

**Skagit County Planning Commission
Deliberations: 2017-2022 CFP & TIP
Update: Rural Forestry Initiative (RFI)
October 19, 2016**

Commissioners: **Josh Axthelm, Chair (absent)**
 Annie Lohman, Vice Chair/Acting Chair
 Kathy Mitchell
 Tim Raschko
 Hollie Del Vecchio
 Amy Hughes
 Martha Rose
 Kathi Jett
 Tammy Candler (absent)

Staff: **Dale Pernula, Planning Director**
 Ryan Walters, Assistant Planning Director
 Forrest Jones, Public Works Transportation Programs Section
 Manager
 Kirk Johnson, Senior Planner
 John Cooper, Planning Geologist

Public Remarks

Commenters: **Ellen Bynum, Friends of Skagit County**

Acting Chair Annie Lohman: (gavel) Okay, I call to order the October 19th, 2016, meeting of the – it's a special meeting of the Skagit County Planning Commission. We are missing our Chairman currently so I am the – I'm the Vice Chairman so I'm presiding until the Chairman arrives. So is there any changes to the agenda?

Kathy Mitchell: No.

Chair Lohman: Okay. So moving on to item number 2, Public Remarks. If you could state your name and your address and we'll give you three minutes.

Ellen Bynum: I need three minutes – that's it – and the overhead if the overhead person is ready to go. Good evening, Commissioners. Ellen Bynum, Friends of Skagit County, 110 North First, Mount Vernon.

I just wanted to call to the attention of the Planning Commission the North Fork – proposed North Fork Skagit River Delta Project that is being proposed under the Puget Sound Nearshore Program of the U.S. Army Corps of Engineers. It has now – we had a comment period on it and it has now received approval but it doesn't have any funding allocated. This is a federal program to take about 263 acres of farmland out of production. The landowners that own the land do not even know this program is going on. So I just wanted to bring this back to you because we talked about it before with regard to Skagit's emphasis on conserving farmland and keeping it for the future and the economic value of it. And I'm not certain what the strategy's going to be

and some of the farming groups are going to get together and figure out if they could propose something different. The problem is that the project has been in the pipeline for quite a long time and the Army Corps is quite a big behemoth and it doesn't like to relinquish projects that it thinks is good. The other part of it is that the Puget Sound Partnership is supporting the project. I don't think they actually know the implications of it. 70% of the water from the Skagit River now goes down the North Fork rather than the South Fork. As a result of that, the river has carved out a new channel, if you will, that is depositing silt along the backside of the dike. And that will create some of the habitat that they're trying to say that they need for fisheries enhancement and wildlife refuge. And I would recommend that we stop converting productive ag land and see what the river does, and spend that millions of dollars – I think it's 243-million or something – on something that is working *with* the river instead of against it, and *with* people instead of against it. Thanks.

Chair Lohman: Anybody else for Public Remarks?

(silence)

Chair Lohman: Okay, seeing none, we'll move on to the third item which is Deliberations for the 2017-2022 Capital Facilities Plan and the Transportation Improvement Program. Dale?

Dale Pernula: That will go to Ryan. He has the –

Chair Lohman: Ryan?

Mr. Pernula: – information.

Ryan Walters: So you held a public hearing on this on September 20th and we had written comments submitted through September 22nd. Those are available on the Capital Facilities Planning website, which is skagitcounty.net/cfp, and that's always the address every year. We do this update every year to make sure that we are maintaining an accurate inventory of our capital facilities, an accurate projection of our future needs, and the project list. There's a staff report and I think the Planning Commission is fairly familiar with the concept of the Capital Facilities Plan, but I can answer any questions that you might have. We also provided you a copy of a draft recorded motion. That recorded motion is basically identical to last year's recorded motion – the same sort of recitals, findings of fact, and reasons for action – and with some blanks for you to fill in if you want to recommend any changes. There weren't very many public comments. We don't have any insight into anything else you might want to talk about, so I'm available to answer questions or do some edits on the recorded motion.

Chair Lohman: Could you put it up on the screen?

Mr. Walters: Yes, if we could switch to the staff table. There you go.

Chair Lohman: I wasn't prepared to be the Chairman of this, so I'm going to ask the Commission, What are your wishes? What do you say we just start at the findings of facts and work our way through and say whether we agree or not? And if there's any discussion on any or you want to change anything or add anything then you can speak up.

Ms. Mitchell: That's fine.

Chair Lohman: Okay.

Tim Raschko: Yep.

Chair Lohman: So we'll start with item number 1. Would you like me to read them? Okay.

"RCW 36.70A.070(3) requires that the (sic) Comprehensive Plan include a capital facilities planning element that provides an inventory of publicly owned capital facilities, forecast of future needs, identification of the location and capacity of expanded or new facilities, a six-year financing plan for additional projects necessary to support the development, and a requirement to reevaluate the land use element if the financing falls short of meeting existing needs. The Statute further provides that park and recreation facilities must be included in the capital facilities plan element."

I didn't see anything wrong with that. Okay, moving on to number 2: "WAC 365-196-415(2)(a)(iv) recommends a jurisdiction 'periodically' review and update its inventory, at least at every periodic comprehensive plan update."

Okay, moving on: "WAC 365-196-415(2)(c)(ii) recommends a jurisdiction update its six-year financing plan at least biennially."

Okay? Number 4: "Skagit County's most recent update of its Capital Facilities Plan was the 2016-2021 plan."

Okay, number 5: "The 2016 Comprehensive Plan Update moved much of the narrative in the 2016-2021 Capital Facilities Plan, which does not change from year to year, into the main body of the Comprehensive Plan itself."

Okay, 6: "The proposed Skagit County 2017-2022 Capital Facilities Plan improves upon the 2016-2021 plan with an updated inventory, needs assessment, and six-year financing plan, and by incorporating the most recent draft of the Transportation Improvement Program."

Okay? 7: "The proposed Plan appears consistent with GMA requirements for capital facilities planning described in RCW 36.70A.070, the Skagit County Comprehensive Plan, and the Countywide Planning Policies, and supports the requirement (sic) of SCC Chapter 14.28, Concurrency."

Okay? Number 8: "RCW 36.81.121 requires a County to adopt a 'comprehensive transportation program for the ensuing six calendar years' consistent with the comprehensive plan that 'shall include any new or enhanced bicycle or pedestrian facilities identified pursuant to RCW 36.70A.070(6) or other applicable changes that promote nonmotorized transit.'"

Okay? Okay, 9: "The Transportation Improvement Program is incorporated by reference into the Capital Facilities Plan to fulfill the requirement for the CFP to address transportation."

Okay? Number 10: "The proposed Plan includes the County's best efforts to incorporate capital facilities information from special purpose districts throughout the County."

Okay? "The role of the Planning Commission in reviewing the Capital Facilities Plan (and its Transportation Improvement Program component) is to help the County plan for capital facilities and public services to be provided to support development at the time development occurs."

Okay. So moving on (to) the Recommendation section, the Recommendation says “The Planning Commission recommends that the Board of County Commissioners approve the proposal [with the following changes:]” And then here we can list out any changes or clarifications we want made. Does anybody have any?

Ms. Mitchell: Should we just start right down the – make sure we get everybody?

Chair Lohman: Sure. We can. Do you want to start, Hollie?

Hollie Del Vecchio: Yeah. I don’t have any.

Amy Hughes: I have nothing.

Martha Rose: I have nothing.

Chair Lohman: I didn’t see anything.

Ms. Mitchell: I don’t either.

Chair Lohman: Okay. So could somebody make a motion that –

Ms. Mitchell: I move that we approve.

Mr. Raschko: Second.

Chair Lohman: Okay, it’s been moved and seconded that the Planning Commission approves the proposal. Discussion?

I would just like to say that I believe this is the second time that we’ve been on the new format and I really like the new format because it seems more transparent. You can work on it more comprehensively when we’re in the commenting period. And I just think it’s a nicer way to do it.

Ms. Mitchell: I agree.

Mr. Walters: I think it might be the third time, third time being the charm.

Chair Lohman: But the first time was kind of the wordy time because we were in transition. Okay, shall we vote? Okay, all those in favor, say “aye.”

Multiple Commissioners: Aye.

Chair Lohman: All those opposed, say “nay.”

(silence)

Chair Lohman: Okay, the ayes have it.

Ms. Mitchell: Are you guys shocked?

Mr. Pernula: That was quick!

Chair Lohman: Okay, moving on to the next agenda item. This will be the Rural Forestry Initiative.

Mr. Pernula: Okay, Kirk will be handling this. He's been working on this for some time and he has some materials. John will help.

Mr. Walters: Thanks to Forrest Jones from Public Works for attending for any possible questions on the TIP.

Chair Lohman: Thank you, Forrest.

Kirk Johnson: So, Dave, how do we get to the PowerPoint slides?

Mr. Pernula: John Cooper will be assisting as well.

Mr. Johnson: The last time you had an update on this I think Gary Christensen was doing the updating, but as I believe you all know, Gary has moved down to Bainbridge Island as the Planning Director there and so I've assumed the responsibility of moving the project forward, although John Cooper here, who's the Department's geologist and who also does our review of forest practice issues that come before us, is here as the technical expert on this stuff. But we'll just kind of walk through – we want to talk about what the Rural Forestry Initiative is at a kind of an overview level, and then we can move more into the details. Actually I'm going to go to the next slide.

In terms of the origin of this, this is an issue that the Forest Advisory Board has been advocating for for a number of years. They developed a draft code proposal a number of years ago and the Board of County Commissioners has placed this on the Planning Department's work program as an item that we need to move forward. And it dovetails with some things that we're required to do under state law in terms of the Department assuming jurisdiction over conversion of forest land – forest practice conversions. So the Rural Forestry Initiative is not directly related to forest practice conversions, or not – forest practice conversions aren't a part of the Rural Forestry Initiative but they will move forward through the public process and the Planning Commission as a package.

John, do you want to talk just for a second about what a forest practice conversion is?

John Cooper: Sure. So DNR has four or five different classifications for forest practices, ranging from Class I forest practice, which is considered something that is minimal or almost no threat to public resources. That ranges up from a I to a II, III, IV. Number IV there's two designations, a Class IV-G and a Class IV-S, and again IV being the highest risk of impact to public resources. A Class IV-G is a forest practice conversion. In other words, if that is a forest practice that is intended to convert the land to something other than forest practice use. In other words, timber harvests. So as an example, it might be a clearing for development, it may be clearing for pasture – anything that is no longer forestry-related. So that's kind of what a forest practice conversion is, is you're harvesting the timber, you're pulling the stumps, you're re-grading the site for some other use.

Mr. Johnson: All right, so that's a background on the related issue but not directly a part of the Rural Forestry Initiative.

So when a development – let's see. When we do environmental review for a development project, the Department looks at the site and reviews it under our critical areas ordinance. And the five critical areas categories are –

Mr. Cooper: They would be – be wetlands; fish and wildlife habitat conservation areas, which is generally streams and water bodies, marine shorelines, such as that; aquifer recharge areas; geologic hazards; and wetlands.

Mr. Johnson: When somebody goes to DNR and applies for a forest practice permit, as Mr. Raschko will know better than anyone here, to harvest timber or do some other forest practice, the Department of Natural Resources would review the forest practice under the state forest practice rules and under the state Forest Practices Act. So it's kind of two different sets of review standards for reviewing environmental impacts: one for development and one for forest practices. There are some instances where you have development and forest practices that can occur on the same parcel. Somebody might come in to us and say, I want to put a residence on my 10 acres of Rural Reserve or on my 20 acres of Secondary Forest, but five years down the road I might want to harvest timber on the remainder of my land. And the Forest Advisory Board feels that in a situation like that that the County's critical areas ordinance is the appropriate environmental review for the developed area but not for the remainder of the parcel if somebody's going to conduct ongoing forest management there. That ought to be reviewed under the Forest Practices Act. And, in fact, that's what we do at the request of landowners on existing parcels, and we'll talk about that in a minute. But we're looking at extending that approach to CaRD land divisions, and maybe general land divisions as well through this proposal.

So again, the Forest Advisory Board has been advocating for this. The Board of County Commissioners has put it on our work program and we are working on it, looking to move it forward with some other forestry-related matters.

So we have a couple options – did you have a question?

Chair Lohman: A clarification on that last thing. So, say you have a 30-acre parcel in Rural Reserve. So the County would only review that footprint that was going to be taken out in your scenario of the house site – would be the only portion of that 30 acres that you would review under the CAO?

Mr. Johnson: Well, that's what we're going to go through here because that's –

Chair Lohman: But that's what you're intending with this process?

Mr. Johnson: Yeah, and, in fact, we can do that. We *do* do that if asked to currently for existing parcels. And I think there was some confusion with some members of the Forest Advisory Board that maybe we didn't already do that. So I'm going to walk – we're going to walk through those two scenarios.

Chair Lohman: Okay.

Mr. Johnson: So as a landowner who owns the 30 acres of Rural Reserve, you have a couple options. You can come in – and John says most of the time landowners go this approach – and say, I'm going to develop a portion of this – and maybe this is more applicable like to 10 acres of Rural Reserve. I don't know. But let's just review the whole parcel under the critical areas

ordinance because that gives the landowner the most flexibility in terms of where they're going to put their house or what kind of development they're going to do on their lot. Because once that critical areas review is done, then they kind of know what land they have to work with, what land do they need to stay out of due to the presence of critical areas or landslide hazards or the like.

They also have the option under current code to say, I'd like only a portion of the parcel where I'm going to do the development to be reviewed under the critical areas ordinance. And if I come back and I don't plan to develop other parts of the property – and then if they want to do a forest practice other than a conversion then they would go to DNR and submit a forest practices permit and they could do their harvest and that would be under the forest practice rules. And there are some differences between the Forest Practice rules for certain types of critical areas and the County's critical areas ordinance, and in other cases they're very comparable. And we can get into where they're comparable and where there are differences down the road if you'd like to, and that's really John's area of expertise more than mine.

So right now they have – and there's no minimum parcel size for this. That was a concern that the FAB had in our proposal for CaRDs. It talked about a minimum parcel size for existing parcels that are no minimum parcel size. So we're going to go through kind of a – what that looks like.

So let's say that's your 10 acres of Rural Reserve. So option 1 is – I'm just going to do critical areas review on the entire thing and then I know where I can develop and where I can't and what the rules are.

Option 2, which currently exists: So the County only reviews the area that's going to be developed, plus the 200- to 250-foot buffer around that under the critical areas ordinance. And John can explain the difference between the 200 and 250. Under certain site conditions – I think specifically for landslide hazards, that review may extend beyond the development area if the area outside of the development area presents a risk to the development that's going in the developed area. And then if somebody wants to do forest practices on the remainder, they can do that subject to DNR review. So this is what that looks like. So they identify where they want to develop. There's an area beyond that. So the area where they want to develop and an area a little bit beyond that gets reviewed under our critical areas ordinance. And then if they want to do forest practices on the remainder, that would be subject to DNR rules. Again, in the case of certain landslide hazards, if –

Mr. Cooper: So the rules under the critical areas ordinance, especially for geologic hazards, allow you to extend beyond 200 to 250 feet. And what that – well, let me back up – what that means is our standard review for critical areas, riparian areas is actually 200 feet for streams, shoreline bodies of water – things like that. For wetlands, that can extend anywhere from 200 to 225 feet if it's a Category II through Category IV wetlands. That's the review area that we look at. Category I's actually reach out to 300 feet and then under the geohazard there's a section in the code that says that you can extend the review area to a distance that's equivalent to the height – vertical relief – of the slope that's back behind it or falls away from wherever your development area is. So if you could envision – on your screen there you see the development area and you see those arrows pointing up. If that went up the hill that exceeded a slope of 40% then if that hill was 1000 feet tall then the review area would be 1000 feet from the development area. The purpose of that is to confirm that the area's stable and development is suitable for that area. So that's kind of the buffer limitations. It's a little – under the critical areas ordinance, it's variable. One thing I missed is that if you're in the floodplain the review distance for riparian and

fish and wildlife habitat conservation areas is 250 feet. So it's – like I say, it's variable for all the critical areas. It may be present in a given area. Questions? Yeah.

Mr. Raschko: Just to clarify: So let's say you have your 1000 feet of relief.

Mr. Cooper: Yep.

Mr. Raschko: Are you saying then you would apply the critical areas ordinance to another 1000 feet from –

Mr. Cooper: The review area for critical areas would go 1000 feet beyond the development boundary – yes.

Mr. Walters: All critical areas or just geohazards?

Mr. Cooper: Just geohazards. That's, I think, what we were talking about, correct?

Mr. Johnson: Yeah.

Mr. Raschko: Okay, to a geohazard. So then if you wanted to do a timber harvest later, that 1000 feet would go under critical areas and the rest under –

Mr. Cooper: The review would be for critical areas for the development area alone and we would identify if there's landslide hazards up in that area then we would need to do some sort of mitigation or move the proposal or something so that the harvest actually didn't destabilize and present some sort of risk to the development area. It's all dependent on what we find out in the field – very similar to DNR rules that – I think their trigger is generally is about 62% that they start finding risk of failure at. Our – we're a little more conservative at 40%.

Mr. Raschko: Do you mind if I go a little astray here just to clarify things for other board members?

Mr. Cooper: Okay.

Mr. Raschko: Or Commission members. The forest practice rules when they were drawn up, it was recognized that in forestry you were doing the same thing over and over and over, as in agriculture: You plant it, you harvest the thing, and then you till up your soil or whatever you do. And so there was a blanket exemption from SEPA, which is the State Environmental Policy law for forest practices, except if you had certain conditions on a list present on the site. And one of those is unstable soils and there's a bunch of others. And if that's the case, then it's classified, as John was saying, a Class IV-S, which is Class IV-Special, and as such then it has to come under SEPA review. Okay? And there can be vast changes in what the rules (are), and how they're applied in that situation. So the only thing I wanted to do is clarify the fact that because there might be unstable slopes and it's under forest practices, those unstable slopes are not ignored whatsoever. And most landowners will do everything possible to avoid a Class IV-Special, and leave trees in those things – in those unstable slopes, and you probably have the same results as if it was under the CAO or even more restrictive. Okay.

Mr. Johnson: Under current land CaRD divisions, the County reviews the entire tract under the critical areas ordinance. So what that looks like is that the landowner comes in – and maybe it's 10 acres in Rural Reserve – and they say I want to put two one-acre – cluster two one-acre lots

down in the corner here. Right now we require – unless they put the remainder of the land in an Open Space-Protected (sic) Area easement, I believe, which allows no development and no forest practices – so unless they do that, the entire 10 acres is reviewed under the critical areas ordinance.

The proposed RFI option for a land division would be very similar to that Option 2 on the existing lot where only a portion of it is reviewed under critical areas. This really is – we'll get to later. But for the most part the review under critical areas is only on the developed portion plus the 200- to 250-foot buffer area. The remainder of the land could be placed in Open Space-Forestry, which is an Open Space designation but it's not a conservation easement as some of the other CaRD Open Spaces are. The landowner would submit a Forest Management Plan saying what practices they plan to conduct on the Open Space-Forestry area, and those forest practices would be reviewed by DNR under the forestry rules. And so what that would look like, again, is identify the two one-acre lots, the buffer area – or it's not really a buffer area. It's an extension of the critical areas review area. And then we're missing a step in here which shows the remainder going into Open Space-Forestry with a Forest Management Plan. This would be similar to the existing lot example where you see the critical areas review in limited instances could extend into the area that was going to be Open Space-Forestry. It would be under the same conditions and the same criteria and thresholds for landslide hazards, but we also feel that there should be some review to see if – when you're creating the two one-acre lots and you're talking about how that's going to affect stormwater runoff and how you're going to keep the water from impervious surfaces onsite until it infiltrates into the ground. If future forest practices on the forestland might increase runoff onto those two development parcels such that there could be property damage to them or water that then flows, you know, off the entire site, that that would need to be addressed in the stormwater plan for the two one-acre parcels. So it's not necessarily saying that there would be limitations on what the landowner could do in the Open Space-Forestry area, but there might need to be more done on the two one-acre development parcels to address additional stormwater that might come off the Open Space-Forestry area ten years down the road when there was a harvest there. I don't know how clear that was, but that was kind of it in a nutshell. Otherwise, the Open Space-Forestry area would be subject to DNR review for forest practices.

So that's kind of going through this in kind of the biggest picture, which sometimes it's helpful to get the big picture in mind before you start drilling down into the specific details. We didn't talk about windthrow but are there questions so far on the CaRD land division rural forestry option?

Kathi Jett: Okay, I just wanted to make sure that I understand. When you develop these two lots and then the additional what you called "buffer area" but it really isn't – the critical areas review, are you saying that when they develop those two lots the person that develops them needs to anticipate the worst case scenario if all the trees on the remaining forest lands are harvested at some point in the future he has to put in, or she has to put in, like, stormwater collection so that their property isn't flooded?

Mr. Cooper: That is correct. Yes. So I guess a good way to describe it is it wouldn't be – it's probably more accurate to say that when we ask – or when we ask for a stormwater plan, and we're assuming that this division, this development pattern that they're proposing exceeds those thresholds that require some engineered stormwater plan, whoever that engineer is – all we're saying is – would need to be informed that the area adjacent offsite the forested section would be notified that this area could be harvested and then they could take appropriate action to put together whatever storm plan is necessary. Obviously it's dependent on the soil types and topography and all these other things, so it's not confirmation that they would need to do huge

drainage detention/retention ponds but they may need to take some sort of action to compensate and keep those homes safe, or those developments safe from additional –

Ms. Jett: When you say “they,” do you mean the person that does the harvesting of the trees?

Mr. Cooper: No, I was talking about the developer.

Ms. Jett: Just the developer.

Mr. Cooper: Yes.

Ms. Jett: So if I owned the land – I owned all, the forest and the lots – and I sell one of the lots to somebody, I have to tell that person when I sell the lot that there’s a potential that somewhere down the road these trees could be harvested and your lot –

Mr. Cooper: No. No. So what would happen is, let’s say that you’re the owner of the property and let’s say you submitted to us an application for a CaRD subdivision, clustering two lots in the lower right-hand corner, as indicated. As you go through that review process, we would determine whether you meet the threshold determinations that would require a stormwater drainage plan. Once those – if a stormwater drainage plan is required, the engineer that’s developing that plan would be informed that this open space area, this Forestry Open Space, could and would be harvested at some time in the future to some degree, depending on your forest plan that we talked about previously. And they would take that information into consideration in developing this stormwater drainage plan. And so you wouldn’t be telling your – the people that you sell the lot to that there’re stormwater problems. You’d be saying, Yes, we’ve designed it accordingly and it should be safe and functional in its present configuration.

Mr. Pernula: I would point out that the best approach would be to as you’re laying out this land and trying to identify where these development lots are going, you don’t put them downstream from where this forest practice will occur. You don’t place those where it’s below some sort of a landslide hazard area. You try to locate those lots where they’re well-drained and are away from those hazardous areas. Then you avoid a lot of these problems.

Ms. Rose: So I have a question that’s following up with that one, and that is let’s say you – because maybe the road is near the bottom of the slope and that’s where you have to do it – maybe you put the two lots where it is in that zone that is more hazardous, can the stormwater plan propose a mitigation on the forestry part of the – or does it have to be on those two lots? In other words, can the civil plan that addresses stormwater propose that if and when the trees are removed or partially removed and it creates a stormwater issue, can that be mitigated on that forestry land?

Mr. Cooper: I think that’s possible. We’ve talked about a provision to actually increase the size of the lots under the CaRD program with – in specific to the RFI so that you, in addition to protecting parcels or properties from windthrow, maybe that larger parcel size could accommodate stormwater provisions. If you’re doing – if you’re actually going to do stormwater management off of those CaRD lots on the Open Space-Forestry, that could present some sort of complexity. In other words, we’d probably need to extend the critical areas review around that stormwater detention/retention pond as that would be considered a development activity.

Mr. Walters: One other point toward I think maybe what Commissioner Jett was asking about: It would be the person subdividing that would need to do this work and install any infrastructure.

They may sell off the lots but the future purchaser of the lots after the subdivision is complete shouldn't bear the burden of doing that stormwater work. That should have already been done by the person doing the subdivision.

Mr. Johnson: So we are in the process of developing this. We met with the FAB – I think it was last week – and talked through some of these issues and we agreed that in bringing this to you we would say this is kind of our current thinking. We're still in discussions with FAB. There were some issues about the stormwater management. And so this is a – I don't know why that word jumped to mind, but it's a *fluid* issue. We're still working through some of this. But I think there was thinking that there could be some positive relationship between the forest management plan and the stormwater management on the developed lots, so that if in developing the forest management plan the forester helping to do that said you could really reduce your runoff by going with more of a light touch in these areas, or whatever – I'm not going to try to sound like a forester – that you might lessen what would need to be done down on the development lots. And because the landowner at the time of doing the CaRD would be the person both planning to do the forest practices down the road and also selling off the development lots, they could kind of make the tradeoffs and _____ to address it on the development lots or propose forest practices that, you know, would be more protective up here so that I don't need to do it down there. It's just we're trying to create a situation where when those lots are sold off the people who buy them – we've done our due diligence in meeting our requirements under the Growth Management Act to make sure that, you know, that the people and the property there are protected from landslide and stormwater hazards.

So one of the issues – and again what we're saying is – and this was really the major goal of the FAB's RFI proposal – is we're saying and we're agreeing that we won't do critical areas review for the other – what? – three types of critical areas on the land and Open Space-Forestry because that's going to be kept in long-term forestry and the County has an interest in encouraging long-term forestry, and the foresters are more comfortable or more familiar with those rules and maybe in some cases they're less restrictive on forest management than they are in the County's critical areas ordinances on development. So the County is giving up jurisdiction for some of those other critical areas saying, We want to try to encourage long-term forestry to be continued on these properties but we continue to have an interest in protecting the development lots that are put there. So that's kind of the – maybe the give and take here.

And one other issue that we had a concern with was windthrow. So you may remember from the 2016 Update when we brought the code before you there was a lot of discussion about setbacks from forestland to protect residences that are built adjacent to forestland from trees that might fall on them, but also to protect the forestland owners and managers from nuisance complaints or complaints that – Well, I don't want them to clear-cut or harvest the forestland next to me because it'll ruin my view or whatever. So one of the concerns that we've definitely heard from the forest practice industry is a concern about when trees are cut down up to an area where then trees are remaining, the trees that are remaining can be less stable or more vulnerable to being blown down because they're no longer a part of a larger forest area. And so there's required in our code a 200-foot setback if you put a residence in in rural land adjacent to forest resource land. And we think the rationale is there just as much is you're putting a residence into, you know, one of these one-acre CaRD lots to have that 200-foot setback from the forestland because there potentially could be harvesting or clear-cutting right up to the property line.

So what we have proposed and talked about with the FAB was having that 200-foot setback requirement where the residents can't be within 200 feet of the Open Space-Forestry area, or

that buffer could be entirely on the residential lot, it could be entirely on the Open Space-Forestry lot, or it could be shared between the two – whatever kind of made the most sense for both interests. And the CaRD lot, which currently is limited to one acre in size, which is about 200 feet by 200 feet, could be expanded if that would help to meet the 200-foot setback entirely on the CaRD lot. And that also might be used for landslide hazard mitigation area or stormwater mitigation areas. So try to provide some flexibility in how to meet that 200-foot setback but still require that so you don't have trees falling on houses or residents surrounded by forestland complaining about harvests that are coming down to the property boundary.

Chair Lohman: How do you square that away, if you will, with the whole idea of the CaRD is to preserve the NRL activity? And now you kind of didn't. Now you made the development footprint actually larger because now you've included a no-touch zone that's beyond the critical area buffer requirement. And that doesn't, to me, help the NRL. I just –

Mr. Johnson: Yeah. I mean, we batted back and forth various ideas on how to do this when a one-acre lot is 200 feet by 200 feet. And yet you hear from forest practitioners how important it is to have that setback. You kind of think, Well, something has to give. So is the setback less and then you're potentially putting that residence at greater risk, or – I mean, we're kind of open to creative ideas on how to handle that issue.

Chair Lohman: I was mostly thinking about when you're talking about the Industrial Forest or the Rural Resource, which are the heart of the NRL, where when you get into the Secondary Forest and maybe Rural Reserve then you kind of almost get – I don't want to say it like it's second class, but it ends up being more mixed use. But I guess I'm struggling with the idea that – especially if you're talking about a CaRD – when you're talking about Industrial Forest or Rural Resource, I'm questioning whether you're actually fulfilling the desire to kind of preserve the NRL with this CaRD.

Mr. Cooper: I think you might be preserving the integrity of the NRL if you're increasing the size of the lot. So like Kirk said, a one-acre lot may be 200 by 200 and maybe we double that size of that lot and then you put the buffer within the developed portions of the lot. That would result in preserving those NRL lands and still provide a degree of protection for the homeowners to handle windthrow as they see fit, as a buffer would be on their land. Does that help?

Ms. Rose: So there's also – if there are two lots, maybe they're 100 by 400 feet and next to each other. I mean, in other words, it's not a given that they're 200 feet by 200 feet. I've developed one-acre lots that were 150 by 300, or whatever. And then so that's one point, and then the other one is in the forestry plan that they submit – I'm getting mixed up because we're covering a lot of stuff, but this would require – or not – a forestry plan. It wouldn't, would it? Or it would. Okay. So in that forestry plan, would they be allowed to propose a staggered harvest of that 200-foot buffer, like say, Oh, 10 years from now we want to maybe cut the bulk of the property but then another 20 years later, or whatever the magic number is, we want to go in and harvest that 200-foot buffer after the other trees that were replanted. Is that an option to propose something like that in the forestry plan?

Mr. Cooper: I think it's a good consideration if that plan is focused on protecting developed areas from windthrow. Yes, that makes sense to me.

Ms. Rose: So that would address your problem, I think.

Chair Lohman: Well, I just have a problem if it becomes a no-touch area.

Mr. Cooper: Okay.

Chair Lohman: That just kind of sticks.

Ms. Rose: Right. Well, I can see why, because the trees will mature and then eventually they'll fall down, and so it seems like there would need to be a provision to be able to at least have a stagger in harvest out of the buffer, and then as long as it was staggered enough where the trees that are on the other side of the buffer are mature enough where they're not all going to fall over.

Mr. Cooper: Right, and I guess there's two way to look – and that's a good suggestion. I actually like that principle. I guess there's two things to consider, is if the buffer was outside of the developed lots and on the forestry land, then it could be included in the forest management plan, as you've suggested. If the buffer was actually on the CaRD lots, the one- to two-acre lots, then it'd be up to the owner of that home to manage as they see fit. In other words, obviously if the forest practitioner had a management plan that said, I'm going to clear-cut this, then maybe the owner of those one to two acres would have the opportunity to either leave that buffer intact to protect their house from trees or harvest through them and take all the trees out at their whim so that there is no chance of windthrow at that point. So I see opportunities in both places to manage this idea. I guess the downside is a standard homeowner may not have the expertise to manage that if it's on the CaRD lot, whereas a forest practitioner might. Yes?

Ms. Del Vecchio: What happens on the other two sides of these two lots?

Mr. Cooper: Other two sides?

Ms. Del Vecchio: There's other property to –

Mr. Cooper: Oh, you mean two –

Ms. Del Vecchio: In the white area.

Mr. Cooper: Okay!

Ms. Del Vecchio: So if we're in the real world, there's actually property in the white space. So the 200-foot buffer – I'm assuming we have no – we have no way of controlling that.

Mr. Cooper: We have no way of controlling that.

Ms. Del Vecchio: So if this 200-foot buffer is that important are we then having to inset the lots enough to accommodate 200-foot buffer on these other two sides that are just being ignored here?

Mr. Cooper: That's a possibility. I think it's going to come down to a site-by-site analysis. If the neighboring lot has cleared his pasture, it may not be an issue. In other words, the lots could go right up next to it. But if the homeowners want to be in timbered land, then maybe they would like to have that extra acre to accommodate a forested buffer.

Ms. Del Vecchio: And that's – is that part of the analysis then? So if they were backed up to other forest – you know, active forestland, would that then have to be bumped in to provide for that 200-foot buffer on all sides?

Mr. Cooper: A good question. I don't think I've got an answer for you at this time.

Ms. Del Vecchio: Okay.

Mr. Cooper: But you brought up an issue that gives me something to think about.

Ms. Del Vecchio: Okay. And then my only comment there would there would be at that point we're eating in quite a bit into this lot, and maybe we need to rethink what that original – what those original lot sizes are at that point. So I'll just throw that out there.

Mr. Walters: The one other thing I would say about the buffer issue, the 200 feet, is that right now under our existing zoning code, if you are adjacent to a Rural Resource property – so not inside a Rural Resource – Rural Resource, Industrial Forest, any of the natural resource zones – if you are adjacent to them you have to observe a 200-foot setback already in our current code.

Ms. Del Vecchio: Okay. So in that case these would automatically be bumped in to create that 200-foot buffer.

Mr. Cooper: In some cases, yes. In other cases, if you're in Rural Reserve, where this could conceivably happen, then no, you wouldn't have that. So your point is still well taken.

Mr. Walters: Except if the green parcel is Rural Reserve and the white parcel to the south –

Mr. Cooper: Yeah, that's something else.

Mr. Walters: Yeah, because it was on a quarter. There're a lot of possible variables there, but there's also the ability to get setback waivers. This was an issue that we talked about during the Comp Plan Update earlier this year, this 200-foot setback.

Mr. Johnson: Again, we hadn't really contemplated how RFI might apply to standard land divisions. One or more of the members of the Forest Advisory Board felt strongly that it also ought to be an option with the standard land divisions, and so that's an issue that we plan to have more discussion with the Advisory Board.

And then, Ryan, maybe you could touch on the clearing ordinance requirement as being one of the requirements that the County have when it assumes jurisdiction over forest practice conversions.

Mr. Walters: So state law requires us to assume jurisdiction over forest practice conversions, so that will be part of this proposal. So it's only that narrow slice of forest practices that we would be assuming jurisdiction over. When we do that, we need a trigger for critical areas review because the state law says specifically that we must apply critical areas to forest practice conversions. So when we do that, when we construct the proposal we'll add a trigger for clearing. If you're going to do clearing, you'll need a permit. We'll need to define some threshold as to what 'clearing' is. But you'll need a permit, which will not require anything new. Right now our critical areas code would require you to get critical areas review before doing work in a

critical area, but there's no permit requirement necessarily, unless you're coming in for some other kind of permit.

Additionally, under our stormwater code we don't have any kind of trigger to require review prior to clearing, but we are required to have one under our National Pollutant Discharge Elimination System Permit, our stormwater permit. We must do pre-clearing review of a site, and we don't currently have a trigger for that. That only applies inside the NPDES area. But the areas in which we would be assuming jurisdiction for forest practice conversions pretty closely line up to that, so to simplify we would just require the clearing permit everywhere.

So it would be a permit trigger but it wouldn't be a new substantive requirement. It would say you've got to do stormwater, you've got to do critical areas. And we also have a handout that you can find in our lobby that talks about clearing and forest practices right now, and it says you need to do all these things, not because there's a permit requirement but because there are substantive code requirements to do them. You cannot clear a critical area today. There's just nobody checking to make sure that you're not clearing it before you do. You shouldn't clear a conservation easement. You shouldn't clear on other people's property, and if you're clearing forested areas it may be difficult to tell where the property lines are. So there are a lot of these different considerations that you need to keep track of today, but because there's no permit requirement nobody's really coming in to talk about it first. So that's what we would accomplish through that. I anticipate that that's like a paragraph of code really.

Mr. Johnson: That is all we have. I guess the – we'll continue to work on this. We'll meet with the interested Forest Advisory Board members. Commissioner Raschko has expressed interest in being a part of those meetings, so he'll be a good, you know, person to help carry this forward from that perspective. If I had to hazard a guess, I'd say we'd be pulling a proposal together by the end of the year and then possibly releasing it early next year for public review and bringing it to the Planning Commission.

Chair Lohman: Do you plan on having any work sessions with the FAB and the Planning Commission on this so that we can –

Mr. Johnson: We could.

Chair Lohman: Because I know I think I could use a few more illustrative examples because I'm not familiar with forestry stuff. Maybe a little more flush it out so that we understand what we're being presented. Does that sound like something the Planning Commission would like?

Female Commissioner: That'd be great.

Chair Lohman: Okay. Well, thank you, Kirk. Okay, moving on on the agenda, it's the Department Update.

Mr. Pernula: I just have one thing to mention – I may have mentioned it before – regarding a meeting, a joint meeting with the Board of County Commissioners. They actually want to have two: one this fall or early winter that is a probably more of a get-together, meet-and-greet, and have a dinner – that kind of thing – and then another one – but there would still be some sort of a central meeting perhaps with topics – that kind of thing. But then early next year they would like to have a more formal meeting, maybe in here, where we can talk about some very specific subjects. And it'd be a lot more formal. So I guess I do have a question for you. If we have this joint meeting that would be a dinner meeting, where would you like to have – well, maybe the

most important thing right now is when would you like to have it? When would be the most – the best for you? And your normal meeting nights are Tuesday nights: Is that the best time or... How long out? A couple weeks?

Ms. Mitchell: Before the weather turns.

Mr. Pernula: Before what?

Ms. Mitchell: Before the weather turns.

Mr. Pernula: That can turn any day.

Ms. Mitchell: It's already turned!

Ms. Jett: Yeah, it did.

Mr. Raschko: Yeah, it should be before December but in December nobody'll be able to coordinate their schedules and make anything work.

Ms. Mitchell: Maybe even before Thanksgiving?

Mr. Pernula: So you'd like it maybe earlier in November?

(sounds of assent)

Chair Lohman: Early, rather than middle or late.

Mr. Pernula: On a Tuesday?

Ms. Mitchell: That'd be great.

(sounds of assent)

Mr. Walters: Did one of you want to host?

(silence)

Chair Lohman: That's a lot of pressure.

Ms. Mitchell: He's teasing.

Mr. Walters: That's a joke.

Ms. Mitchell: If you don't mind a barbeque.

Mr. Pernula: What they said, they would like it to be a dinner for the Planning Commissioners, the Department staff who deal with the Planning Commission, and the Commissioners. And it would be hosted by the County so it would be just for those people. Other people could attend, I suppose, but it's really for the Commission/Commissioners/the Planning Commission, the Planning staff and the Board. And we'll let you know more about it. I'll shoot for some time early to mid-November and get back to you.

Ms. Mitchell: Thank you.

Mr. Pernula: That's all I have.

Chair Lohman: Okay, moving on on the agenda, the Planning Commission Comments and Announcements.

(silence)

Chair Lohman: Okay, seeing none, is there a motion to adjourn?

Ms. Rose: So moved.

Ms. Mitchell and Mr. Raschko: Second.

Chair Lohman: Okay, we're adjourned (gavel).