structure, it’s not extending into a side yard setback so you’re still meeting your side setbacks as well. You can get up to 200 square feet in an addition of an additional footprint, so you could expand it a little bit. You would need to provide some mitigation for whatever impacts you would have to the buffer for that additional expansion. And if there are special flood hazard requirements that you would have to address or meet if it’s in the floodplain, then you would have to do that as well. So that would be the first one, okay?

The next one you could do as a Level 1 administrative variance. So, again, it has to be landward of the ordinary high water mark. It doesn’t require a public hearing but you do require – you are required to notify the landowners. The expansion is a buffer reduction because you’re getting closer to the water than what the current existing structure is, but the expansion would be more than a 25% encroachment into the buffer but less than 50%. You also have to go through the mitigation sequencing, which I think we talked about, where you’re trying to avoid impacts and then you mitigate for them and you go through that. There’re degraded buffers that could be enhanced as part of that. That’s all part of the process. And you would also be required to record and sign a Protected Critical Area Site Plan. Okay?

And the third one would be a Level 2 Hearing Examiner variance. So this is one where you are asking to encroach into the required buffer more than 50%. I don’t know if I’m explaining it well

enough or if it makes sense. This is one that we did get some comments back from Ecology and they're not quite comfortable with it, even though it's the way that our critical areas ordinance works now.

And the little note at the bottom talks about replacement, so you are still allowed to replace the structure. That's _____.

I don't know if you have questions about that –

Mr. Easton: Yeah, I have a question.

Ms. Stevenson: – it makes sense. We're just kind of trying to bring it up to speed. One of the things that we did is there was some legislation that was adopted a couple years ago – I'm not exactly sure what legislative session now; the time goes by fairly quickly – where we aren't necessarily calling residential structures that were legal at some point nonconforming. We consider them conforming even though they may not meet what the standard is that's coming into place with this new Shoreline Update. So this is another way of kind of addressing that issue as well, if that makes sense.

Mr. Temples: Betsy, could you clarify something for me? Is a Type S stream like a small stream, or what's that?

Ms. Stevenson: A Type S would be a shoreline jurisdictional stream. So that's a fairly large 20 cubic feet per second mean annual flow.

Mr. Temples: Okay.

Mr. Easton: A couple things: One, the law that you just referenced would be helpful if we could get a copy of that or –

Ms. Stevenson: I'm sure you – you should have it.

Mr. Easton: – a reference to it. You think we might have it? Or at least if you could us where it is in our stuff.

Ms. Stevenson: Yep.

Mr. Easton: You don't have to redo it if we already have it. And then the phrase Ecology's kind of not like comfortable with this?

Ms. Stevenson: Is that what I said?

Mr. Easton: Yeah, well, I just put – I'm paraphrasing you.

Ms. Stevenson: Okay. Okay.

Mr. Easton: But can you sort of expand on where their uncomfortableness is on the third option here?

Ms. Stevenson: Well, as it stands now they are the final authority and approve or deny shoreline variances. We do it locally but they have to also either uphold or overturn our decision

at the local level. They seem to be okay allowing us to have some administrative authority up to 25% encroachment, but the 50% was pushing it a little bit. So we're still talking and we're still working on that. They understand that it's already that way on our critical areas ordinance, but we're still talking about it.

Mr. Easton: When you have these conversations with them, is the actual amount of people who've applied for it even considered? Like, since the critical areas ordinance update, which was now over two or three years, right?

Ms. Stevenson: Yeah.

Mr. Easton: Is – you know, there hasn't been like a busload of people showing up to ask if they could cut the buffer in half and grow their house towards the water. I would – you know, I mean, is that something that is even considered in your discussions with Ecology?

Ms. Stevenson: No, it hasn't been so far, but that's a good point.

Mr. Easton: I mean, to me it's more of a – I don't know – it's hard to try to put these words into one sentence together – common sense and bureaucracy – but it seems like a common sense sort of approach to understand too, if this is such a bad thing and it hasn't been happening, is it as bad as it may appear on paper.

The other question I had about this flyer is I know there's no other better way to probably word this, but under this, like, don't miss this there's that line: "...provided this isn't precluded by other regulations." So that seems to like to – it seems like when we present this or if it goes out to the – as part of the public package, I'm a little concerned that may raise some red flags. What you mean by that is that you can have your house burned down that's currently noncompliant, rebuild it in its exact footprint, assuming that something other than the Shoreline Act doesn't preclude it? Because we're saying in the Shoreline Act, Your house could be rebuilt. There isn't any – there isn't some sort of – it almost feels like there's a Catch 22 in the way it's worded, like, Oh, it's okay if there isn't something else in the Shoreline Master Plan that tells you you can't do it. I think what we're trying to communicate is: You have a nonconforming structure. It's destroyed. You can replace it – according to the Shoreline Master Plan. Now it violates other parts of the code. We're obviously not going to comment on those. Is that what we intended?

Ms. Stevenson: Yes. So you're saying in terms of other regulations within the Shoreline Program or without _____.

Mr. Easton: I think when we say it with other regulations I think it might be better to choose some wording that makes it clear that other regulations *outside* of the Shoreline Master Plan –

Ms. Stevenson: Right. Yeah.

Mr. Easton: – so it doesn't seem like we're sending them back into the middle of the Plan again to say, Oh, well, go figure out whether or not you're going to get to rebuild. Thank you.

Chair Lohman: You actually have that phrase. I flagged it too. You had it on page 163 and on 164 and, possibly, I think I saw it somewhere else. It said multiple times throughout, and I don't think it's clear exactly what you intend that to mean.

Ms. Stevenson: What phrase? I'm sorry.

Chair Lohman: "Unless precluded by other provisions."

Ms. Stevenson: Okay. Okay.

Mr. Easton: So maybe it's –

Chair Lohman: You say it's allowed and then you say "except," but you leave people hanging on –

Mr. Easton: If we could just clarify that we're pointing them back to the rest of the code.

Ms. Stevenson: We're trying to put people on notice that according to this section of this code it's allowed; however, that doesn't mean that it would be allowed under the entire County code.

Mr. Easton: So what you just said would be clearer than what we – I guess – I would assume – I know that it's longer – lengthier – what you just said –

Ms. Stevenson: So instead of saying "...unless precluded by other provisions of *this* code," should we say "of the Skagit County code"? Is that better?

Mr. Easton: "100% replacement is allowed under the SMP." Period. "If a structure is destroyed, provided that it is" – if it's destroyed, "...provided that it's precluded by other regulations." It's the "other regulations" that seems to imply that we're still talking about the Shoreline Master Plan. We need language that makes it clear that we're talking about the rest of the County code. So if there is another section of code that would preclude that asbestos factory from being rebuilt on the shoreline, then – you know, I mean, like a graphic example, right? – you're not going to build there again. You're not going to build your asbestos factory again.

Mr. Walters: In response to your question about what law, the RCW is cited in the first paragraph of this section, RCW 90.58.620.

Mr. Easton: And that's the one that changes the way in which we – the choice of – what'd you say, Betsy? The way we call a nonconforming use has now changed?

Mr. Walters: For residential.

Ms. Stevenson: For residential it isn't considered nonconforming based on applying these new Shoreline Master Program buffers and standards.

Chair Lohman: They're considered conforming.

Ms. Stevenson: They're considered conforming.

Mr. Easton: So the default is that they conform.

Ms. Stevenson: Right. So, Annie, to respond to your question too, I did find it in here a couple places so we can try to make that a little clearer. I did make a note under 14.26.620(1) and I noticed it in another place, too, where we just say "provisions of this code" – change that to "Skagit County code," at least. Because I'm thinking in terms of flood issues and things like

that. If it's totally wiped out in a flood scenario, there may be other standards other than just going ahead and rebuilding it right in the same location that you might have to take a look at. That's one that comes to mind fairly quickly – for me, at least.

Chair Lohman: Because it's expansion beyond just this chapter.

Ms. Stevenson: Right. Right. But at least under the Shoreline Program you are allowed to do it if you do it in a timely fashion and how it lists under 6. So anyway, okay.

Chair Lohman: Because "this" to me means this chapter.

Ms. Stevenson: Okay. Okay.

Chair Lohman: Is that what you guys think, too?

(several sounds of assent)

Ms. Stevenson: Good comment on the height thing, too. I'll take a look at that.

Mr. Mahaffie: Question for you.

Ms. Stevenson: Okay.

Mr. Mahaffie: 14.26.630(2)(b) – the wording on that: "...must be brought into conformance with this SMP." What if it's not *fully* able to? I would just rather see it read as "best able" or "best applicable."

Ms. Stevenson: I think what we're saying there is if for some reason, like you're saying, it still can't conform they would need to get a variance, perhaps, if they're moving it. We wouldn't want them to move it far enough to get out of the buffer.

Mr. Mahaffie: I'm visualizing a scenario: You have a house that's maybe a manufactured home (and) you're moving it back. You need a variance to move a house that's already there away from a critical area? It seems kind of punitive towards an applicant.

Ms. Stevenson: It would depend on the situation, I guess, because there might be a lot of natural vegetation happening behind where it's located now that you would still be impacting the buffer, if that makes sense. So you'd want to take a look at it. I see what you're saying.

Mr. Mahaffie: I think there's lots out there that aren't 200 feet deep.

Ms. Stevenson: Right, right.

Mr. Mahaffie: And if somebody's moving their house, why would you punish them with a variance to move their house?

Mr. Easton: 100 feet away when he can't go 200 feet away?

Mr. Mahaffie: I just had a – the "must."

Mr. Walters: I think we can definitely draft language to address those.

Mr. Mahaffie: I mean, I like the intent of it. Don't get me wrong. It's just...

Chair Lohman: Is this section where it still is calling it a nonconforming structure, is that other than residential – is what you're calling out there?

Ms. Stevenson: Yes.

Mr. Easton: So do you feel like that's clear?

Chair Lohman: Because _____ a little bit? Because if it was residential it would be considered conforming, right?

Mr. Easton: So Matt's example is a bad example.

Mr. Mahaffie: Yeah. Yeah, that is a bad example.

Chair Lohman: So is 30 referring to everything else that's – but then 40 is Other. Well, it's Uses.

Ms. Stevenson: It's Uses.

Mr. Walters: Other Uses. We do have a note to add additional language to each of these sections to indicate exactly what a pre-existing structure, pre-existing residential structure, pre-existing uses mean – sort of an applicability section for each one.

Mr. Easton: So you believe that language would clarify the question that Annie has about the fact that residential – it should not be assumed that this pre-existing structure under 630 is actually referencing residential? So this section should then only apply to non-residential?

Ms. Stevenson: It is. It doesn't. It doesn't apply to residential.

Mr. Easton: So the only concern I have with that is that it's not – how does the person –

Mr. Walters: That's what we're saying. We'd fix that.

Mr. Easton: That's what you're thinking you're going to fix?

Mr. Walters: Yeah, and we have a note to change the heading, as well. So 630 would read "Pre-Existing Structures Other Than Single-Family Residences.

Mr. Easton: Although it may seem repetitive and awkward, it may seem repetitive and awkward, people are going to assume unless you say it's *not* a single-family they're going to assume it's single-family, so we may have to repeat it and it may look a little chunky but I think it's more important than – for the clarity.

Mr. Mahaffie: So would Replacement – yeah, I was reading that completely wrong. So would Replacement also have – should it be with the single-family home section as well? "A structure damaged..." Or is that referenced somewhere else?

Mr. Walters: What? What is your –

Mr. Easton: Number (3).

Mr. Mahaffie: Number (3). (3)(a) and (b). It's just repairing existing structures. It's not referenced – then it wouldn't be referencing existing homes.

Ms. Stevenson: Under (3) up above in 620: "Replacement is authorized consistent with the provisions of 14.26.630(3)." So it does apply to both.

Mr. Mahaffie: Oh, okay. I'm sorry.

Ms. Stevenson: No, that's okay. These are the questions that we need to have because you guys are our first eyes and ears, and if you're not getting it then we're not doing it right so we need to make sure. Please keep asking questions, and if you think it would help to include the same replacement language in that section (2) –

Mr. Easton: I think that's what I'm getting at.

Ms. Stevenson: I think that's what we probably –

Mr. Easton: I think that's what I'm getting at – yeah. I mean, I know it's not necessarily the best code writing but it's –

Mr. Mahaffie: Even if you could replicate – actually put it in the first one and then have the reference in the lower one.

Ms. Stevenson: Yeah, yeah, yeah. That makes sense. Okay.

Mr. Walters: We did move things around in this chapter several times.

Ms. Stevenson: Yeah. It *is* confusing no matter how we try to do it.

Mr. Easton: I would err on the side of making sure that we repeat it, I guess, is my thing.

Ms. Stevenson: Yeah, okay.

Chair Lohman: So, Betsy, just for clarification then: Anything else outside of a residence that's technically nonconforming under the new SMP, it's considered nonconforming still? It doesn't get the protection?

Ms. Stevenson: That's correct. Shaking my head yes doesn't help on the record, does it?

Chair Lohman: No!

Ms. Stevenson: Debbie won't know what I'm saying but, yeah, that's exactly right.

Mr. Easton: So a nonconforming barn is still a nonconforming barn, but a nonconforming house is no longer a nonconforming under the new SMP.

Ms. Stevenson: Or commercial development or industrial development or all those other things. All it was was for residential uses and appurtenant structures and things like that.

Chair Lohman: Maybe then if we – I don't know – if we let folks know that we're talking about everything else besides houses?

Mr. Walters: Yes.

Ms. Stevenson: We'll clarify that for sure.

Mr. Walters: We'll change the heading and add some additional text.

Mr. Mahaffie: ___ related. I've asked this before. What is the definition of a residential structure?

Mr. Walters: Is there a definition in Part VIII?

Mr. Mahaffie: Where I kept thinking of it was Lake Tyee kind of development. Park models with garage-y roof, old buildings with cabin-y with things built on.

Mr. Easton: May the lord bless us and keep us far, far away.

Mr. Walters: Oh, we did actually just recently look at the existing definition of residential development in Part VIII, and I think we decided that that definition was bad because residential development there only refers to subdivision and not any other construction.

Ms. Stevenson: – yeah, it kind of does both. It mixes them together.

Mr. Walters: So those are slated for significant rewrites.

Mr. Mahaffie: Yeah, that's one of those questions I've asked different people at different times and I've never gotten an actual answer.

Ms. Stevenson: We will try to coordinate that as far as what our building definitions are too, with park models and all that because I'm not that – I know it is an issue and it's different but I need to find out. I can't answer that right now.

Mr. Easton: And Lake Tyee's _____.

Ms. Stevenson: Lake Tyee's a really interesting example to use, but it's kind of special.

Mr. Mahaffie: Right. Yeah, well, there's similar development all up the Skagit River, all South Skagit Highway.

Mr. Easton: Yeah, they brought in those pictures of that one on South Skagit Highway when we did the critical areas ordinance.

Ms. Stevenson: Yeah.

Mr. Easton: The thing that makes Tyee – for those of you who don't know – makes Tyee even more challenging is the lots are radiuses. They're circles and they're primarily sold to Canadians. You can't make this stuff up.

Ms. Stevenson: We'll take a look at that, too. That's a good point – make sure that we have something.

Chair Lohman: On 640, Other Pre-Existing Uses, where you're talking about the uses. As long as they stay within their walls of their nonconforming use building, they're good to go? Is that what you're saying in (1)?

Ms. Stevenson: Yes. If you have a use that's in a structure and it wants to expand into more of the structure without expanding the structure – which is what you're saying: staying within the walls – that would be acceptable. And that's what that says. I hope.

Any other questions in Part VI at this point, or comments?

Chair Lohman: Anything else on this section from the Planning Commission? I'm sure that we're going to find more, because I really did go back to the old memos and the old – because this section, there's more to it than – there's a *lot* of nonconforming uses now and I want to make sure that what we think we have on paper is what we want for Skagit County.

Mr. Easton: Before we move on, I have one more.

Chair Lohman: Okay. Go ahead.

Mr. Easton: So the last one – the definition of “abandonment”: “If the use is discontinued for 12 consecutive months or for 12 months during any two-year period” – probably should, I would think, be consistent and maybe call that “24-month period” – “the nonconforming rights expire and any subsequent use must be conforming.” This is an example of a – would this be the example of a barnlike structure, a nonconforming use structure that was then damaged and not repaired? I'm confused about what would be considered abandonment.

Ms. Stevenson: This is for the actual use – whatever's happening inside the structure, not the structure itself.

Mr. Easton: So why are we defining “abandonment”?

Ms. Stevenson: If it's not – if that use isn't happening in that building for that period of time, then it can't come back into that building after that. We would consider that use abandoned.

Mr. Pernula: Then the new use would have to be conforming with the regulations after that.

Mr. Easton: Ah, I've got to ask you to think on your feet but give me a practical example of that so – the fruit stand –

Mr. Pernula: How about a barn –

Mr. Easton: The fruit stand doesn't operate as a fruit stand and then it loses its rights to be a fruit stand?

Mr. Temples: Yeah, or a barn that suddenly somebody wants to store cars in perhaps? I don't know.

Mr. Pernula: Or if the cars were illegal or if they were repairing cars in a barn and that wasn't the conforming use at the time that it was – it was a legal – it was a legal use but nonconforming, then if it was abandoned for that period of time that use would be no longer a legal, nonconforming use.

Ms. Stevenson: Right. So if that went out – that car repair shop went out of business and wasn't being operated there anymore and then somebody else wanted to come in and do something that was outside of this timeframe, it would be – now you have to –

Mr. Easton: So they couldn't open their new car shop, but they could use it as a barn.

Mr. Pernula: They could use it for any use that's conforming after that ___.

Mr. Easton: So they can't reopen their repair shop but they can use the barn.

Ms. Stevenson: Right.

Chair Lohman: Because isn't the ultimate goal with all these nonconforming is you want to extinguish them eventually? Isn't that what it says in the RCW?

Ms. Stevenson: No, it doesn't really anymore. That's another thing that we're moving away from that. In a lot of the language that's coming out now we are allowing people to repair and fix them where before we didn't want you to do that. We wanted them to kind of go away. So now we're acknowledging that they're there. And although they don't conform to our current standards, we are allowing people to go ahead and, you know, repair things that are damaged or put a new roof on it or make some improvements. So it really isn't the intent anymore, if that makes sense.

Mr. Easton: Never underestimate the power of legislators moving into office who happen to live on the shoreline, because it affects legislation.

Ms. Stevenson: _____ all things, not just for residential.

Chair Lohman: Right, right.

Mr. Walters: And that is the general.

Chair Lohman: Well, I'm thinking things like pump houses and – you know, they're not a residence but over time you need to fix them.

Ms. Stevenson: Right, right.

Mr. Easton: So I would – can you change the two years to 24 months? That seems like it would read easier. That's all I've got.

Chair Lohman: Yeah, but it's only 12 months of the two-year period.

Mr. Easton: But the other two referenced in the sentence are the months, it's better to be consistent with months. Because you're – it's 2 months spread out over the 24 months. It was just an idea. I won't vote no for the Plan if it's still in there.

Ms. Stevenson: I don't have any problem with that if you guys don't. It's fine with me if it makes it better. I agree that two years is the same as 24 months. Okay, I think we're done with that one unless you have other questions.

Chair Lohman: it's not permanently closed.

Ms. Stevenson: Oh, I understand that!

(laughter)

Chair Lohman: Just saying!

Ms. Stevenson: I guess if you do have thoughts and ways that you want to change, we'd love to hear them tonight then.

Chair Lohman: Yeah. Right.

Ms. Stevenson: It's a possibility but, if not, I understand.

Chair Lohman: I mean but when we get this in the more formal process we'll be looking at it again.

Ms. Stevenson: Right. Yes. Okay. Administration now – yes? Is that where we're going to go? So back to the first page of the memo. We added an item number (3) to 14.26.700, which in my copy, which is ones that we copied for you guys, it's on page 166 of the document. And this is just an addition to the Purpose of the Administration section.

Chair Lohman: Was that a DOE request?

Ms. Stevenson: I'm not sure. I don't remember. It may be. It might be – I don't remember for sure and I don't have their copy right in front of me. Item number (2) under Administration is found on page 169 of the document. This is under 14.26.725. We want to add item number (3) there, so instead of (3) being "Skagit County may attach conditions" there, it would be "An application for a limited utility extension, or the construction of a bulkhead...a single-family residence..."

Mr. Mahaffie: From experience, that is an *excellent* addition.

Ms. Stevenson: Yeah. We really need to clarify those things and that was one, I think, that –

Mr. Walters: That was either Ecology or our consultant pointing out that there's that special provision.

Ms. Stevenson: Yeah.

Mr. Walters: I want to point out that in general for this entire chapter the idea here is to integrate the various types of shoreline permits into our existing processes. So that table that you see on page – well, whatever page – in 710, that table is your map for our existing application **muddles** in our existing code to the types of shoreline permits. And that's different from the existing Shoreline Plan where you have a whole different set of procedures.

Ms. Candler: (unintelligible)

Ms. Stevenson: Right. So then what was (3) about conditions attached to the permit would become (4), and then Filing with Ecology would become (5).

The next one is kind of throughout. We're changing "letter of exemption" to "written statement of exemption" because that's actually the process that we use so it better reflect what we do.

Item number 4, 14.26.720: We're moving backwards just a little bit, so that is on page 168 and we're looking at (3)(b)(i). We just wanted to change the language a little bit: "the specific exemption provision from the WAC or RCW that is being applied to the development," rather than being specific to a certain WAC. There are references to exemptions in both the RCW and sections of the WAC, so we just wanted to make it a little clearer by being less specific, if that makes sense.

Chair Lohman: Flipping back, Betsy, to – well, maybe flipping forward – sorry – to page 169 on 14.26.725, Substantial Development Permit. That code reference, 14.26.760, I can't find it.

Ms. Stevenson: Yeah, 720.

Chair Lohman: Okay.

Mr. Walters: A lot of those sections are wrong.

Ms. Stevenson: We've made so many changes.

Mr. Walters: We'll wipe those out. Because we anticipated the numbers would end up wrong, we added the title of the section following the numbers.

Ms. Stevenson: The next one is number 5 in the memo, which is on my copy page 171. This is under section 730(5) – we'll be adding it to talk about Notice. "Pursuant to" the WAC, "upon receipt of Ecology's decision, the Administrative Official must notify those interested persons who requested notification of such decision."

Mr. Walters: I see that we already have a (4) there, so...

Ms. Stevenson: Yeah, we do.

Ms. Candler: So are you changing it or adding?

Mr. Walters: That's a good question.

Ms. Stevenson: I thought we were adding it, but now I'm looking at this I'm thinking the 173-27-200 maybe talks about a different type of decision perhaps, like for a revision or something.

Chair Lohman: I think we already had that.

Mr. Temples: Well, it's now number (4), and that's where the confusion is. Number (4) on that page – it's showing number (5) as (5) on the memorandum.

Mr. Walters: We'll have to take a look at that and see if there's an additional (4) or not, or if we just rewrote (4).

Ms. Stevenson: Yeah, it looks like a duplicate. I'm not sure. It looks the same, doesn't it?

Chair Lohman: Yeah.

Ms. Stevenson: I was thinking that we were referencing, assuming that we – because the reference to the WAC just is the Department review of conditional use and variance permits. So I'm not – yeah, we'll have to look at that again. I'm sorry.

Okay, the next one is under 14.26.735 on page 171 again. We talk about “extraordinary or unique” under the Purpose under number (1). My wordsmith person says that unique is covered under extraordinary and you shouldn't need to say both of those things, so we're suggesting to delete “or unique” out of that. And then down below in number (3)(a)(ii) where we say “unique,” exchange “unique” and put in “extraordinary” there instead, which would be the last thing on the page on my copy. Instead of saying “unique” we'd say “extraordinary.”

Chair Lohman: So you're catching the unique at the very top first paragraph in the (1).

Ms. Stevenson: We're taking it out of there.

Chair Lohman: It took me a while to find it.

Ms. Stevenson: Yeah, I'm sorry.

Chair Lohman: Even though __ circle!

Ms. Stevenson: The next one – go ahead. I'm sorry.

Chair Lohman: Sorry. This would be a recap from last time: So you're going to delete (a) on (1)(a)?

Mr. Walters: 735(1)(a)?

Chair Lohman: Right.

Ms. Stevenson: Yep, that was the next one for number 7.

Chair Lohman: Oh, sorry.

Ms. Stevenson: No, no, no, you're good. That's a good lead on. I'm moving too slow.

Mr. Easton: One more unique and extraordinary.

Ms. Stevenson: That's right. You can't have both. Okay, number 8 then. That's the one that I just mentioned. Sorry I jumped ahead. At the bottom of the page – (3)(a)(ii): Instead of saying “unique” there we're going to say “extraordinary.”

Mr. Easton: Dale, what page are you on?

Mr. Pernula: 169.

Mr. Easton: Thank you.

Ms. Stevenson: Then moving into section 770, which for some of us is page 174. This section we just ended up moving back into Part II and calling it "Boundary Line Determination" because we thought it just fit in there better than here.

Mr. Easton: Yeah, that's cool.

Ms. Stevenson: So that would move to page 52, I think, but it's in Part II.

Chair Lohman: The whole section?

Ms. Stevenson: Yes. Okay, number 10 is in section 795 which is 176 on mine. We're adding in – after (1) we're going to put in a different (2) ahead of what we have as (2) now as Amendment Process and Criteria – to go ahead and discuss what types of amendments there are to the program. So it would be (2)(a) and (b). There's a Limited Master Program Amendment and then there's a Comprehensive Master Program Update.

Ms. Candler: And then are these going to become a –

Ms. Stevenson: So then (2) would become (3). Yeah.

Ms. Candler: Okay.

Mr. Walters: And that change was suggested by Ecology.

Ms. Stevenson: And then (3) is the number 11. It gets renumbered to (3) and we're also going to retitle that "Limited Master Program Amendment Process and Criteria," because that's basically the process that we're talking about there but we didn't specify the Comprehensive Update. The other thing that we noted here is we are going to go back and make changes to the code section 14.06 which is not in the Shoreline Program, but that's where we talk about our permit procedures and processes, so that what we've put down in here for shoreline permits will be reflected in there as well, because right now the Shoreline Program is totally separate and does not really fall under the other portions of the County code. It's been completely separate and now it's actually kind of getting integrated better so it will follow – hopefully there will be some special things in there, but it'll show up a little better there so people can find it.

Mr. Easton: And part of the reasoning behind that is to draw more attention to making sure people are clear about the comment periods for each ___?

Ms. Stevenson: I think so, and just being more consistent with the processes that we have now when we can be if there isn't something special that requires different either notice times or things under the Shoreline Program. The other thing – although we didn't make changes, but I would draw your attention to it again here – one of the things that we're proposing to change – and I think I mentioned this before when we went through this – is that our substantial development process now is a Level – what is that? – a Level 2 that goes to the Hearing Examiner process. Now it would become a Level 1, which is an administrative process, which would happen with notice but it wouldn't necessarily require a public hearing.

Mr. Easton: Well, you're referencing that on page 167?

Ms. Stevenson: The table?

Mr. Easton: You just said substantial development permit would change to a Level 1?

Ms. Stevenson: Yes. It is currently a Level 2 so it will be –

Mr. Easton: So this – but that's not a change off the draft that you gave us.

Ms. Stevenson: No.

Mr. Easton: Because the draft that I have shows Level 1.

Ms. Stevenson: No. Right. I'm just telling you that's what's different about this than what our existing Plan says.

Mr. Easton: The old Plan versus the new Plan?

Ms. Stevenson: Right. Sorry – it's not a change at all in terms of what you've seen before. I just wanted to make sure that you remembered that's ____.

Mr. Easton: And Ecology's okay with that?

Ms. Stevenson: Yeah.

Mr. Easton: They're not showing any concerns about that?

Ms. Stevenson: No. Their laws are written that you would do that so that it would be an administrative process. In the prior document we went ahead and made it a public hearing process.

Mr. Easton: So in our old one we were more restrictive than _____.

Ms. Stevenson: Right. We've opted to go back to making it an administrative process.

Mr. Easton: Okay.

Ms. Stevenson: If that's all they need is a substantial development permit. I just wanted to call your attention to it. So those all the changes that we've made since you got the document, so we can talk about anything else in Part VII that you might want to go over, if there is anything.

(silence)

Ms. Stevenson: All right – good job!

Mr. Easton: Moving on to IV? Are we going to IV next?

Ms. Stevenson: Sure.

Chair Lohman: Dimensional Standards, right?

Mr. Easton: Yeah.

Ms. Stevenson: The other one, Uses and Modifications.

Chair Lohman: Oh, Uses and Modifications Matrix, so page 86.

Ms. Stevenson: Start with 400 – yeah? We didn't want you to spend too much time on the matrix itself because as we're developing the other sections within 400 it's going to get revised and changed, so we just didn't want you to spend too much time dealing with the numbers that are in the matrix. But we can go through it a little bit if you want to, or if there's anything that stood out for you that you had questions on we'd sure like to hear those at this point.

Chair Lohman: Something did jump out.

Ms. Stevenson: Okay.

Chair Lohman: On page 86, (1)(a), where you have the SD/E, it indicates it requires a Shoreline Substantial Development Permit or a Shoreline Exemption. I thought that was confusing, especially when you jumped over to the table, because is it that it requires the permit or is it exempt? How do you – I didn't understand how you –

Ms. Stevenson: It's going to require one or the other.

Mr. Walters: So you would get an exemption if you qualify for an exemption under the list of exemptions in the WAC. So we could add some language to that (1)(a) indicating when you qualify for the exemption. And that list of exemptions is one of the appendices.

Chair Lohman: So when you go back and look at the table and you see – it's pretty clear when you see CU. You know it's a conditional use. But when you see Shoreline Development Permit/E, it's not as clear.

Ms. Stevenson: It's going to be one or the other, depending on –

Chair Lohman: Okay.

Ms. Stevenson: Yeah.

Chair Lohman: So maybe in the – if we could word that to be –

Ms. Stevenson: Okay. Okay.

Mr. Easton: So you expect that we'll come back to the matrix towards the end of our time, before we go out to public comment, since then we'll be more wrapped up?

Mr. Walters: I suppose that we'll bring it back to you at the end of this review process.

Mr. Easton: Yeah, that's what I'd like.

Ms. Stevenson: I meant – yeah, I meant – our last meeting is on the 20th of May. It's going to take us a little while to get it all put together but, yes, before we go out to public hearing we will at least present it back to you and then it'll be your choice how you want to handle that.

Mr. Easton: I just anticipate that the public's going to have a significant amount of – or are going to spend a significant amount of time paying attention to this, and so making sure that we're at least prepared for their testimony it'll be helpful.

Chair Lohman: But there is, I think, a – there was something that came up in the – a year ago, about, and that is the recreational float. I know that I asked this and I went back and reviewed my notes. You have if it's in a Rural Conservancy you have a conditional use, but everything else is a shoreline development permit or an exemption. And so I questioned it back then and I thought that it should be consistent with the other ones and have the same.

Mr. Easton: Where are you referencing that?

Chair Lohman: The recreational float on page 88.

Ms. Candler: Is that 420?

Chair Lohman: In the table.

Ms. Stevenson: Under "Boating Facilities and Other Overwater Structures."

Mr. Easton: Oh, it's under – okay, I looked under – I was looking under "Recreation."

Ms. Stevenson: Okay. We made a lot of changes to that section so we'll have to go back and take a look at it and see if any of those changes reflect a difference here and whether it would require a conditional use or not and just see. I'm not sure. I can't answer that right now but I did put a note here so I'll take a look at it.

Mr. Easton: I concur with the Chairman. It seems to be consistent. It should be ___ also.

Chair Lohman: I remember when – was it Dan that was here last time? He scratched his head and couldn't –

Ms. Stevenson: Okay.

Chair Lohman: He thought it was a mistake.

Ms. Stevenson: Okay, okay.

Chair Lohman: I got the impression he thought _____.

Ms. Stevenson: We'll take a look at it. I don't remember specifically saying that that would require a conditional use, so we'll make sure that – we can double-check that and find out. Thank you.

Mr. Easton: So the comments that were made earlier about recreational floats on Lake – well, specifically Lake Cavanaugh – this is not the section where the size of these are dealt with. That's a section that's still to come?

Ms. Stevenson: It'll be the next – no, I think we put that out further along because it is so technical but, yeah, it will be coming up later as we go through Part IV.

Mr. Easton: I just want to make sure that we note for those at home that we're not blowing off the testimony. We just – or the input – we're not dealing with that at this time.

Ms. Stevenson: Right. And we will take a look at those comments as well and just see.

Mr. Easton: Okay.

Chair Lohman: And probably go back and forth – back again for sure.

Mr. Easton: Yeah, that's what I was thinking.

Chair Lohman: Yeah, because you almost can't look at this in isolation. Okay, moving on – Page 91. This'll be Dimensional Standards.

Mr. Easton: Dale, are you on 90?

Mr. Pernula: 90, Dimensional Standards.

Ms. Stevenson: So the only thing that we did from the version that you got was fill in the last line, I think. Under Hard Surface Limits, for all other upland uses we added some numbers there which we have given to you now.

Mr. Easton: (unintelligible)

Ms. Stevenson: Under number 18 of the memo – I'm sorry – on page 3 of the memo.

Mr. Easton: Did we just skip 17?

Mr. Walters: We did. So 17 is to add a new definition for "Hard Surface." "Hard Surface" is sort of a new term in the Stormwater Manual and NPDES permits.

Mr. Easton: Replacing "impervious"?

Ms. Stevenson: For lot coverage we're calling it "hard surface."

Mr. Walters: So did away with the concept of lot coverage.

Ms. Stevenson: Or site coverage.

Mr. Easton: And called it "hard surface" instead?

Ms. Stevenson: Right, just to try to be more consistent.

Mr. Easton: And you're injecting that where?

Ms. Stevenson: Into definitions, and it's in the last portion of the Dimensional Standard table under Height Limits, then it says Hard Surface Limits.

Mr. Easton: I'm not finding where you're injecting it.

Ms. Stevenson: For me it's page 92. For you I'm not sure what page it is.

Mr. Walters: For the first Dimensional Standards table –

Ms. Stevenson: 405-1.

Mr. Walters: – there are blank cells at the end so we fill in those cells. The table already calls it Hard Surface Limits.

Mr. Pernula: It should be the middle of 91 – those empty cells.

Mr. Easton: So you wanted – all the empty cells will be replaced with the word “hard surface”?

Mr. Walters and Ms. Stevenson: No.

Ms. Stevenson: We just are calling your attention that we're calling it Hard Surface Limits now instead of Lot Coverage or Site Coverage.

Mr. Easton: And the idea is to be consistent with the future Stormwater Manuals, opposed to the one that – not reference the current one that we're under but the ones where we will be in the future? Okay.

Ms. Stevenson: Yes.

Mr. Walters: Sort of the current state of the art and what people are talking about in terms of impervious or hard surfaces.

Ms. Stevenson: Right. And for whatever reason, the version that you received we hadn't finished filling out that table. There were a lot of blank spaces there so we put some numbers in.

Mr. Mahaffie: So is that the definition of hard surface? Pervious surface, permeable pavement, or vegetative roof?

Mr. Walters: That's the definition that we got from the NPDES consultants.

Mr. Easton: Does that not seem like we're playing a game of Sesame Street – Which One Doesn't Belong? Like, who in their right mind would have thought that a vegetative roof is a hard surface? Anyone? Anyone woke up this morning believing that's what it was?

Mr. Walters: So the idea is you have impervious surface, which is something stronger than hard. Hard includes *pervious* pavement and vegetative growth, so your limits should go up.

Mr. Easton: Pervious or permeable?

Mr. Walters: Right. So your limits should go up because you're encompassing more.

Mr. Easton: Your limits should go up because you're encompassing more because your roof is vegetated?

Mr. Walters: No. So you have an impervious surface where water just rolls off, right? You have a pervious surface where some water does penetrate. And then you have a vegetated roof which is basically a pervious surface. Some water goes in, some flows off.

Mr. Easton: And that's all – you put those all three together and that's what you define a hard surface?

Mr. Walters: Well, we didn't put those together. Ecology did. But that's what they're basing their limits on now – hard surface instead of just the impervious surface. So that's why we try to go with that.

Mr. Easton: Wow, that's just – just brutal.

Mr. Temples: Yeah, that's been kind of a new thing. I had a project just a few years ago. It was the same thing we ran into. We were spreading gravel all over this parking lot and they said – came back and Ecology said, No, that's a hard surface.

Mr. Easton: Yeah, I kind of get that a little bit better because you're driving on it, you know, packing it in and stuff. I'm just trying to figure out how my vegetated roof became – I'm thinking of my hobbit house. You know, I'm thinking about my moss roof and, like, how's that become a hard surface?

(laughter)

Mr. Easton: Leave it to Ecology to – Matt, what am I missing here?

Mr. Mahaffie: You're not missing anything. This is one of the problems I've had forever as you give people no incentive to do the right thing.

Mr. Easton: You just really made it a disincentive to do the right thing.

Mr. Mahaffie: Why pay more for pervious pavement or pervious asphalt or porous concrete or why do low impact development if you have no incentive?

Mr. Walters: And we've talked a little bit about that with the forthcoming NPDES update we have to do by 2016. Because the consultant – the original consultant – proposal was, you know, just require people to do pervious pavement and that kind of thing. But the staff idea was, Well, why don't you just *not* do pervious pavement? Why don't you do less pavement? And so what we've tried to accomplish is – because pervious pavement has its own problems. It's a lot more expensive and it requires maintenance in order for it to work. If you have regular pavement it's less expensive. If you just have less of it, you'll have less hard surface overall. And actually I think Ecology is capturing some of that with their definition of hard surface. So I don't remember exactly, but I think that what we did in those discussions was talk about bumping up the limit on hard surface and down the limit on impervious surface to provide some incentive. But I'm not really sure. It's been a while ago. But we're aware of the incentive problem.

Mr. Easton: So is it really important that we integrate this if it's so difficult for us to understand? That it needs to be added to the Shoreline Master Plan?

Mr. Walters: It's analogous to the lot coverage limit that was there before.

Mr. Easton: Vegetative roof? Analogous to the lot coverage stuff before.

Mr. Walters: Well, under lot coverage you would get no credit for _____.

Mr. Easton: I hate to quote Betsy against you – I mean, I would. I'd hate to do it, but I'll do it. The whole idea of writing the Plan is so that common people could read it and understand it. What part of reading that is understandable?

Mr. Walters: Well, if you replace that with lot coverage it would be the same because lot coverage would include a vegetative roof, too. It does strike you as odd, obviously, but it is – it does make sense on that level. It's analogous to the limit that we had before.

Mr. Easton: All right. I won't die on my vegetative roof, I guess.

Mr. Mahaffie: It was just one of the things that I was really hoping to see going forward was –

Mr. Walters: More vegetative roof?

Mr. Mahaffie: Incentives for people to be creative with lot coverage. Why bother when it's just a flat out percentage? There're some neat things people can get creative and do to make their projects work.

Mr. Easton: So we take the second two and instead of making them incentivize we now define them as the same as the worst one, but no one will disagree that the first one's worse than the other two. And the other two, by the way, the next two are more expensive –

Chair Lohman: Well, can't we just reject that definition because it's – obviously we're struggling with it.

Mr. Easton: I don't want to passively agree to it. I know we can't change it in the NPDES and we can't change it in the Stormwater Manuals, and I can't for the life of me I'm not going to get Ecology to think logistically about this correctly. But I don't want to have to approve it by passively approving it by putting it into our Plan. I don't want to agree with their stupidity here.

Mr. Walters: I would advise against adopting a definition that's different from the standard.

Mr. Easton: Then just strike it.

Mr. Walters: Well, what I'm suggesting is I would advise against adopting a definition that's different from the standard definition because understanding all the same terms is useful. But if you want to provide incentives you create another line in the table or remove this line and add a different line that gets at that question of, How do you incentivize some of the good things versus the bad things?

Mr. Easton: Is this where you would put incentives in?

Mr. Mahaffie: Why not? Why not give somebody an extra 5% if x-number of square feet are low impact development?

Mr. Walters: Yeah. So we can talk to the NPDES people and see what they are thinking – the Public Works staff.

Mr. Temples: I think it's a valid question.

Mr. Easton: I think we should definitely consider *where* to put incentives. If we have to work with their definition is one thing, but if we can get around it by at least trying to influence some incentives, then why not?

Ms. Stevenson: We're trying really hard to avoid having conflicting standards whereby one you can do this but the other is going to be more restrictive. So we're trying to kind of address it and start to bring them together both. Like Ryan said, we can go back and check and see. I understand what you're saying. With people who are using Grass Create and things like that now I know in the past practice it's been to not even count that as part of the site coverage, but you start driving over it and a certain portion of that is hard surface. So it isn't totally – it should be included somehow, but at what percentage? So we just decided to try to defer to the people that –

Mr. Walters: A vegetative roof is –

Mr. Easton: Yeah, but nobody's driving on my vegetative roof.

Mr. Walters: Right. It doesn't suffer from the same problems.

Mr. Mahaffie: I don't have a –

Ms. Stevenson: (unintelligible)

Mr. Walters: Yeah.

Mr. Easton: There're other creative things besides Grass Create that need to be considered.

Mr. Mahaffie: And Grass Create is – I don't have a very high opinion of it personally and it's the one thing that *is* allowed.

Ms. Stevenson: I know.

Mr. Mahaffie: Where, you know, a well maintained porous concrete does a better job. But it's maintenance so – I mean, people have to want it. It can't be required.

Mr. Easton: ___ a case to Ecology about being progressive about less pavement. I mean, how is that – how did we end up on this side of the argument having to defend that?

Mr. Meenaghan: What is Grass Create?

Mr. Mahaffie: It's specially formed concrete blocks that you fill with sand and soil and let Irish moss or grass grow. Use it for a driveway surface. And it does not – you know, if it's an

occasional maintenance way it works good. Something somebody drives on everyday it just turns into – it's impervious, you know, if you drive on it everyday...

Mr. Meenaghan: Gotcha.

Mr. Easton: _____ the other way it becomes pervious.

Mr. Mahaffie: Impervious.

Mr. Easton: ____ pervious _____.

Mr. Mahaffie: It becomes more solid the more you drive on it. You know, things don't grow where you're driving all the time.

Mr. Easton: Right.

Mr. Walters: So maybe that's a good example. And there's some of that right across the street from the Guemes Ferry in a driveway, but then you go up the street there's a different driveway where they just paved the strips where you drive instead of, you know, 20 feet across. And that strikes me as a much better option – cheaper, actually reduces the impervious surface versus some question of whether or not it's impervious or not _____ isn't maintained.

Chair Lohman: But in that middle area it's called permeable pavement, right?

Mr. Mahaffie: In the middle area people just – you would, on paper, call it native soil, but it never ends up that way. People scrape the whole thing, form the strips, pour it, back-fill it with crushed rock or, you know, it's just a way around things usually. Even if grass grows up in gravel and makes it look green it's still gravel.

Mr. Easton: I'd love for you to grab up some opportunities to discuss and inject incentives, and I will trade you that for this dumb definition.

Mr. Mahaffie: I mean, when people are doing permits in the County this is probably 75% of shoreline permits come off of this table, as far as residential, as far as the work people do. In my humble opinion, that's the most important – these two pages are the most important thing in this whole Plan.

Mr. Easton: So you want to move to chloride limits here?

Chair Lohman: Can I jump back to the table again? Why is it at 25 feet and not 35?

Ms. Stevenson: What are you looking at?

Chair Lohman: On the table where you're talking height.

Mr. Walters: You mean the dimensional table, Height Limits for All Other Uses? Or Residential?

Chair Lohman: Height Limit for Residential Uses.

Ms. Candler: What page?

Chair Lohman: Page 91.

Ms. Stevenson: So if you're within the required buffer we just said your height should be less. We have that sort of in our Program now where if you're between 0 and 100 feet your height limit is something and if you're between 100 and 200 it goes up __. It can make your building taller. So we kind of reflected something similar here.

Chair Lohman: Because when you look at the buffer width there's going to be hardly anything. Well, it's – the buffer width is almost the same as the shoreline.

Ms. Stevenson: In certain areas it is, yeah.

Mr. Easton: So are you proposing to take it from 25 to 35?

Chair Lohman: Yeah. I don't know. I'm asking is that 25 – because when you get out your tape measurer and start figuring out what that is it – it's definitely one-story houses for sure, possibly a story-and-a-half.

Ms. Stevenson: It could be two. It could be two.

Chair Lohman: Could it? On a flat line.

Ms. Stevenson: You could get two in 25 feet. The other thing, I guess, that we're trying to do is in our existing Program we have a standard in there that has you actually go out and measure the average setbacks of everything within 300 feet either side, and if your average is more than what our required setback is you have to stay back that average. We're not proposing to do that in the new code, but we wanted to address situations where if people are planning to build within that existing buffer that they are kind of protecting the views from surrounding properties so that this would be an allowed height if you're actually building within the required buffer area. But that doesn't mean if you wanted to go taller you couldn't apply for a variance to do it, but then your neighbors would be notified and could weigh in on it. So that was the thinking on it. You still may not agree with it but that's what we were thinking. And then if you do, you know, meet your buffer, then you could go up as high as 35.

Chair Lohman: Anything else on the table? I have one other thing on this page. Jumping up above Dimensional Standards, number 16, you say "Subject to administrative CUP." I know what you mean, but can we write the words out?

Ms. Stevenson: Yes.

Chair Lohman: Conditional Use Permit.

Ms. Stevenson: Yes.

Mr. Temples: It could be right after it, too.

Chair Lohman: Yeah, you could.

Ms. Stevenson: We did write it out in number 14, so yes, we can.

Chair Lohman: When you're referring to the acronym that's different.

Ms. Stevenson: That 16 may go away.

Mr. Walters: A lot of the footnotes are _____.

Ms. Stevenson: We were thinking about doing administrative conditional use permit and now we – it just seemed complicated at this point so we're not proposing it anymore, so that one may go away anyway, but so noted. When we say CUP we'll try to spell it out where we need to.

Mr. Easton: So Part – Part – number 19 but Part V: What page is that on?

Ms. Stevenson: Part V is the critical areas section.

Mr. Walters: And we didn't make any specific suggestion about *where* to shove it in there, just somewhere.

Ms. Stevenson: Probably under the Aquifer Recharge.

Mr. Easton: Oh, so you're just asking for input about moving that into the critical – into the Part V?

Ms. Stevenson: It doesn't really fit under Dimensional Standards, which is where the GIPAC folks kind of had it.

Mr. Easton: Oh, okay.

Ms. Stevenson: If that makes sense.

Mr. Easton: Yeah. And that leads me to the next question then, which is the GIPAC questions.

Ms. Stevenson: Uh-huh.

Mr. Easton: I've heard both from the Chairman privately and then again, obviously, tonight from the representatives. Probably the biggest issue that I'm concerned about in relationship to the critical areas ordinance is this mapping issue. Somehow they have – I *think* they must be mistaken, but maybe I'm wrong. Somehow they have an impression from you, Betsy, that the newest – that their maps are better than our maps and that – but that their maps are not going to be allowed to be referenced in our SMP. So I'm confused by that. Maybe I got that story wrong, but help me – and they use this phrase – and, granted, when I ran into the Chairman I was at an establishment where adult beverages are served so I may not remember this perfectly, but he said something like, We walked it, we investigated the shoreline in relationship to this. So did they map these themselves?

Ms. Stevenson: Yes.

Mr. Easton: And is that a factor to why we're not willing to include them?

Ms. Stevenson: I don't think it actually comes down to not being willing to include them. I've met with them several times – I met with them again on Friday for a couple of hours, and we did go through the map out of their subarea plan, which – just, I guess, to give you a little brief

background – you guys – not all of you but some of you were here when their subarea plan was adopted, and all they're trying to do now is implement what's in there. So one of the areas that they talk about is for shoreline stuff, so they did prepare a map using the new Ecology environment designations. So part of the time – actually, quite a bit of the time – in meeting with them on Friday was going through where our maps differ. And our map is based on the Shoreline Inventory and Characterization Analysis that was done early in the process. So part of it also, they extended certain sections. By definition, we define Shoreline Residential as those small little lots, so a lot of it they just continued on with the different designation to make it more continuous. There are a couple of places where we didn't necessarily agree so I'm going to have to go back to that document – and we just met on Friday so I haven't had a chance to do that – take a look at those recommendations and why they are that way. I mean, I did tell them and I asked them to specifically write a letter and get some comments in now to you and to me, so that's part of why they came. It's not that they're so upset with how we're going things. We are still dialoging and working together.

But I did want to go back to that document, see what it said, and I did tell them again that our document is based on, you know, existing information and mapping work. It wasn't field-verified. So a lot of their information – you know, if they were out there actually doing the field work, I'll have to take a look and see who was out there doing it and all that sort of thing. So there's a possibility. Some of it, in terms of the Natural areas, we wanted to make sure – and this is something that the Advisory Committee said; this is something that you guys said: If we're going to call it Natural we want to make sure that we've spoken to the landowners so that they're aware of that, make sure that that's going to be something that's okay with them. The Natural designation under the proposed new SMP is a little bit less restrictive than the existing Natural, but it still is more restrictive than the other designations. So we want to at least have that dialogue and we haven't done that yet. So that's something else that – you know, some of the areas that they've designated as Natural we still have as Rural Conservancy.

Mr. Easton: So I would suggest two things.

Ms. Stevenson: Okay.

Mr. Easton: I appreciate your comments, and I'm glad to hear that it's not from a place of us disagreeing – we're still dialoging.

Ms. Stevenson: Right.

Mr. Easton: I'd like something similar to a staff report responding to this letter because it's so well-drafted and has so much. To me, you can't have a Guemes Subarea Plan that doesn't function and connect well with the SMP or we're not really accomplishing the update in general. And so that would be helpful – something that's kind of point by point. I'm a little concerned about, like, where this fits – knowing how these fit inside which chapters and how that sort of comes together. I just don't want it lost in the discussion. I would really not want to see this get kicked to deliberations so I'm really thankful you encouraged them to come in now, because this is the kind of thing that would take too much time to do in deliberations. And I have further concerns about the notification request.

Ms. Stevenson: I really don't have a problem with that. I'm perfectly happy to put it in there for the shoreline.

Mr. Easton: Well, to me, if we're naming local – small, local papers about where we're – I mean, the *Herald* is the paper of record for legal purposes. It gets a little bit weird if we start talking about people who are producing in their house – and I'm not trying to belittle what they're doing at the *Evening Star*. I'm just saying, you know, what if two years from now that thing goes defunct and they change the name and now are we subject to making sure we're their local paper when it's now called something else. So I don't know how that all works together here.

Mr. Walters: Well, and all the legal notices go onto the County website on the Planning page, so the *Evening Star* could be retrieving that.

Mr. Easton: Well, and I understand their request. In a real world, they're talking about a significant portion of those there who may not – who use Guemes as a place to escape from the Internet as opposed to spend time on their wireless devices and check the County website. I mean, I get – I kind of understand where they're going with this. I'm just uncomfortable with the idea of naming some small paper as the place of – the place of record for that island if that's going to change, because it could change in a couple years. We're talking about a plan that should stand the test of certain portions of time. That's all.

Mr. Walters: Well, and Betsy pointed out that the paper name *has* changed.

Ms. Stevenson: I think it has.

Chair Lohman: I think it's the *Tide* or something.

Ms. Stevenson: Yeah.

Mr. Walters: So we would not write the paper name in.

Ms. Stevenson: Right.

Mr. Easton: I realize you're going to bring us back a bunch of stuff about this particular topic, but...

Ms. Stevenson: I didn't have a problem with doing that if that's the way they prefer to be notified. And also some of the public notice requirements in the Shoreline Program are a little bit different than what's specifically in our County code, where it does talk about local – publications of local circulation and things. So, I mean, I think –

Mr. Easton: Well, if that's there then that's fine. That makes sense to me.

Ms. Stevenson: Yeah. Yeah.

Mr. Easton: That probably keeps us from dealing with the *Evening Tide* versus *Guemes* –

Ms. Stevenson: Right, and I don't know that we name it. I think we call it something more general.

Mr. Easton: Probably call it what the code just called it: the local paper of circulation.

Ms. Stevenson: Publication, because I don't even know that it's a paper.

Mr. Easton: Right.

Ms. Stevenson: Publication of, you know, local circulation or something, but I didn't have a problem doing that for shoreline permits. I think it's okay. If you guys have – it's consistent with the state things in terms of shoreline requirements. If it's something that –

Mr. Easton: I appreciate the update on the Guemes side. So that's helpful.

Ms. Stevenson: I did tell them I didn't know if that was going to fly for everything else.

Mr. Easton: I live the closest to them of all the Commissioners so they were happy to run into me.

Chair Lohman: Okay, are we ready to move on?

(silence)

Chair Lohman: Okay, we're on Agricultural Activities. Do you want to start on the code or on the Comp Plan?

Mr. Meenaghan: Maybe page 94.

Chair Lohman: Why don't we start on page 94?

Ms. Stevenson: Okay.

Mr. Walters: So we had no changes to this section, having worked through it extensively with Annie and others last year.

Ms. Stevenson: Right. I don't know if we got it the way you wanted it, but we did – this is what came to you based on the comments that we thought we heard from the last time around with you.

Mr. Easton: Did this get reviewed by the Agricultural – Ag – what am I thinking of?

Ms. Stevenson: Ag Advisory Board?

Mr. Easton: Excuse me – yeah, the Ag Advisory Board?

Ms. Stevenson: I'm going there after this meeting so it'll be next Wednesday.

Mr. Easton: Okay.

Ms. Stevenson: We wanted to wait until you guys had a chance to look at it again.

Chair Lohman: I didn't see anything that –

Mr. Easton: I just want to see their comments. I don't have anything.

Ms. Stevenson: Yeah.

Chair Lohman: I like the table – or the flow chart.

Ms. Stevenson: I think it really helps. Ryan did a good job on that early on in the process, and anytime we can try to make it easier we really are trying.

Chair Lohman: And I liked what you said right at the beginning on Applicability. I thought it was very clear.

Ms. Stevenson: And this one, again, is a little bit confusing, so I think it helped a lot. Annie, thank you for your help.

Mr. Walters: That was another note I was thinking about. As we move through the 400s – all these different uses – you won't see it reflected in this document and probably not in the memos that come forward, but we're trying to reorganize them so that in every one there's an Applicability section, there's an Application Requirement section, and then there's the Standards that you have to follow. So this one probably won't change and Aquaculture probably won't change and Boating Facilities may be too complicated to make it that way, but for the others we're trying to adopt a standardized format so it's easier – with bolded headings so it'll be easier to see.

Chair Lohman: Okay, so anything from anybody else on this section?

(silence)

Chair Lohman: So we'll jump back to the Comp Plan?

Ms. Stevenson: Sure. So I – you have this. This would be 6A – what is it in there? It's 6C still, right? We changed the numbering on you, so 6C-1. I don't think we made any changes here either from what we did before, but since some of you weren't here...

(staff and several Commissioners talking at the same time)

Ms. Stevenson: So we're in the front of the document and this is the portion of the document that will go into the Comprehensive Plan. It's going to split up into development regulations in the Comp Plan. So it says 6C-1. We've changed that to 6A-1 now. But I think that's the only change that we made, is just in the numbering and the formatting of the Policies.

Chair Lohman: I think your example of using the Northwest Clean Air Agency doesn't fit now that you took out burning. I believe in an earlier draft you had burning in there.

Ms. Stevenson: Okay.

Chair Lohman: Because when you read it you're going, What?

Ms. Stevenson: Okay. That makes sense. So if we just delete that?

Chair Lohman: Yeah.

Ms. Stevenson: Just delete that.

Chair Lohman: Do you need the example?

Mr. Walters: No.

Ms. Stevenson: I don't think so. If you have another one you think would fit better?

Chair Lohman: I don't think you need the example at all.

Ms. Stevenson: Okay.

Mr. Walters: There're many, many places where it says state.

Chair Lohman: Yep.

Ms. Stevenson: Okay. Thank you.

Chair Lohman: That was the only thing I saw.

Ms. Stevenson: Okay.

Mr. Easton: I had one question on Drainage. Maybe that's too far if everybody wants to do something sooner.

Chair Lohman: What page are you on?

Mr. Easton: 16. 6C-1.4, little b. So you just took out the clean air reference but it says it's current policy but it's modified. What part of this is modified? Because it read to me like – I don't know, Dave, if you could help me – but it reads to me like that *is* current policy. I'm just not sure what you modified about that.

Mr. Walters: Maybe we added the example of the Northwest Clean Air Agency.

Ms. Stevenson: Yeah – I don't know!

Mr. Walters: At the time of adoption of the prior plan it was called something else – Northwest Air Pollution Control Authority.

Ms. Stevenson: Or we may have taken out the burning reference.

Mr. Easton: I mean, I know it's just our reference but I'm –

Ms. Stevenson: I can run and get my Comp Plan. I don't know.

Mr. Easton: No, it's okay. We can check on it later. I just – if we did modify this policy, I'd want to know how we did this. That's obviously extremely important to our agricultural community.

Ms. Stevenson: We'll take a look. I'm not sure.

Mr. Easton: We're going to have another moment to talk about this anyway when you get back with us about what the Ag committee thinks anyway. So if you want to wait for that – I would think you're going to get back to us about how they feel. I would hope.

Ms. Stevenson: Yep.

Mr. Walters: So then we didn't think that we should get into Aquaculture because we didn't know if we would get to it in this meeting and if we got to it late. People might want to come to talk about aquaculture or listen.

Mr. Easton: I was going to ask if under that topic, Can we re-extend an invitation to our aquaculture experts? I don't really want to spend time on aquaculture without having – if we're going to have some questions, I'd like to have those guys here.

Mr. Walters: You may be hearing a lot from them.

Chair Lohman: Well, and you struck it from –

Ms. Stevenson: Right.

Mr. Easton: I'm talking about for the next time it's on the agenda.

Mr. Walters: We didn't want them to come and sit through the whole meeting and not get to it.

Mr. Easton: Makes sense. But they do plan on coming?

Ms. Stevenson: I haven't heard back but I would assume so.

Mr. Easton: Well, let's plan on ex – I think we should extend them an invitation.

Ms. Stevenson: They've been invited and are aware of when it is – all of the SAC members, actually. But I will do that again at your invite this time instead of mine. And we'll start with that on the 15th, right?

Chair Lohman: Yep.

Mr. Easton: Sure.

Ms. Stevenson: Okay.

Chair Lohman: Okay, so we ran out the list.

Mr. Easton: That's a good problem to have.

Chair Lohman: And it's five minutes after eight.

Ms. Stevenson: Nice work!

Mr. Walters: Well, we also – we talked to Ecology last week and I think as a result of that we're going to delete Part II, or almost everything in Part II. Part II is all those duplicate environment designation policies that are duplicated word for word in the Comp Plan sections.

Mr. Easton: Oh, you talked about this last time.

Chair Lohman: You're talking about capital Roman numeral II.

Mr. Walters: Right, Part II of the development regulations, so there will be very little left in there.

Mr. Easton: What page does Part II start on?

Chair Lohman: 52.

Mr. Walters: Oh, we went through –

Ms. Stevenson: We talked a little bit about the Public Access and he did kind of agree in terms of some of the dike and levee issues – that there are standards –

Mr. Easton: Ecology did?

Ms. Stevenson: Yes. There are standards in terms of other tests to look at in terms of safety and all that sort of thing.

Mr. Easton: Pre-existing accesses?

Ms. Stevenson: Yeah, and their standard is based on something new, but they're open to all that.

Mr. Walters: We think we can get to where you want to go.

Ms. Stevenson: They're open to all that. I did have a meeting after our last meeting with a representative of one of the dike districts so we were able to talk a little bit more, so we may do some clarification. He'd like for us to specifically address that. So I think we can try to do that, too, so there will be a little bit of something coming back on that.

Mr. Easton: The proportional language that allows the Administrator to proportionally decide how much public access would be appropriate – the phrase was “proportional to” is there that has the most – I have the most heartburn about – if a hundred-million-dollar project needs ten million dollars. Did Ecology talk about what those kinds of standards – what that meant?

Mr. Walters: We didn't talk that level of specific.

Ms. Stevenson: No.

Mr. Easton: But they did say that there was some flexibility there?

Mr. Walters: Yeah.

Ms. Stevenson: Yes.

Mr. Easton: Let's knock that door.

Ms. Stevenson: Right, right.

Chair Lohman: Yeah. I had a member of the public express concern on costs for providing maybe public access. It could get really prohibitive.

Mr. Easton: And it takes away from the safety.

Chair Lohman: Well, or even maybe if it – even if it isn't maybe if it falls within a percentage. To keep it and maintain it can turn into a ____.

Ms. Stevenson: Part of that, too – the burden of proof has been put back on the local government entity and that's why we have to provide findings that we meet both the proportionality and the nexus requirements. So some of the laws have changed along that line.

Mr. Easton: So where I'm uncomfortable is that you can't set proportionality or nexus just on a *new* project. If you have old projects on both sides – like I met with the Mayor of La Conner about this since we met last, and if they were to add on to one of their dikes or levees the public access that was on the existing – that was maybe near the end of where their current levee is – would not be considered part of the project because it's new the way that Ecology's defined it. So then now – and the nexus about whether or not that's public access. If the public access is there but you add on to the dike near it and you can't get credit for it because it's not part of your new project.

The other issue is one that – since the article in the paper came out, one of the members of the dike and drainage community contacted me and their concern – one of their concerns – was they don't actually own – and I think Josh touched on this, too –

Ms. Stevenson: Right.

Mr. Easton: There's a significant amount of it that they have dike and drainage issues on – or dikes and levees that they don't actually own, so how can there be – how do we hold them responsible for it when they went from a maintenance point of view and some of these –

Ms. Stevenson: Right. And that's why all that language is in there that talks about you go through these things and show why it isn't feasible, and it's up to, again, the local entity to determine, you know, what's appropriate. If there's existing public access in the area and what you're proposing to do doesn't have enough of an impact, I guess, or isn't taking away public access then you may or may not be required to either provide additional or make some kind of an improvement. Like I said at the last meeting –

Mr. Easton: The exemption – is that off the table? Do you think the exemption will be off the table with Ecology?

Ms. Stevenson: I don't know. Just something at the total exception. I mean we have some language in there for exceptions.

Mr. Easton: Not meaning complete exception.

Ms. Stevenson: Yeah. And you're just talking for the dike districts now, or are you just talking –

Mr. Pernula: For dikes.

Mr. Easton: I'm talking for dikes.

Ms. Stevenson: For new dikes?

Mr. Easton: For new dikes.

Ms. Stevenson: That's one of the things we –

Mr. Easton: I mean, I don't know if I have five votes here to even get that far or whatever.

Ms. Stevenson: We're going to try to be a little clearer because it's still kind of up in the air and they would still have to go through some of the process.

Mr. Easton: So you plan to come back to us with that one?

Ms. Stevenson: Yeah. Yeah.

Mr. Easton: Cool.

Chair Lohman: Not all property is low bank, and I'm not talking specifically a dike. You know, so some property to provide that public access it is a lot more of an arduous task.

Ms. Stevenson: Right.

Mr. Easton: Safety's _____.

Mr. Walters: Well, and we have those provisions that address all those concerns, but we are revisiting all of that language to try to capture all the comments from that last meeting about it.

Mr. Easton: And we talked offline, but Betsy, when she met with the representative that reached out to me, we have a commitment to that community that we will invite them also? I'd like to commit to invite them also. So the night that that – we give them notice of the night, like we're doing with aquaculture – that we let them know what night it is we're going to review that section. We can use that person that – to get the word out to those folks so that they're at least available to us?

Ms. Stevenson: Okay.

Mr. Easton: Does that make sense to you? I don't want to have a conversation – I don't want to go back and revisit dike and drainage without – it'd be nice to have somebody from the dike and drainage field here when we have that portion of the discussion.

Ms. Stevenson: Okay.

Mr. Easton: I'd like to invite them.

Ms. Stevenson: I'm not sure when that's going to come up again in these study sessions. That's –

Mr. Easton: So where do you see it coming up again then? You said we're going to need some clarification so I thought that meant it was coming up again.

Ms. Stevenson: Yeah.

Mr. Walters: Well, as a general matter, these little changes that we're making we're not bringing back to you in study sessions. We're just bringing back the whole document. But like with the previous section that we did, whatever that was. Maybe it was – it was Public Access. Did we already do two sessions on Public Access?

Ms. Stevenson and Chair Lohman: Yeah.

Mr. Walters: Yeah, so we could do a third one.

Ms. Stevenson: Yeah.

Mr. Easton: Well, maybe it's just a part of the beginning of a meeting and we invite them to come to the front of it. We hear what your guys' update suggested language is. We give some input and ask a question. It doesn't have to be more than a, you know, ten- or fifteen-minute – I don't know. I'm not trying to create a third session on Public Access, but I'm far from – this is a significant area of concern for me.

Ms. Stevenson: Right.

Chair Lohman: I think, though, that we said at the very beginning if we needed more meetings that we would do it.

Ms. Stevenson: Right.

Chair Lohman: And I think when you – we hashed on that pretty hard and I would rather see the language before it becomes closer to a final –

Ms. Stevenson: Okay.

Chair Lohman: – so that we can make sure that what we all saw and talked about is what we're moving forward.

Ms. Stevenson: Okay. I'm just trying to be respectful of your time –

Mr. Easton: We appreciate that.

Ms. Stevenson: – and not add too much to it because this could go on forever. But if you're willing, I'm more than happy – we're happy to bring it back to you again. And we can certainly invite them to come when we talk about it.

Mr. Easton: Well, it's a significantly easier situation for you guys to deal with now that Ecology's waiting than where you being able to discuss it about with us before, so that's going to change the tone of the comments. Because you'll be able to capture how we were feeling better now in language than you could have when you thought you were running up against Ecology.

Ms. Stevenson: Yeah.

Mr. Walters: And I imagine that'll be probably toward the end of your scheduled sessions.

Mr. Easton: Sounds good.

Mr. Walters: And then, finally, we got comments from them on the Aquaculture section which were very minor. We made some changes that you'll see in the next meeting. They had a lot of comments that were self-conflicting –

Ms. Stevenson: Yes.

Mr. Walters: – that we just didn't...

Mr. Easton: Just chose to not pay attention to?

Mr. Walters: No, we talked through it. We talked through it and then did no change. It was very good.

Ms. Stevenson: We never did reach agreement on _____ our subcommittee from the SAC, which I'm sure you could tell that that was probably not going to happen. So you – if they are able to come – you will hear that again, I'm sure.

Mr. Walters: I feel like we have agreement in principle, just not agreement.

Chair Lohman: Well, I'm not sure we're going to have agreement on the Plan in general. Any other comments on where we're at up to this point from anybody?

Mr. Easton: We're making progress.

Chair Lohman: Okay. So shall we move on on the agenda? Item number 5, Department Update.

Mr. Pernula: I sent you an e-mail with an invitation to attend the Planning Short Course. There's two of them that are scheduled right now. One is April 10th in Lynnwood and the other is May 14th in Arlington. And I sent it to you by e-mail but I also printed out the flyers. They're pretty good Short Courses. They're three hours. They are from 6:30 until 9:30 and I have the agendas if you are interested in attending those. They're free.

Mr. Temples: Where in Lynnwood?

Mr. Pernula: Pardon?

Mr. Temples: Where in Lynnwood?

Mr. Pernula: In Lynnwood it is Lynnwood Convention Center, yeah.

Mr. Temples: I know exactly where that's at.

Mr. Pernula: And in Arlington it's at the City Council Chambers. And if you're interested in going they're free. We'll pay for your vehicular costs. So let me know.

That's all I have.

Chair Lohman: Okay, Jason? Planning Commission Comments, item number 6 on the agenda.

Mr. Easton: I want to add a comment to this issue about the Short Course. The last time I took a Short Course, which was definitely helpful, the speaker – there was a gentleman who was a former member of the Planning Commission in Seattle. He's also an attorney. And he's speaking at the Lynnwood one, so if you have to choose between the two, I would recommend Lynnwood. He was outstanding. And to have somebody who had actual, practical experience of being on a planning commission who was teaching the course, as opposed to just people with the bureaucratic experience, **was a help**. So are we at the comment period? Okay.

So what I made copies for you of is an article –

Mr. Temples: Oh, could I add one more thing to that?

Mr. Easton: Yeah.

Mr. Temples: If anybody here is planning to go down to Lynnwood let me know and maybe we can ride together because I know exactly where to go.

Mr. Easton: So we have here – at the last meeting I mentioned tidal power and shorelines issues that tie into tidal power, mostly for the upland facilities for potential tidal power. Simply for the people at home that don't know what tidal power is, it's basically – in really layman's terms – it's putting turbines in the water where tidal action would spin the turbines and use that type of energy to create power. Well, I was curious about whether we had addressed this and we sort of had some questions about it for staff, and I just happened a couple days after that meeting to come across this.

So just to the south of us, the combination of Island County – because the actual – you'll see here that the actual project is in Island County, just off of Admiralty Inlet, but it's being done by the PUD out of the Skagit County PU – or *Snohomish* County PUD – excuse me – Snohomish County PUD. They've already got a federal license to begin the process. This is a – basically going to be run as a test project, when you read the article. I just thought it was something that we should be aware of. I'm a little concerned that we don't – and I've already covered that with staff that I want to make sure that we consider whether we need to address this or not. But I'm – we're giving them some time to do research before we hear back about that. But just so you're aware, it's going on and it's going on right to the south of us. There are some areas in our county, particularly around Deception Pass, that have been mentioned by others in this industry as being a potential area where it could happen. Whether – I mean, they're a long ways off from any project, but there's clearly enough tidal force – stand on top of Deception Pass and look down, or ride in there on a boat – why tidal force there has potential.

Mr. Temples: Well, this started into discussion about five years ago and now it's become a reality, so you're absolutely right.

Mr. Easton: Something about this may come in our direction before the next time we update the SMP. And maybe it would be helpful to reach out to Snohomish County and find out what their section on tidal is like – or if they've done their SMP update. I don't know. Because then we could borrow from them. Maybe that would be helpful. I just don't want it to not get addressed.

Ms. Stevenson: Yeah.

Mr. Walters: Maybe Island County.

Mr. Easton: Well, true. Right. Yeah, actually it might be Island County, and Island County's actually finished their SMP, correct?

Ms. Stevenson: They're working on it.

Mr. Easton: Oh, they're –

Ms. Stevenson: I don't think it's been approved yet.

Mr. Easton: Oh.

Ms. Stevenson: But maybe it has.

Mr. Walters: We could be the first county to add a section on... lunar power.

(laughter)

Mr. Easton: Wow. Okay, that's good. I like that.

Mr. Temples: Don't forget hydro – what do you call it? – hydroculture.

Mr. Easton: It's probably a hard surface deal. I'm just saying. Probably a hard surface.

Chair Lohman: Okay, anything else from the Planning Commission? Okay, do we have a motion to adjourn?

Mr. Easton: So moved.

Chair Lohman: (gavel) We're adjourned.