

**Skagit County Planning Commission
Deliberations: 2019 CPA Docket
February 11, 2020**

Planning

Commissioners: **Tim Raschko, Chair (absent)**
 Kathy Mitchell, Vice Chair/Acting Chair
 Mark Lundsten
 Annie Lohman
 Amy Hughes
 Joe Woodmansee
 Tammy Candler
 Martha Rose

Staff: **Mike Cerbone, Assistant Planning Director**
 Peter Gill, Planning Manager

Others: **Brian Wetcher**
 Marianne Manville-Ailles, Consultant for PL18-0404 Petitioners

Acting Chair Kathy Mitchell: Good evening. I call the February 11th, 2020, Planning Commission meeting to order (gavel). Everybody takes a look at the agenda, please. Do you see any changes? Anybody have any changes or additions?

(silence)

Chair Mitchell: Okay, seeing none, we'll move on. The first thing we'll have is the Public Remarks. The time on this agenda is an opportunity for anyone to speak to the Planning Commission about any topic except items scheduled on the agenda for a public hearing that same day or items that have a public hearing and are still under Planning Commission deliberation. Public Remarks, which is not part of the formal public participation process, is limited to three minutes per speaker and up to 15 minutes total. And I believe we do have somebody that would like to speak.

Brian Wetcher: (inaudible)

Chair Mitchell: Okay, we can't do that tonight.

Mr. Wetcher: There's no public hearing?

Chair Mitchell: No, that was the last meeting. We're into deliberations this evening, but you're welcome to speak on any other topic but what's listed on the agenda tonight. Thank you.

Okay, so moving on to the 2019 Docket Deliberation. There's two things I'd like to bring to attention. First of all, you can see by the agenda we're going to be doing in deliberations PL18-0404, C-1 through C-8 tonight. We're going to move – we've moved the P-1, the P-2, and the P-4, which would be – P-1 and P-2 are the Guemes Rain Catchment and Guemes Wells, and P-4 is the Great Blue Herons – till the next meeting so where we have more time. We think they'll probably take more time than we have here tonight.

So the second thing is: For all the Planning Commission members, we have a new item. There's a draft motion worksheet in front of you. If you could please get a hold of that, and, Mike, could you please let everybody know what this is about?

Mike Cerbone: Yeah, it's basically a sheet just to help you guys with your decision-making process. Peter pulled it together. It goes through and describes the staff recommendation and then gives you the actual wording if you want to make a motion. And then there's plenty of room to alter that motion if you want, or propose something different than what's there or take notes. But each one is on its own page and it's kind of in the order that we had put the agenda together, where C-1 through C-8 are first and then the PL18-0404 is at the back. Just to help everybody make sure you make the right motion and have the right words and keep us moving along.

Chair Mitchell: Okay, so you wanted to do the PL18?

Mr. Cerbone: It's – I mean, it's up to you.

Chair Mitchell: Okay. Everybody else, would you prefer to do the PL18-0404 first and then the C-1 through 8, or go ahead and do the C-1 through 8 first?

Mr. Cerbone: I think we do have people interested in PL18 –

Chair Mitchell: Yeah.

Mr. Cerbone: – in the audience.

Chair Mitchell: We do.

Mr. Cerbone: I would just offer that.

Commissioner Annie Lohman: Just do it in the order that's first.

Commissioner Martha Rose: Get the hard one out of the way, right?

Chair Mitchell: Right. Okay. So for the draft motion we can choose – move to the last page on that. Flip it over. That's where the PL18-0404, Mineral Overlay Resources for your draft motion work.

Mr. Cerbone: Again, we also provided the exhibits that were turned in at the hearing, in case you wanted to _____. Those are ___ useful.

Chair Mitchell: Thank you. So opening up the discussion for PL18-0404, there's quite a bit of material as far as the policy information that's been listed, and I'm sure everybody's had a good chance to read through all that. The same thing with the public comments. And what we have before us, the ultimate recommendation by staff reads at the end "The Department recommendations that were proposed – removal of the Mineral Resources Overlay – be denied." And there's certainly a lot of material for discussion here. Would anybody like to start?

Commissioner Tammy Candler: I can start. I understand the Department's recommending that this be denied, but it is not *completely* clear to me *why*. Is it the Department's position that there's a shortage of mineral resources and that this is something that we need, or does anybody know?

Mr. Cerbone: Oh, I mean, I can answer the question.

Commissioner Candler: Thank you.

Mr. Cerbone: We recommend denial based on, you know, what the applicant had submitted originally. Right? So the applicant had submitted a package, a petition for consideration, and in that package they had submitted a geologic study of the area. And based on reviewing that study, we made that recommendation. We didn't think that the study was expansive enough to actually look at the entire MRO. And since that time the petitioner has come with a variety of additional information. And so I think it's up to you this evening to decide whether that additional information has bridged that gap. But our initial recommendation was based on the fact that it appeared the study had been focused only on the petitioner's properties and not on the properties off that and that the test pits that were dug were in a close proximity to one another on those properties and didn't go further south or further north. And so the petitioner did provide additional information at the public hearing, and so I think that's up to you as a board to weigh and discuss.

Commissioner Candler: The additional information did not change the Department's position on it?

Mr. Cerbone: We did not change our recommendation.

Commissioner Candler: Okay, thank you. This is a tough one. We get tough ones occasionally. But this happens to be in an area pretty close to where I live. I, you know, grew up when this was a farmer's field. And so when I saw these houses cropped up like this little mini subdivision out there it was kind of startling to me because, you know, this is just, like I said, it used to be a farmer's field. And it's not typical to the area. The area's usually like these farm – you know, house crop up here or there. But with that said, the planning, I think, sort of policies support these CaRDs and this cluster development, even in the county, and so it seems like to me if you're going to have nine houses in a row and you can do 18 in a row, it doesn't have an additional – a lot of impact. And so in spite of the fact that I personally mourn the loss of the farm fields I don't see this as an area where they're going to do a big mineral resource excavation any time soon. The gentleman who wrote the report, Mr. McShane, explained how the large equipment – you know, you can get shocked going under there with – on the middle of equipment. There's power lines. There's probably concern about the integrity of the power lines if you're digging around there. It doesn't seem like to me a place where mineral resource excavation is going to be likely. And so that's where I'm at, and because of that I think I would support the removal.

Chair Mitchell: Would you like to make a motion?

Commissioner Candler: Sure, yes. That's probably appropriate. I am going to move that – let's see. I'm going to move that we remove the entire MRO at this time.

Chair Mitchell: Okay.

Commissioner Candler: Anybody second?

Commissioner Rose: Second.

Chair Mitchell: So moved and seconded to remove the MRO overlay entirely. Now for more discussion. Is there anybody (who would) like to have some discussion?

Commissioner Joe Woodmansee: Go ahead.

Chair Mitchell: Joe?

Commissioner Woodmansee: No, go ahead.

Chair Mitchell: Is it Martha?

Commissioner Rose: So I agree this is a tough one because there's always more than two sides to the coin. But if I read this answer to my question, it appears that the property owner – owners, plural – were notified of this change in zoning. Did I understand that – did I read that right, Michael?

Mr. Cerbone: Yes.

Commissioner Rose: Okay. And so that was one influencer that made me think, well, maybe it *shouldn't* be removed. But then when I look at these right-of-ways with the power lines and the gas lines, I find myself thinking along the same lines as what Tammy said. The thing has already been done. The damage has already been done. The infrastructure's there. There's a potential for nine more houses, and the impact of nine more houses on an already-existing road that was put in to support nine more houses – it just seems like they should be able to go in. And so that would support removing the overlay.

Chair Mitchell: Okay, anybody else? Joe?

Commissioner Woodmansee: I concur with both the other Commissioners. I'm sorry. _____. I've got a little cold thing going on here. I feel like that the majority of this property's not mineable and that when I take that into effect and the easement is there, my assumption is that the mining would need to stay off the easement a little bit so that there's some sort of a buffer between the mining and the actual easement itself. And I – in the end I weigh out, okay, what do we need more? Do we need housing more or do we need an unopened mine – or possible an unopened mine that the only information I see in the test pits are that it's questionable material at best. And most of the material that I see in the report is material that in the building industry that we wouldn't be able to use and we'd be having to pay somebody to take it for us to get it out of our way of our project. And so from that perspective I think that it's a road already built so there's virtually no infrastructure to be built, which was originally was built to handle all 18 lots.

And as far as existing use – that changing for the other property owners – I don't – they're not using the gravel now to any extent that requires a permit. They can continue to use their gravel on their property to any extent that doesn't require a permit, so their little use they have now is still going to be able to be done. And so when I weigh it all down to a questionable overlay and the critical need for units in housing, which is very critical at all levels, to be honest with you. It doesn't matter if you're at the bottom end of it or if you're at the higher end of it, there's not a lot – I spend a lot of my day looking for an opportunity – Martha can relate to this probably – looking for an opportunity to create a lot here, create a lot there. And I might find one or two parcels a year that I can make that work on because of this zone or that regulation or this condition of the site. And so I would support this motion for those reasons.

Chair Mitchell: Okay. Anybody else? Tammy?

Commissioner Candler: Just briefly. I just – I forgot to mention what Commissioner Woodmansee brought up, which is that the neighbor that was concerned, I think their use – it's not permitted. It's probably not going to be affected. So I did notice that as well. ___ the commenter.

Chair Mitchell: Okay. Anybody else? Annie?

Commissioner Annie Lohman: I guess I feel for the person that's – as long as they can still continue their incidental use, because it isn't really a giant – it isn't the equivalent of a quarry-type operation that they're doing; it's mostly personal use. As long as that can still continue I feel fine about removing it. But I was under the impression that you couldn't do *any* without the mineral overlay, so I feel better knowing that you can. And here we're talking about it out loud so it makes me think that that small, insignificant use can still continue. And Tammy, when she first started talking about recollecting what it used to be, that's always the hardest part. Because once you put in a housing development it's over as far as what it once was, as far as being open space and being formerly agriculture or formerly timber or whatever it is. And that's not necessarily bad, it's just different. And for some people it's painful. And hard to see something so different. So I just wanted to acknowledge the other letters that we received as well, that we did read them and we did consider them and we're not doing this – this is not easy. This is a really tough thing because you're trying to be fair.

Chair Mitchell: Yes. Commissioner Lundsten?

Commissioner Mark Lundsten: I look at it as things that you – another angle to put in, and I second what most of what's been – *all* of what's been said. But I think there's some things you can't change, and a growing population descending on Skagit County and growing from within Skagit County is a fact of life and we can't change it. Nobody likes to see new development in open space and what they've gotten used to. No one. No one likes a regulation on what they do either, you know. No one likes a neighbor doing something that's offensive to them. I mean, those are things we all – and it's not offensive to another neighbor or to the neighbor themselves. So, I mean, there's ways – those are the choices we have to make. But some things we can't change, and the population growing is one of those things. We're going to have to – we *have* to figure out a way to accommodate them. This isn't going to solve the housing shortage in Skagit County but it's a step in the right direction certainly. To me the issue is something I really don't understand. And, forgive me, I'm not fluent in land use policies, the minutiae of it. When these people bought this property, did they know that in so many years after they bought it and had filed for the CaRD and hadn't developed that the zoning would change, that the mineral overlay was going to be put over it?

Mr. Cerbone: No, I don't think they could have known that. So when they bought the property the Mineral Resource Overlay was not there and the Mineral Resource Overlay was subsequently put in place there.

Commissioner Lundsten: Were they notified with opportunity to put in the new development before the mineral overlay was placed? Were they given an opportunity to put those other nine houses in and file in time and so on?

Mr. Cerbone: You know, I couldn't really answer that. They were provided – I think in the staff report I said there was a fair amount of notice prior to the actual ordinance being passed – right? So they would have been notified prior to the public commission at the Planning Commission, and then it would have had to go through the Planning Commission. Then they would have had to go

to the Board and the Board then would have had to pass the ordinance that would then take effect.

Commissioner Lundsten: And so they knew that process was happening?

Mr. Cerbone: They were notified that that was occurring.

Commissioner Lundsten: I see.

Mr. Cerbone: Now as to whether they could actually pull together an application with that timeline, I couldn't comment on that, but if they could then they would have had, you know, their foot in the foot before that changed.

Commissioner Lundsten: I see.

Commissioner Rose: I'd like to comment on that. I don't recall the year that that change happened. What was the year that that change happened? I'm skimming through this stuff and I'm not –

Commissioner Lohman: I want to say – wasn't it 2006?

Marianne Manville-Ailles: I think it was around '6 or '7.

Commissioner Lohman: That's what I recall reading.

Commissioner Rose: So the notice would have gone out to the neighbors in 2006 or 2007, I think is what we're saying. And, well, that was the start of the Great Recession and, you know, as somebody who develops it's like you put in nine houses you've got to take a deep breath sometimes. And if there's a recession going on maybe that was a factor in them not being able to react or do it. It's hard to say. You don't know what the reason was, you know?

Mr. Cerbone: Yeah, it was in 2006.

Commissioner Rose: Yeah. That was actually just before the recession started here. It was nationally an issue in '06 but here it didn't really take off or go down until 7-slash-8. But nonetheless you still really don't know what was going on. So I guess I feel like giving them the benefit of the doubt and assuming that maybe there was something in their lives that prevented them from being proactive and putting in these nine units or applying for it before this change happened.

Chair Mitchell: Oh, just a moment. Amy next. Commissioner Hughes?

Commissioner Amy Hughes: My question is not to look down the road 10 years from now, but 20, 30. Is this going to start changing what was drawn up originally for this area of the county and it become more dense in housing all the way around? Is this the beginning of that area being redrawn and is that acceptable with this decision?

Commissioner Rose: I want to comment on that when it's –

Chair Mitchell: Yes, Mr. Lundsten?

Commissioner Lundsten: Speaking back to Martha's point about the notice and who knew what, when: My point was not really whether or not we give the developer benefit of a doubt – I mean, we all have considerations which change with time on decisions like this – but whether or not the County was being conscionable in, you know, in giving citizens notice, landowners notice. And I don't know if – not conscionable, but responsible – if they had done *their* due diligence for notifying people. That's all I was really getting at. And it sounds like those issues weren't – it sounds like they were.

Chair Mitchell: Commissioner Rose?

Commissioner Rose: So I feel the same way you do, and it was my understanding that this fits under the guideline for a CaRD, that it was the mineral overlay that – so, you know, the CaRD is something that's allowed in a lot of different areas, but once the mineral overlay went on it wasn't. So they were using the guidelines of the CaRD when they created the plat. That was my understanding of it. So hopefully the answer is no, it wouldn't pave the way for other types of more density that are outside of what's currently in the code. I don't know. Maybe Michael has –

Mr. Cerbone: I think I can answer your question pretty simply by saying it removes the ability to do commercial mining –

Commissioner Rose: And that's it.

Mr. Cerbone: – by removing the mineral resource overlay. It does affect the density of some zones because it basically limits density to two development units per 10 acres. But my recollection is most of the zoning around there can still be achieved using that. But what it does is it removes the ability to mine the property commercially.

Commissioner Rose: And wasn't it that the ability to mine then took away the ability to do a CaRD?

Mr. Cerbone: I don't know that that's correct. That may have been the conversation that occurred historically, but when you look at the code the CaRD only limits the density to two dwelling units per 10 acres. And so the zone that they're in still has that ability.

Commissioner Rose: So you're saying but except for the buffers. The buffers kill the development potential.

Mr. Cerbone: Well, the buffer has the same – so if you look at it, you know, you have an MRO. The MRO allows you to mine. So that's what the MRO allows you to do. It allows you to mine on that property. And then the buffer extends that same limitation on density out. You can't mine in the buffer. The buffer just says, Hey, let's limit the amount of density that's around the mineral resource overlay. And so that buffer is really intended to try and keep residential development around the mineral resource area at a lower density so that you have less people and less homes that potentially would be concerned about, you know, commercial extraction of resource material. They do that also typically with airports and landfills and things like that – things that people may not want to live next to.

Chair Mitchell: Commissioner Candler?

Commissioner Candler: My understanding, and maybe I *mis*understood, was that trading 18 lots that are stacked in close together was a tradeoff with the CaRDs that preserved almost all of the

rest of this person's property and these larger parcels. I could have misunderstood that but that's my – I didn't think that was _____.

Mr. Cerbone: Yeah, that was definitely in the petitioners' materials. That was what was provided.

Commissioner Candler: So I took that as – on faith, and that's why I wasn't concerned about – I mean, obviously I would be concerned about the same thing as Commissioner Hughes was but I didn't see it that way.

Mr. Cerbone: Yeah, I don't think the presence of the MRO should really have an appreciable effect in terms of density there, addressing Commissioner Hughes' concern. It allows people to mine aggregate resources.

Commissioner Rose: So I guess the more I hear the more confused I get.

Mr. Cerbone: Nope, I can appreciate that.

Commissioner Rose: It's my understanding, or at least from the past meetings that we've had about this topic, that if the mineral overlay stays there they wouldn't be able to build the nine houses on the other side of that road.

Mr. Cerbone: So, and this did come up at a previous hearing – or not hearing; a previous work session. As to being able to tell you whether the nine dwelling units could go in there or not, you know, that would require more analysis from a surveyor who could give us the exact square footage of those lots and be able to do the division and math. But with the MRO in place, you know, it is the Department's position that you can still develop and you can develop at that same density that would be permitted whether the MRO was there or not.

Chair Mitchell: So is it safe to say that by lifting the mineral overlay off that does not guarantee that nine more homes will go in there?

Mr. Cerbone: That's definitely correct. Yeah. The math has to work out.

Chair Mitchell: Somebody over here? Amy?

Commissioner Hughes: Could we have some history again of why that mineral overlay was placed on that? Or how? Yeah, some history of it. I want that.

Mr. Cerbone: Yeah, so, you know, Mr. Cooper came in here. He's one of our senior planners. He's a professional geologist, a hydrogeologist, and he's the one that kind of gave you the broad overview on that at a work session. In essence, we were directed to go through, identify, and preserve aggregate resources within the community. So we went through a process to do that countywide. And, you know, I think it'd be accurate for me to describe that as kind of a desktop review process, right? So they went out and they found existing studies, existing information that were out there. They reviewed the literature to then try and identify areas where they thought this type of resource was going to be located. They did do some ground-truthing on some but not all of the proposed MRO sites and then that mineral resource overly was adopted. The ground-truthing – my recollection from that work session for this property – was actually located southeast of the existing MRO where there's an existing historic aggregate mine. And so that was what they took. So the County did not go out and do test pits like the petitioner prepared and gave to you. You know, we did some rudimentary ground-truthing but it was mostly a literature review exercise

to identify map geological units and the ones that we thought where that resource was going to be present and it will be extracted.

Chair Mitchell: Okay. Mr. Woodmansee?

Commissioner Woodmansee: Yeah, does this red line include the buffer, or is that just the MRO?

Mr. Cerbone: Yeah, that would just be the mineral resource overlay.

Commissioner Woodmansee: This is the buffer, right?

Mr. Cerbone: Yes. The one map with the purple line through the middle would include the buffer, and then the map that shows where the test pits are and the aerial in the yellow buffer through the middle of that. That would be the mineral resource overlay.

Chair Mitchell: We're going to ask someone to put that up for us so you can see it on the screen.

Mr. Cerbone: So this exhibit in front of you right here, that would show the mineral resource area in the center and then the buffer surrounding it. And the one that Commissioner Woodmansee was looking at was the other one here. So that just showed the – yeah, I'm red-green color blind so that's hard for me to see.

Chair Mitchell: And your question? What was Joe's question on that?

Mr. Cerbone: So his question on that was that red outline. Is that the MRO or is that the MRO and the buffer? And that is just the mineral resource overlay.

Commissioner Woodmansee: And how large is the buffer?

Mr. Cerbone: I believe it is a quarter-of-a-mile.

Chair Mitchell: It's a quarter-mile.

Mr. Cerbone: Yeah.

Chair Mitchell: Commissioner Rose?

Commissioner Rose: So I had a question about when the decision was made to find sites that could be mineral sites, how many were chosen besides this one?

Mr. Cerbone: Oh, I don't know.

Commissioner Rose: I mean, were there dozens or –

Mr. Cerbone: Yeah, there were – it was countywide so –

Commissioner Rose: So there were – it sounded like this is the lone site.

Mr. Cerbone: No, that is certainly not the lone site. We have other pending applications for extraction within the county presently and we had one that made the news just last year upriver. And so that was an existing mineral resource overlay area as well.

Chair Mitchell: Commissioner Lohman?

Commissioner Lohman: I just think it's interesting that on this map here you point out you've got dense residential development in the Rural Reserve just right on the edge __ right at that line. And it's *well* within the buffer so it makes you – a person wonder why draw it there when – I realize you're trying to map out where the formation is, but it *isn't* a straight line. So I just see a little bit of problems with this because of being out – I went out and looked at the area and there is a lot of residential development kind of on the Rural Reserve edge to the – if this is north; I think it's north-south orientation. So that makes me question why in the world – but why you would do that. Because the person obviously had enough acreage that regardless of whether it was Rural Resource NRL and the Secondary Forest NRL, they had enough acreage they could do a CaRD of that amount of development because of our existing code. So that's kind of a – we're not talking about that part. All we're talking about is just the overlay. But it does make you look at more than just the overlay, because if you're going to go to all that trouble of calling something an NRL and then put a relatively dense development in there, even if you do have the acres that's a lot of houses – 18 houses – and that does put a lot of pressure on the surrounding NRL operators because that's a lot of people and a lot of objection and a lot of potential conflict, if you will. But that's not what we're –

Mr. Cerbone: I think you're referencing the intent of the CaRD, right? So the intent –

Commissioner Lohman: Yeah.

Mr. Cerbone: – of the CaRD really was to allow what that density historically was allowed in that area, and it was really designed to preserve large, you know, chunks of open space to make sure that those areas were still available. So instead of having those 18 dwelling units, you know, spread out over that entire property, they'd be clustered in close together, you know, along a tight road and then the rest of that open space would still be retained and not able to be developed.

Commissioner Lohman: It speaks – it kind of speaks to what Commissioner Hughes was getting at, I think, a little bit about the concern about these kind of changes *do* change the personality of what that underlying zone (is), and we have to be careful.

The other thing I wanted to say is I don't want this to sound like we're going to readily pluck mineral overlays off just because it looks easy to do. Because that's a scarce resource too and we all need gravel, so it's an absolutely necessary resource to preserve and to be able to utilize for our future. So I don't have anything else.

Chair Mitchell: Okay. Commissioner Rose?

Commissioner Rose: Well, on the map that's up on the screen, the green strip down the middle, what – it looks like it might be wider than the actual easement, but maybe it's exactly the easement, and it seems to eat up a third of the area of this overlay, and my understanding is nobody gets to mine on that easement – right?

Mr. Cerbone: We didn't – you know, those exhibits were provided as part of the testimony so staff didn't produce those exhibits.

Commissioner Rose: Right. So on the one with the purple line it looks a little bit like it's a little bit narrower, but nonetheless it makes the easement – do they allow machinery to go over the easement and travel across it?

Mr. Cerbone: I haven't reviewed the easement. Certainly if there's a pipeline there that would probably preclude anything from engaging the earth, but I have not reviewed the easement.

Commissioner Rose: So I guess I'm looking at that as a factor in agreeing with the recommendation that mineral overlay be lifted on this particular site because of the housing density, the easement with the two utilities, and the fact that the easement divides the potential mining in half – or not even half; it looks like about a third and two-thirds. But it just doesn't seem like a practical site for mining.

Chair Mitchell: Mr. Woodmansee?

Commissioner Woodmansee: I want to comment on Annie's thing about not just willy-nilly taking things out, which I 100% agree on. On this particular one, I think it's a unique situation where you have the power of that line to get the pipeline situation and even some topography issues, and existing houses that weren't in an MRO that are now physically in an MRO, and buffers that, if they're a quarter-mile, encumber all kinds of houses. And, I mean, the edge of this MRO is right next to houses over here, and how far away from that can you – I mean, how far away from a house do you have to be to mine? Right up to the edge of an MRO? I don't know. It's a rhetorical question. I'm not asking for an answer. So that's why I think some of those things are what's unique about this particular site, and if another one came in in front of us it would have to be just as unique or more for me probably to consider removing another thing. But this thing has a lot of uniqueness to it, in my opinion, that made it a candidate to make the change.

Chair Mitchell: Anybody else?

(silence)

Chair Mitchell: Okay. Just like everybody else, I wrestled with this backwards and forwards, and forwards and backwards, and we can't split the baby on this. It's one or the other. And I do feel strongly for the people that were given the mineral overlay rights to be able to use those, and I do think that's a very important thing for people to be able to use them unless a mistake, and it's clear that most of those people still can mine some gravel for their own personal use without encumbering problems. Is that correct?

Mr. Cerbone: There are exemptions for you to be able to utilize gravel from your property, and I did communicate that to the person who had put the comments in the record, a property owner to the north of the petitioner's property.

Chair Mitchell: Can you repeat what that was so these folks know?

Mr. Cerbone: I couldn't repeat it verbatim.

Chair Mitchell: Or close.

Mr. Cerbone: I can tell you it limits the depth that you go in terms of the cut and the quantity that you can pull. And what was communicated to me by the property owner is that they do utilize that resource for their driveway.

Chair Mitchell: Okay. One of the things I'm always concerned about, and we've talked about this before in other situations, is when neighbors and landowners and property owners are not able to use their property the way they thought they could or should. And I think that's always a

concern. And I understand that the County *mostly* – correct me if I’m wrong – mostly does not act on something unless there’s a written complain. Is that correct?

Mr. Cerbone: Compliance? Yeah. We require a written complaint that is not anonymous.

Chair Mitchell: Right. Okay, good. What I’m getting at is under those circumstances I’m always hopeful that we don’t have different people in the offices that change over time so we have consistency. It’s hard to always tell.

Mr. Cerbone: Yeah, it’s a written policy how the compliance program is operated.

Chair Mitchell: Super. So for those reasons I’m more inclined to think the same for what the other folks have been saying – that the first nine are there; the second potential nine could be there. And could you repeat for us in a general outline again so the people at home know, that even if this MRO layer is lifted off the next steps are for the rest to be developed are x, y, z?

Mr. Cerbone: So if a property owner desired to subdivide, depending on how many units they do, there would be a public process and there would be notice and there would be the opportunity for adjacent property owners or anybody that was aware of the notice to comment and participate in the decision, and they would have appeal rights.

Chair Mitchell: Okay, super. Thank you very much. Does anybody else have anything to add? Tammy?

Commissioner Candler: Yeah. The mineral overlay resource, as I understood it, was fairly recent compared to how long the neighbor to the north has lived on their property. I believe they’ve probably been maintaining their driveway for many, many years before the mineral resource overlay ever was there, like most of us out in the county do. And so I don’t think that’s going to affect – hopefully, it’s not going to affect them at all, and that’s the only – that’s the reason why I _____.

Mr. Cerbone: Yeah, the property owner to the north had put a comment in – actually doesn’t physically reside there and it has been in their family for several generations.

Chair Mitchell: Okay. Does anybody else have anything else? Go ahead.

Commissioner Candler: No, I just – I don’t think it’s going to affect them so that’s why I moved the way I did.

Commissioner Lundsten: Just to clarify one thing. I was just – before we wrap up the discussion, you said that if the mineral resource overlay is *not* removed that effectively those nine houses could still be built on that property, and I don’t understand that. It seems – did I hear that? I must have heard that wrong.

Mr. Cerbone: Nope, you heard that right.

Commissioner Lundsten: So we wouldn’t be – are we not affecting the viability of this development one way or the other with this decision? That seems like – the plaintiffs have been saying to us, Remove the mineral resource overlay, please, because we have this CaRD and we want to implement it and with the MRO in place we cannot implement it. _____.

Mr. Cerbone: That is what the petitioners put in their request. Yep. So the zoning that their property is, the maximum they can get with that CaRD is going to be two per 10 acres, and the MRO limits the density surrounding it to two per 10 acres.

Commissioner Rose: But it couldn't be in the *spot* that it's shown.

Mr. Cerbone: It couldn't be in the physical MRO, so to the extent that they wanted to put a lot within the existing MRO it wouldn't – I don't believe it could be there. Actually, I take that back. It can be.

Commissioner Rose: There's more than one lot. It looks like there's a couple. But then all the rest of them would be in the buffer.

Mr. Cerbone: And again, the way that the MRO is written – I mean, we could probably pull up the code and show it to you. But the way that the MRO is written is it limits it to two per 10 acres.

Commissioner Rose: But you have this buffer. This is what gets more confusing.

Mr. Cerbone: And the buffer's basically – has the exact same requirements or preclusion in it, right? So within the buffer or within the MRO you are limited to two dwelling units per 10 acres. And we have some zones through the CaRD that would allow you to go higher than that.

Chair Mitchell: Commissioner Candler.

Commissioner Candler: I'm assuming – and I think it came up earlier – they get a density bonus, I'm assuming, for clustering it along that road.

Mr. Cerbone: Mm-hmm.

Commissioner Candler: So right now we've got nine houses in a line down a road. The proposal would, I think, is designed to put nine houses along the other side of the road as opposed to, okay, now without the density bonus maybe they can only do five, six – I'm not sure, depending on the acreage how it shakes out. But they're going to be wherever they're going to be. They're not going to be in a line on that road.

Mr. Cerbone: But the MRO doesn't preclude the density bonus.

Commissioner Candler: So they maybe still have nine, but they'd be out all scattered.

Mr. Cerbone: I don't know that they would still have nine but, yes, they would maybe still have nine.

Commissioner Candler: Okay.

Commissioner Rose: But they would not be in that spot probably because that spot –

Mr. Cerbone: No, they could potentially be in that spot. The actual – if you look at the MRO zoning, it gives a fair amount of flexibility to that. Oh. Well, I think Peter's pulling it up. So it doesn't preclude that. I think there was conversations before I got here – obviously, because I've only been at the County for about 10 months – there are conversations that occurred that led the petitioner to believe that the density would be impacted and potentially the density bonus would not be allowed. But it's pretty clear when you read the code that that's not the case.

Commissioner Rose: So in – do you mind if I –

Chair Mitchell: No, please go ahead.

Commissioner Rose: Thank you. When I read through the materials and the written responses, there's a lot of discussion about having been advised by County officials to dig all these test pits, to prove that – because that was the only way they would be able to build those other nine houses. So I think you're saying right now that they were given wrong information.

Mr. Cerbone: I was not there when the conversations occurred. If those conversations did occur, that's potentially correct, yeah. Because when you read the code, it limits it to two per 10.

Chair Mitchell: So really in essence the issue comes down to it doesn't matter for whether homes get built there or not. That's not our purview really even though –

Mr. Cerbone: That's not part of the decision-making process anyway.

Chair Mitchell: Right. Even though fortunately the petitioner did put in what their intent was, which was lovely to know that. But if we lift the MRO off or not that's the only thing that we can have anything to do with.

Mr. Cerbone: Yeah, yeah, and I think it comes down to whether you think, you know, they've submitted sufficient evidence within the record to justify the existence or non-existence of the mineral resource overlay. And I've been taking notes from your discussion and you guys have discussed several things that have nothing to do with density or residential units.

Chair Mitchell: So thank you very much. I appreciate that. So any more discussion?

Commissioner Rose: I have a comment and that is if I hear you correctly, whether or not the mineral resource overlay is on this property or not that that will not affect the ability to build those added nine houses in that spot. And I would hate to vote to keep the mineral overlay in place and then find out that we were duped.

Mr. Cerbone: Well, I'm certainly not duping you.

Commissioner Rose: I know you wouldn't be intentionally but –

Mr. Cerbone: The language is quite clear. I went over the language myself. I read it by our legal counsel and the current planning manager.

Commissioner Rose: I see. Thank you for doing all that.

Chair Mitchell: Commissioner Woodmansee?

Commissioner Woodmansee: I guess I'm a little frustrated right now because we've been through this whole process and tonight's the first time I've heard the comment made that even with the MRO and the buffers you can still have your two units per 10 acres.

Female voice: Look on the screen.

Commissioner Rose: I can't read that.

Chair Mitchell: We can't read that. It's too small.

Mr. Cerbone: Commissioners, it's not the first time you've heard it. It may be *verbatim* the first time you've heard it that way. I did raise this during a work – I did raise this during the work session previously and did say I was working with legal counsel to determine that.

Chair Mitchell: Thank you. Thank you.

Commissioner Rose: And I agree. I heard you say that, but I didn't ever come away with a clear understanding of what that working with was going to look like.

Mr. Cerbone: Had I had a clear understanding of it I certainly would have communicated to you.

Commissioner Rose: And, of course, it's not what you did or didn't do. It's I think everything that happened before.

Chair Mitchell: I think that's safe to say – what Commissioner Rose is saying. I think that's where everybody was frustrated. The conversations roll around the same thing, is that this has been so confusing, start to finish – things done incorrectly or illogically, inconsistently, one way or the other. And here we are with a decision to make a recommendation one way or the other. And the information is there. There's not much else we can – we can't change what the code is.

Commissioner Woodmansee: So that says one per 10.

Mr. Cerbone: Let's see.

(Mr. Cerbone reads something quickly and not quite audibly.)

Mr. Cerbone: So that's just an exception. If you go back up to the actual different zoning definitions you've got Rural Reserve right there is two per 10 acres and _____. So scroll back down to the section that's highlighted.

(Mr. Cerbone reads something quickly and mostly inaudibly.)

Mr. Cerbone: I'm sorry. I thought it was two per 10.

Commissioner Lundsten: It says located outside of the buffer.

Mr. Cerbone: Well, no, no, no. So there are two separate sentences. The last part of the sentence has to deal with when you can transfer it to get additional density. So what we need – I'm sorry. I didn't know that we were going to get into this level of conversation this evening. If you like, I can come back and I can bring all this information typed up for you.

(silence)

Mr. Cerbone: Or you can remove the MRO.

Chair Mitchell: So, more discussion?

Commissioner Lundsten: Well, it seems to me that we've had – one thing that we've had is members of the public who have done exactly what the County told them to do. They've provided

us with pictures and, you know, descriptions of work and, you know. And this is, you know, I don't know, to a very high level of specificity on a lot of things that are relevant. And they were told *what's* relevant and they met those things. They've done what they're supposed to do. Further, at last meeting when we talked about this we discovered about the power lines for the first time, and the gas line for the first time, and suddenly the MRO seems like it's much less viable. Even then *they* said it was. And then when you look at the map here, it has a – you know, you can see that you would – if they do their 18 units where they were planning for – the original CaRD system they had set up – it's probably the least impact on the area of all the options that we have. So I didn't know where all this stood at first, but I'm inclined to say that, you know, we should remove it, that it really – it is not a very viable thing. The code is murky, at best. We're going to have to get a guy who's a pro who works for the County and another guy who's a pro who works for the County to explain it to us *again*. Now it seems to me that if you take the simplest solution it would be to remove the MRO and that the risk of that is much – is very low for effect on other people that are already there. And the benefits of just saying yes, you did what we said; you applied for the CaRD; this is what CaRDs are supposed to do; let's see how this works. And say yes to them. We're giving the public notice that working with the County is a reliable thing. And if we say no, we're kind of saying working with the County is *not* a reliable thing. We can change our minds. Whoop, the code *doesn't* say that, even though we told you to dig all those pits and provide all this information, mmm, that's not really true. I don't think we should be doing that.

Chair Mitchell: More discussion, or would somebody (be) ready to call for the vote?

Commissioner Rose: Yeah, call the question.

Chair Mitchell: Call the question? All those in favor of removing the entire MRO, which was the petitioners' preferred alternate, please say "aye."

Multiple Commissioners: Aye.

Chair Mitchell: All those opposed, say "nay."

(silence)

Chair Mitchell: The ayes have it. The motion passes. Okay, thank you very much.

Commissioner Candler: Are we making Findings now or are waiting till the end?

Mr. Cerbone: I've got notes and I think what would be best for this one, because it's different than what the staff recommendation, that I bring the formal findings back for you guys to review at the next meeting. That's okay with you?

Commissioner Candler: It's fine with me.

Mr. Cerbone: I took pretty good notes about what you were discussing.

Chair Mitchell: Would you do us a favor, please? Would you communicate that to the Chairman so he knows to expect that?

Mr. Cerbone: Yeah.

Chair Mitchell: Thank you very much. Okay, so moving on – if everyone would pull their information out for C-1. And C-1 is a modified Comprehensive Plan policy for the Guemes Island Ferry. Give me just a second, too, please. Okay. Staff provided again on this one good information for the SCCs and the policy information for the background for it, and ultimately the recommendation by staff – it says “The Department recommends the proposed modifications to the Skagit County Comprehensive Plan Transportation Element Technical Appendix be approved.”

Commissioner Rose: I’d like to move that we approve this motion.

Commissioner Candler: I’ll second.

Chair Mitchell: It’s been moved and seconded that we approve the motion as staff has written for C-1, for the ferry. Any discussion?

(silence)

Chair Mitchell: Seeing no discussion, we’ll call for the vote. All those in favor, say “aye.”

Multiple Commissioners: Aye.

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

(silence)

Chair Mitchell: Motion carries.

If we go too fast for you guys, let me know. Okay. So would everybody pull their information for C-2, please? C-2 is to codify the Comprehensive Plan policy 4A-5.6, Drainage District Coordination. And the County’s recommendation on this one says their proposed modifications to Chapter 14.32 be deferred to the 2020 Department Work Plan and the project that is currently underway. Would there be discussion before?

Commissioner Lohman: Well, do you want a motion?

Chair Mitchell: We’re doing a motion. It’s up to you all.

Commissioner Lohman: I move that we adopt the language in the policy for a 5.6 drainage plan. Because we’ve already – well.

Chair Mitchell: Any second?

Commissioner Candler: I’ll second.

Chair Mitchell: Okay. The motion has been moved and seconded to adopt – or excuse me. Repeat it, please.

Commissioner Lohman: The motion is to adopt the policy plan change.

Chair Mitchell: Okay. It’s been moved and seconded. Any discussion?

Commissioner Woodmansee: I have a question.

Chair Mitchell: Yes?

Commissioner Woodmansee: What the motion is is to concur with the – to defer it?

Commissioner Lohman: Not defer.

Commissioner Woodmansee: *Not* defer.

Commissioner Lohman: Mm-hmm. Just go ahead and adopt the language.

Commissioner Candler: Can we hear from the moving party as to why?

Commissioner Lohman: Because we've already hashed out the language. And I pulled out my notes from October 16th of 2018 where we've already – this body – we already motion, second, and passed the language change. It's just getting it inserted. And I checked back with the Ag Advisory, the drainage consortium, a couple commissioners, and everybody concurs that there really isn't any harm in getting the policy put in there.

Chair Mitchell: Mike?

Mr. Cerbone: I just wanted to – Commissioner Lohman is referencing language that was in, I think, and October 1st staff report and so the actual amendment that she's proposing would be to modify SCC 14.32.020 to add a new subsection to that reads "Drainage District Review period." The Department shall provide an opportunity for the drainage districts to review and comment on any application requirement or review under this chapter. This subsection gives no authority to the drainage districts to require changes to the application.

Commissioner Lohman: But –

Mr. Cerbone: I just want to clarify that I think that's the motion that you're making.

Commissioner Woodmansee: To adopt that language.

Mr. Cerbone: Mm-hmm.

Commissioner Lohman: Okay. It does take it and does actually codify. But we've never seen the codified language. Have we?

Mr. Cerbone: So I found it pretty quickly.

Commissioner Lohman: It was just basically insert the sentence.

Mr. Cerbone: October 1st, 2019, we gave you a work session staff report –

Commissioner Lohman: I misunderstood. I thought you were just trying to update the Comprehensive Plan policy.

Mr. Cerbone: No, you guys already did that –

Commissioner Lohman: Okay.

Mr. Cerbone: – last year, and so then what we were docketed this year was to actually take that Comprehensive Plan policy and then codify that.

Commissioner Lohman: But we really haven't even – we haven't even really had a work session or anything on that yet.

Mr. Cerbone: We did. We did have a work session on that early on back – early on back in October.

Commissioner Lohman: At the very, very beginning. Okay, okay.

Mr. Cerbone: And as I got my feet under me more here under the County, I realized that we were also working to redraft 14.32, the entire stormwater code section. And so that's when staff, you know, made the change to make the recommendation to wait until we adopt all –

Commissioner Lohman: I just don't want this thing to languish another couple more years. Because here we are in 2020 and this was from 2018.

Mr. Cerbone: Yeah. No, I can understand your concern and I can tell you that we are proposing to bring the stormwater code before you this year. Peter has been working on it the last several months.

Chair Mitchell: So we can handle this two ways. We can go ahead and vote as is and bring up another motion, if you'd like.

Commissioner Lohman: How do you withdraw ___?

(inaudible remarks from Commissioners)

Chairman Mitchell: Okay, the motion's been –

Commissioner Lohman: I don't know my parli *that* well!

Chair Mitchell: The motion's been withdrawn.

Commissioner Lohman: I misunderstood. I was reading something that I thought – I thought we already did it but then I thought well, why are we...because I didn't see the code language.

Mr. Cerbone: Yeah, because we didn't include it because by the time you got the staff report before the public hearing, that staff report – our recommendation had changed to waiting until we adopt it. The new revisions to chapter 14.32.

Several Commissioners: Okay.

Chair Mitchell: So that motion's been withdrawn. Commissioner Candler?

Commissioner Candler: I will move then the Department – I'll move then that we recommend to defer to the 2020 docket.

Commissioner Lohman: Second.

Chair Mitchell: It's been moved and seconded for the motion to – there we go – that chapter 14.32 be deferred to the 2020 docket and the stormwater code amendments that are currently underway. Is that correct?

Commissioner Candler: That's correct.

Chair Mitchell: Okay. Any more discussion?

(silence)

Chair Mitchell: All those in favor, say "aye."

Multiple Commissioners: Aye.

Chair Mitchell: All those opposed, say "nay."

(silence)

Chair Mitchell: Motion carries.

Okay, pull information forward for C-3, please. C-3 is Binding Site Plan Revisions, and the Department recommends the proposed modification to SCC 14.18.500(2)(c) be approved.

Commissioner Rose: I move that we approve the modification to SCC 14.18.500 (2)(c).

Commissioner Lundsten: Second.

Chair Mitchell: It's been moved and seconded to approve the proposed modification to SCC 14.18.500(2)(c) be approved. All those in favor, say "aye."

Multiple Commissioners: Aye.

Chair Mitchell: All those opposed, say "nay."

(silence)

Chair Mitchell: Motion carries.

Commissioner Lohman: You didn't want a discussion?

Chair Mitchell: Oh, excuse me!

Commissioner Rose: Yeah, you forgot to ask for discussion.

Chair Mitchell: I'm sorry. Forgive me. Discussion? Sorry – back up. Thank you.

Commissioner Lohman: I think it makes sense to take – I never understood why we had a binding site plan for leases. It didn't make sense to me. I think this cleaning it up makes sense.

Chair Mitchell: Any more discussion?

Commissioner Woodmansee: I agree.

Commissioner Candler: I agree.

Commissioner Lundsten: Me too.

Chair Mitchell: Same here. Okay, more discussion or –

(silence)

Chair Mitchell: Okay, all those in favor for a motion that the Department recommends the proposed modification to SCC 14.18.500(2)(c) be approved, say “aye.”

Multiple Commissioners: Aye.

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

(silence)

Chair Mitchell: Motion carries. Thank you, Annie.

Okay, please pull your information for C-4. C-4 is to modify the SCC 14.16.500(3) and (4), Trails in the OSRSI. The bottom line is that the Department recommends the proposed amendments to SCC 14.16.500 be approved. Commissioner Candler?

Commissioner Candler: In this one, if I remember – I just want to – this one takes trails out of hearing – makes them a permitted use? Or _____?

Mr. Cerbone: So right now the code has trails identified as both permitted and an administrative special use, and so this would – staff’s recommendation would make trails a permitted use and then also clean up some of the language so it’s a little cleaner. And you had testimony on this one.

Chair Mitchell: Commissioner Lundsten?

Commissioner Lundsten: I think this is an issue that if you have cooperative, educated public and an engaged and fair-minded director of whatever agency is in charge of trails, you could streamline everything. But when there’s a glitch and someone objects and there’s some kind of problem, it’s best to have the hearing examiner provision put in. I think there was some very good testimony given by a number of people to that effect, and one of them – Marlene Finley – said very clearly, you know, it’s infrastructure. You’re putting something in – you’re changing the ground and it has effect on people. So I’m inclined – I would say – I would move that we deny this.

Commissioner Candler: Seconded.

Chair Mitchell: It’s been moved and seconded that the amendments to SCC 14.16.500 be denied. Is that correct?

Commissioner Candler: Yep.

Chair Mitchell: Excuse me – Mike?

Mr. Cerbone: I just want to make – just clarify. If your intent is to make sure that they're administrative special uses not hearings examiner special uses, we would still have – if you deny this amendment, you would still have trails being able to be permitted as an outright permitted and an administrative special use. As the applicant, that gives me the ability to choose my pathway – so that you would still have the same situation. So if your intent is to have trails as an administrative special use, I would suggest that you make a motion to that effect – to remove trails as an outright permitted use – and then you would have that outcome that I think you were hoping for.

Commissioner Lohman: I was going to – if I may.

Chair Mitchell: Yes. Commissioner Lohman?

Commissioner Lohman: I think we need to – I think what you're wanting to do, Mark, is possibly you want to deny just the outright and use our ability to tweak the language.

Commissioner Lundsten: Yes.

Commissioner Lohman: Which would be – on your packet here, it would be this one.

Commissioner Lundsten: Yes.

Commissioner Lohman: Because if you just do deny, we're back in the same wishy-washy language that we've got in the code.

Commissioner Lundsten: You're right. I jumped too far ahead. I think it was laid out here to do what I – what Mike and you have just suggested, so I – I'm not sure exactly –

Mr. Cerbone: So let's have Peter pull it up so that we can – so that you guys, whoever wants to make the motion, can get the correct wording written down.

Commissioner Lohman: I think it would be helpful if we all flipped over to the code section.

Mr. Cerbone: Yes. In the staff report.

Commissioner Lohman: In the staff report.

Mr. Cerbone: And I'm pulling it up myself so I can help out.

Ms. Hughes: And if you could help us get there, I'd appreciate that.

Mr. Cerbone: Mm-hmm.

Commissioner Lohman: In the future, we need page numbers. Just sayin'....

Chair Mitchell: Yeah, I've got page numbers but they're not going to be your page numbers.

Commissioner Lohman: No, because mine are handwritten.

Chair Mitchell: You're asking to go for the actual code written in where there were strikethroughs? Is that correct?

Mr. Cerbone: So it starts on page 46.

Chair Mitchell: So the numbers for that again – if you're trying to look at the written language, it's under Title 14, Unified Code Development. Under chapter 14.16, Zoning, and we're looking specifically under the section of 14.16.500, Public Open Space of Regional/Statewide Importance, OSRSI.

Commissioner Lohman: And then (3).

Chair Mitchell: Commissioner Lohman, you want to look at (3).

Commissioner Woodmansee: Yeah, she's reading that right now.

Chair Mitchell: (3)(f): Is that what you're wanting to look at?

Mr. Cerbone: I think you would modify staff's recommendation to not include trails as sub(l) and to not delete trails from sub(m), number (4). And then that would leave trails and primary and secondary trailheads as a(n) administrative special use and that would effectively delete trails from a permitted use.

Commissioner Lohman: Well, you would have to take it out of (f), too. Correct?

Mr. Cerbone: So (f) – if you just leave what we have recommended, modify our recommendation to not include trails as (l), and then to not delete trails –

Commissioner Lohman: Well, you'd have to delete it because then you're back to where we are now.

Mr. Cerbone: Well, you would be still deleting it from above so that would be following our recommendation. Or you could just say to remove trails and/or from (f) –

Commissioner Lohman: Right.

Mr. Cerbone: – and not delete anything else.

Chair Mitchell: Could either Commissioner Lundsten or Commissioner Lohman repeat again what you're goal is?

Commissioner Lundsten: The goal is to remove it from just a permitted use, and so that it gets public review.

Chair Mitchell: Okay.

Commissioner Lohman: So if I may. So we would – I believe it would be clearer if we went ahead and deleted it from little (f), 3(f), and the proposed (l). So it doesn't exist, so it's not going to be an (l). And then it would go in the administrative –

Mr. Cerbone: I think you could just do the first part. If you just said to modify 14.16.500 to remove the words “trails” and “or” from sub(f), that’s all you’d need to do.

I don’t have the rest of it. We don’t have the rest of it. Does it – when you get down to administrative special uses, is “trails” there?

Mr. Cerbone: So “trails” is still there if you don’t modify it. So administrative special use would have (m). Subpart (m) of that administrative special use would read “trails and primary and secondary trailheads.” And so if you just proposed to remove the words “trails” and “or” from subpart (f) of subpart (3), 14.16.500, you would only have trails as an administrative special use.

Chair Mitchell: And that’s the – just to make sure that we’re on the same page here – so that’s what you guys are looking for, is to not let them be outright permitted. Is that correct? In order to do that – so what we’re looking for here is taking trails out entirely from both (f) and (l) under (3) – is that correct, Mike?

Mr. Cerbone: Just (f). (l) is the proposed addition so –

(several people speaking at the same time)

Commissioner Lundsten: It wouldn’t add (l).

Chair Mitchell: And we would leave it alone the way it originally was under (4)(m), where trails – like you read earlier: Trails and primary and secondary trailheads would remain as it is.

Mr. Cerbone: And again, as I understand it, the intent is to make sure that trails are an administrative special use. And so that would do that.

Chair Mitchell: Okay.

Commissioner Lundsten: We finally found the alphabet soup you were talking about, and you hit it. That’s exactly what I would have proposed so thank you.

Chair Mitchell: You’re welcome. So we need to – Commissioner Woodmansee?

Commissioner Woodmansee: So would this – as I understand this, would this put us in a position to have – to not have this property owner having a permitted use to have a public trail on the edge of his property and the property owner to the other side have nothing they can do about it and be impacted by that trail along their property boundary?

Mr. Cerbone: Yeah, it would ensure that notice was provided because notice is required as an administrative special use.

Commissioner Woodmansee: Okay. Yeah, and is that a hearing examiner or is it –

Mr. Cerbone: That’s a staff level decision that requires notice. The next level up would be a hearings examiner special use.

Commissioner Woodmansee: Would that be under like it would an appeal? Go to a hearing examiner?

Mr. Cerbone: Administrative special use would be appealed to a hearings examiner special use.

Chair Mitchell: More discussion? Commissioner Rose?

Commissioner Rose: What's the radius of people that are notified? Is it, like, 300 feet?

Mr. Cerbone: I will not give you the wrong answer. I will look it up. _____ discretion in that distance, and in some instances staff will choose to exceed what the minimum requirements are for notice. An example would be the proposed mine that was upriver. We exceeded that distance. "Notice of development application shall be posted on or around parcel being subdivided at least five conspicuous places, designed to attract public awareness of the proposal, and mailed to the owner of each parcel within 300 feet."

Commissioner Rose: it's 300, yeah. Okay, thank you.

Commissioner Candler: Do we need language to not add it in (l) as well?

Commissioner Lohman: No.

Commissioner Candler: No? Okay.

Commissioner Hughes: Point of clarification.

Chair Mitchell: Commissioner Hughes?

Commissioner Hughes: I must have wandered in my mind. Are we working with the administrative use or a special hearings?

Several Commissioners: Administrative.

Commissioner Hughes: So we're talking administrative.

Chair Mitchell: Right.

Commissioner Hughes: Okay.

Chair Mitchell: But there's more discussion.... I'll quickly mention this: What was going through my mind is what was in the recommendations from the advisory ag board and the FAB board. Looking for hearing examiners. So that's always up for discussion as well. Technically we have not amended this motion from what we had done on it originally. Is that correct?

(some unintelligible discussion from several Commissioners)

Chair Mitchell: Would you prefer to have more discussion now or do you want to see that motion withdrawn and re –

Commissioner Lohman: Point of order. I think you need to withdraw your motion and get it on the right motion.

Commissioner Lundsten: Restate it. Yes, I would unwithdraw the motion.

Commissioner Candler: I'll withdraw the second.

Chair Mitchell: And the second withdraw, too. Okay, so would you like to restate your motion?

Commissioner Lundsten: We have to remove it from (f) and we don't add (l) to number (3).

Chair Mitchell: He's got this written up on the board. I'll read it to you because it's hard from where you are. Peter, tell me if I get this wrong. "Remove trails..." – there we go. Can you see it? "Remove trails as a permitted use. Remove," quote, "'trails' from 14.16.500."

Commissioner Lundsten: Yeah, that's right.

Mr. Cerbone: And the word "or" is in there too.

Chair Mitchell: Okay. Can you read it from where you are?

Commissioner Lundsten: Yes.

Chair Mitchell: Do you want to restate the whole thing?

Commissioner Lundsten: We'd like to remove trails as a permitted use and remove the, quote, "trails or," unquote, from 14.16.500(3)(f).

Chair Mitchell: So that's your motion, correct?

Commissioner Lundsten: That's my motion.

Chair Mitchell: Do we have a second?

Commissioner Rose: Second.

Chair Mitchell: Okay, it's been moved and seconded. More discussion? Commissioner Candler?

Commissioner Candler: We seem to have a disagreement as to whether or not we need to add – not add (l). He thinks so; you think not. I'm not sure.

Commissioner Lohman: Because the removing it from the permitted use takes it out. If you put it as a permitted use, you insert it as one.

Commissioner Lundsten: Yeah, that first part of it covers ____.

Chair Mitchell: More discussion? Commissioner Woodmansee?

Commissioner Woodmansee: I ____ a point of clarification. On the administrative process, that's a public hearing?

Mr. Cerbone: No, no. That's a decision issued by staff with notice and so that'd be different from a public hearing, but it does give the opportunity for community members to comment and put information into the record before staff issues the decision. And then the appeal would go to the hearings examiner, which would be a public hearing.

Commissioner Woodmansee: And so who is the administrator that sits on that?

Mr. Cerbone: Well, Hal is technically the planning administrator, but it would be issued by our current planning staff, and so Brandon Black is the senior planner in charge of the current planning staff and we have several folks that work under Brandon, and so they're the ones that review an issue – administrative decisions – and then they make formal recommendations to the hearings examiner _____.

Chair Mitchell: Could you back up just a hair if you can explain something? So if it goes under special use, how do the neighbors and everybody else hear about it?

Mr. Cerbone: They're notified. So they'd be notified within 300 feet of the property.

Chair Mitchell: And is it by mail?

Mr. Cerbone: It is by mail to physical addresses.

Chair Mitchell: Okay. Is everybody clear on that?

Commissioner Lohman: Is there any other – just to be clear – is there noticing in the newspaper and other public places?

Mr. Cerbone: When we have SEPA that is noticed in the newspaper, and unless it's underneath the threshold for SEPA that would be noticed in the newspaper. I'm just reading to make sure I give you the right information.

Commissioner Rose: Normally there's a sign posted near the property, you know, like. But it's usually the mail-outs that catch people's attention.

Mr. Cerbone: So within 14 days of mailing a letter of completeness, the County shall issue a Notice of Development Application for level 1, 2, 3, and 4 applications. There's a 15-day comment period, minimum. No greater than 30 days. And then mailed within 300 feet.

Chair Mitchell: Okay. Commissioner Hughes?

Commissioner Hughes: The first thing that strikes me with that 300-foot property distance, if my math is correct, is that the size of a football field? And so when we are talking about –

Chair Mitchell: Oh, excuse me. No. 300 feet – it's 300 *yards* for a football field, right?

Commissioner Lundsten: No, 100 yards.

Chair Mitchell: I'm sorry – yeah. Go ahead.

Commissioner Hughes: Okay, so we're back on that train of thought, right? So when you're looking at our natural resource grounds where this is going to be that could not include some neighbors. It's not quite large enough to capture the effect that that could have to the community. So that is the first thing I notice on this. Then I'll go on after everybody else has discussion.

Chair Mitchell: Commissioner Candler?

Commissioner Candler: Technically I don't think that the 300 feet is in front of us. I think we could maybe add something that we would like the Department to look at larger notice requirements, but it's not specifically part of this.

Commissioner Hughes: Okay.

Chair Mitchell: Commissioner Rose?

Commissioner Rose: A comment on that, and that is from when I've had to do these mail-outs, it's from any part of the property where the improvement is taking place. It's not just from, like, the entry to the trail. It would be 300 feet from every edge of the trail. So that broadens the number of people that would receive notice and it also – even if the 300 feet hits just the tiniest little corner of somebody's property it still – they still get a mail-out. In other words, it's not to their house. It's to their – whatever tiny little edge is within that 300 feet qualifies. So it may not feel so – you still may want more but it's a pretty good coverage usually.

Chair Mitchell: Commissioner Woodmansee?

Commissioner Woodmansee: I think that's maybe even better than that, because if your trail's down – say it's down the middle of your property and it's on that parcel, it's going to be 300 feet from the edge of the parcel, not from the trail itself.

Commissioner Rose: Right. True. He's right about that.

Commissioner Woodmansee: So it's anything within 300 feet of the parent parcel where that development application is trying to take place. And so a little bit more.

Commissioner Rose: That is. That really covers it well.

Commissioner Lohman: But Amy's point: It could be that the only person getting noticed is the immediate adjacent. That's it. Because of being rural. Because this is for OSRSI so there aren't many people there. But there is property owners but not within that 300 feet.

Commissioner Woodmansee: Yeah, and – may I?

Chair Mitchell: Yes, please go ahead.

Commissioner Woodmansee: So I wouldn't have a problem if it's within our ability here to make it a longer distance because of the ruralness of the situation. We could go to 500 feet and it wouldn't bother me. If that's our concern, that not enough people would be getting noticed.

Chair Mitchell: Commissioner Lundsten?

Commissioner Lundsten: If there's another consideration brought in, if it has to do with something besides its proximity to other properties or some other environmental concern that triggers another oversight – some provision of the law that has oversight – you would have broader notice to the public. Is that right, Mike? So, like, say, for example, there's a sensitive – there's a wetland that you have to – you know, anything having to do with that would require notice to certain people or in the paper.

Mr. Cerbone: So there's different applications, yeah. So if it was underneath the threshold for SEPA, then, you know, there would not be a SEPA notice, but if it was over that threshold then there would be a SEPA notice about the application as well. And we do – the provisions in the code talk about extending it to 500 feet. Let's see, "When the administrative official finds that a need exists and so informs the applicant at the pre-application meeting, notice shall be given to all physical addresses and all owners of real property within 500 feet of any portion of the ___ boundaries." And then it goes on to identify marijuana is 1000 feet, so if it's a marijuana facility it's required to provide 1000 feet.

Commissioner Candler: Which code section? Which section is that?

Mr. Cerbone: So this is in our procedures section so this is 14.06.150, Public Notice Requirements. And to Commissioner Candler's point, what has been docketed has been – and what has been noticed and all that good stuff – has been the actual zoning category, and so what you're talking about is potentially amending 14.06.150, which is not technically what was docketed.

Commissioner Candler: Which means there's been no opportunity for comment, et cetera, so I think the most what we could do would be to recommend that the Department bring that to us or do something with it, not – we can't vote on it, but...we can't vote on a specific recommendation beyond that, I don't think.

Chair Mitchell: Right. Commissioner Lohman?

Commissioner Lohman: Didn't the FAB letter, though, ask for a hearing examiner rather than an administrative special use? And that – I mean, besides the cost, I mean there's a – it's got a pretty hefty cost, entry cost, if you're going to go to hearing examiner, but it also has more noticing.

Commissioner Candler: True. So it kind of ties it in that way ____.

Commissioner Lohman: But it's – I want to say isn't it \$5000 for the hearing examiner?

Chair Mitchell: I pulled out the FAB letter. I can read the part where they said for –

Mr. Cerbone: (inaudible)

Chair Mitchell: Okay.

Commissioner Lohman: I mean, because – I mean, that was what some of the comments were asking for was more of a hearing examiner rather than an administrative.

Commissioner Rose: I don't remember – oh, I'm sorry.

Chair Mitchell: That's quite all right. So if we – the whole section that they had is fairly long for C-4 for their comments under. But at the bottom of the page I highlighted what they said at the end. It said "Rather than allowing the SCC to be modified so that a trail is outright permitted we ask that any and all adjacent property owners be notified that a trail is being constructed. Also, that the trailhead, maps be provided showing the private parcels in proximity of the trail along with information encouraging thoughtfulness for private property owners." And they also cite policies number – goals – 4B-5.4, 4B-6, and 4B-7. Let me see. And they emphasized under 4B-5.4, which says, "Recreational and Park Uses: Recreational opportunities on Forest Resource land shall be

permitted uses – and they emphasize this next section – “where they will not conflict with forest practice activities on these lands or when such impacts can be fully mitigated.” They again said “emphasis added.” 4B-6, “Minimize land use conflicts and promote mitigation of conflicts on the lands adjacent to Forest Lands.” And 4B-7: “Establish, in all aspects of forest management regulations, support for the forest product industry and its ability to keep and economically manage forest lands.”

So the bottom line is they were asking for trails not to be outright permitted.

Commissioner Rose: Right.

Commissioner Hughes: Pardon me. Say that again.

Chair Mitchell: The bottom line is they were asking for trails not to be outright permitted.

Commissioner Lundsten: And that’s simple.

Chair Mitchell: I’m sorry. Commissioner Lundsten, and then we’ll go –

Commissioner Lundsten: The impetus for this was to streamline the process of making trails within the Parks and Recreation Department, as I understand it – and the County. And I can see exactly why they would want to do that. Am I wrong?

Mr. Cerbone: That is not the impetus. I thought that was what it was when I first got here, but the impetus is the fact that we have trails identified as permitted and administrative special use. So there was an error when they amended the code where they have it. Currently –

Commissioner Lundsten: ___ two ways.

Mr. Cerbone. Currently – so currently when you read the code it has it listed in both places and so the applicant could choose one or the other. And it was actually one of our natural resource folks that saw that/found that in the code and identified it. So the intent is to rectify that to have just one use and staff recommended the permitted use based on the Comp Plan policy that was in the staff report that said – I believe it said most trails should be identified as special uses. And this was the one zone that staff felt that maybe it was appropriate for them to be permitted.

Chair Mitchell: Commissioner Rose?

Commissioner Rose: So to me – I’m going back to recommending that it be an administrative use is: Where are people parking? I mean, that’s – the construction of the trail is one thing but then how do you accommodate the parking? And so the administrative review would be able to look at that. I don’t know if it would be looked at the other way too, but –

Mr. Cerbone: So under Staff’s Recommendation the trailhead would still be an administrative special use and it would just be the construction of the trail that would be an outright permitted, because that is where you tend to have conflicts in that trailheads where people dump garbage, you have vehicle turn movements that conflict with traffic. So the proposed amendment was to keep trails as an outright permitted use and then keep secondary and primary trailheads as administrative special use.

Commissioner Lohman: But we *are* having conflict on trails themselves.

Mr. Cerbone: Yeah. I'm just trying to clarify what our recommendation is –

Commissioner Lohman: I'm just sayin'...

Mr. Cerbone: I'm not trying to change your decision. We gave you a formal recommendation. It's \$840 for an administrative decision and it's \$3000 for a hearings examiner.

Chair Mitchell: Commissioner Hughes?

Commissioner Hughes: We could take this up at a big overview because we've kind of focused into the forest but we also have a lot of area out on the coast that is included in this. And I would like to make the point that we live in western Washington with a lot of congestion. Every – we are a very mobile society and we're right between Vancouver and Seattle and people can move quickly and enjoy and then leave again. We already have congestion in these areas and if you look at recreation on the worldwide scale we quickly can overrun an area, whether you're talking about Yellowstone or some of those natural heritage sites around the world or even in our own community. And so I think that we need to be really careful of how we open the door to a lot of love into this area and I think it's going to eventually build into our tourism conversation that we're having and a lot of other conversations. We already have user conflict, and I'm not saying stakeholders and people using it. I'm saying users themselves. And I have noticed in the last three years it's getting dangerous. User groups, whether – and I'll point it out – whether it be February or the winter months where you have people who love to watch the birds but hunters who love to hunt the birds, and they're in the same 20-acre field. Very quickly you can encroach upon another area in some areas in our county. And then the one letter that I read – don't know the writer. It doesn't come from a group. But I thought it was very well-written so I'd like to just read it.

“Trails should be part of a methodical, well-analyzed plan that satisfies and balances public goals that include the preservation of open spaces, the creation of wildlife corridors based on movement patterns, and sensitivities of local fauna, and the development of OSRSI for human active recreation such as bicycling. The public has a right to expect demonstrated balance of priorities, transparency, and the right to comment as the special use permit process currently offers.”

And so I do think we're at a point where we should take this seriously.

Chair Mitchell: Mike?

Mr. Cerbone: I just wanted to correct. A special use administrative permit is actually \$2520 and a special use permit hearing examiner is 3000, so that'd be a difference of \$480.

Chair Mitchell: Okay, thank you. Commissioner Candler?

Commissioner Candler: Can I ask, Commissioner Hughes: Are you saying those comments in support of the motion or are you suggesting that the motion doesn't go far enough and you think we should go further?

Commissioner Hughes: I'm bringing it up for discussion because it seems that's where discussion is wrapping around, and I like to think long range. So, you know, I'm not focusing, I guess, on what's on the table right now. I'm focusing on the whole issue. I said I was going to take an airplane view of this.

Commissioner Candler: I understand. I'm not clear if you're in support of the motion at this time, or if you, let's say, would rather make a different motion or – you know what I mean? Vote on the motion and then make a different motion. I'm not clear if you're in support of the motion or not.

Commissioner Hughes: Specifically I'd like to have a conversation of whether this is administrative or hearing examiner level conversation.

Commissioner Lohman: I agree.

Chair Mitchell: Commissioner Lundsten, then Commissioner Lohman.

Commissioner Lundsten: I agree and I like the way that you are putting that framework around a relatively small issue and how it fits into a much bigger issue. And the way I see it, this is a step that leaves that long view in sight. To keep it as an administrative use is – or to require to deny just as an outright permit would choose one of the two things we're already doing. It's not like a huge shift. It's not new ground that we're going to be tilling. It's something that is just saying, Well, we're just going to keep going this way. It's obvious to me – and that is a good letter from Stacy Curtis that you read. I noted that one myself. I think what struck me about this issue is there're people from many stripes of all kinds for different reasons who want to make sure that we're doing the right thing for their interests, you know. There's people who don't want to watch birds or people who want to hunt birds, or people who want to ride bikes or people who want to stay out of the way of bikes completely. And those have to be considered in any trail. So that's why I just think it makes sense to say we just have to back up. Because there're so many around and there're so many interests involved in each one of them.

Chair Mitchell: Commissioner Lohman?

Commissioner Lohman: I think ___ of a whole – it is the reason because people are not the same that they were. It's easy to just parachute in someplace and you don't own it, you don't live here and have to deal with it and then you leave. And so – and there's the volume of people. So it's easy to not be responsible. And there isn't any accountability on a trail. It's once it's established it's there. And while we keep focusing on the trailhead – I mean, the State Patrol kind of – I see them on Chuckanut writing tickets all the time and that's the extent of where it gets policed. But nobody except volunteers are taking care of the trail itself and dealing with the too many people and the litter and the other things that go on on the trail itself. We're in a different world. It's not like it was when we were kids and everybody knew you so you had to kind of be good. It's not like that anymore.

(laughter)

Commissioner Rose: Well, I – I just have to respond to that. It was like that 40, 50 years ago too, especially in the higher density areas of the country – you know, the east coast. In other words, I saw that shit happening 50 years ago – the litter, the –

Commissioner Lohman: I guess I've always lived in a rural spot.

Commissioner Rose: Yeah, it's – I'm not disputing that there's a need. I believe the answer is the administrative review. I mean, I'm in that camp. I think they're all good points.

Chair Mitchell: Mm-hmm. Commissioner Candler?

Commissioner Candler: I'm okay.

Chair Mitchell: Okay. One of the thoughts that I had for this is – one of the parts of the policy – one of the policy language, aside from allowing us to have trails and everything else, says “preservation.” In that little tiny passage in there is something that always sticks in my mind, that we do love our outdoors, we love our trails, we love using all kinds of things. But we also need to be careful of how they're done and where they're done. I remember being in Minnesota on ___ hiking trail, and when the mountain bikers first started it changed everything on how the trails were done and used and the impact and everything else. And life changed. And so it does make a difference on what kinds of trails, what kinds of uses, where. And public input does make a difference and anybody that uses the outdoors – which I think almost everybody here does – understands that we do need to be careful with it. And I think I'm very, very concerned with the idea for outright permitting trails at all. I think we're just opening up a can of worms that we don't anticipate. And I have a question whether the administrative special use is enough. There are many reasons I'd like to see it go towards a hearing examiner, but that's not my call. That's my preference but that's not my call.

So does anybody else have any more discussion? Commissioner Woodmansee?

Commissioner Woodmansee: What's stopping us from recommending that these trails do have a public hearing, even though it's an administrative process?

Chair Mitchell: Could you repeat that louder, please?

Commissioner Woodmansee: What's stopping us from recommending that these type of applications or situations do require a public hearing held by the administrator, just so that there's that one more opportunity for public comment, versus not having a public hearing? And maybe Michael can speak to that for us.

Chair Mitchell: I think that the gist is, the short version is that we can make any recommendation that we choose to but I do think we want to hear an advice.

Mr. Cerbone: Yeah, so I'll just read the Comprehensive Plan policy – right? – that, you know, is kind of the reason staff recommended what they did. But I think it fully enables what you are saying. So Goal 2E: “Allow public uses as special uses in most comprehensive land use designations to be reviewed on a site-specific basis.” And then if you look at Policy 2E-1.1, that says “In most Comprehensive Plan land use designations, public uses are to be allowed as either administrative or hearing examiner special uses.” They're reviewed as site-specific projects so that public benefits and land use impacts can be analyzed and, if necessary, mitigated.

Chair Mitchell: Commissioner Lohman? Commissioner Rose?

Commissioner Rose: Well, since you have those two choices there, maybe there's – if it's a smaller, less significant trail it would be the lower tier, but if it's a widespread system that is, you know, going to impact a whole swath, much bigger area, then it could be the higher tiered level with the hearing examiner.

Mr. Cerbone: I think you could certainly make a recommendation that tiers the – yep.

Commissioner Rose: I'm not sure how you'd define –

Mr. Cerbone: I was just going to say I think deciding how to slice the cake would be the crux.

Chair Mitchell: Commissioner Candler?

Commissioner Candler: It seems to me that we should call the question on this motion and then perhaps someone should move to include some language as a recommendation in a Finding. Does that sound like the way to proceed?

Chair Mitchell: Yep. Just for clarification, when the question is called, it's called and we stop and do that.

Commissioner Candler: But we can have further discussion after our Findings, correct?

Chair Mitchell: We sure can. We sure can. I can't see that very well. Peter, do you mind reading what that motion is up there, please?

Peter Gill: Sure. It's to remove trails as a permitted use – Remove Trails, from Skagit County Code 14.16.500(3)(f).

Chair Mitchell: Okay, so that's the motion as is. All those in favor, say "aye."

Multiple Commissioners: Aye.

Chair Mitchell: All those opposed, say "nay."

(silence)

Chair Mitchell: Okay, motion passes. More discussion for another point?

Commissioner Lohman: I move that we make trails a hearing examiner special use.

Chair Mitchell: Could you repeat the motion, please?

Commissioner Lohman: I move that we make trails a hearing examiner special.

Chair Mitchell: Okay, motion's been made. Do we have a second?

Mr. Cerbone: I was just going to point out that the way it's classified in the code is trails and primary and secondary trailheads, so I assume you'd want to do trails and primary and secondary trailheads as a hearing examiner special use. Just because under your proposal, Commissioner Lohman, you would make trails the linear corridor itself – would be a hearings examiner special use and then the actual trailhead would still be an administrative special use. So I'm just suggesting if the intent of the group is to have a higher level of review, then you want to encompass all three of those. So it would be trails; primary and secondary trailheads.

Chair Mitchell: Okay. Would you like a minute to consider your motion?

Commissioner Lohman: Point well-taken. ____.

Chair Mitchell: Did you want to make a motion?

Commissioner Lohman: Yes.

Chair Mitchell: Okay.

Commissioner Lohman: That trails and trailheads –

Mr. Cerbone: Primary and secondary trailheads. Or you could just do trailheads.

Commissioner Lohman: Can you pull up the language so that I have it?

Mr. Cerbone: Yeah.

Chair Mitchell: To make the motion of primary and secondary trailheads? Is that what you're saying?

Mr. Cerbone: I was –

Commissioner Lohman: I had it – I don't have – you end at – I don't have the complete chapter in front of me.

Chair Mitchell: Commissioner Candler _____.

Commissioner Candler: I have a question. Michael, in your opinion, can we move to make the trails and the trailheads a hearing examiner special use with what we had in the petition, or would we need to move to ask the Department to consider that amendment in the future and bring that to us?

Mr. Cerbone: I think it's great, to be perfectly honest with you, but I think if the Board wanted to act on the recommendation that Commissioner Lohman just recommended and we were concerned about procedural error, we would host a public hearing at the Board to be able to correct that procedural error. That would be my recommendation but we would bounce it by counsel. But I do think, you know, what was advertised, you know, you kind of limited it to – well, no, we did talk about classifying trails in the OSRSI, so it potentially is broad enough. But the conservative way to address that potential procedural error would be to host another public hearing. But that's something that I, you know, I think probably legal counsel would make that call before it got to the Board if you did make that motion.

Chair Mitchell: I have another question for you on that. So even if we were to recommend that then the Board could choose to pursue it or disregard it. Is that correct?

Mr. Cerbone: So the Board can either take your recommendation or, you know, they could modify that as long as it's consistent with what the original staff report and notice had identified and went out to the community. So, for instance, I think if we were trying to modify a different zoning district right now that wouldn't fall within that purview. But because what you're talking about is modifying trails in the OSRSI – yeah. And the other gray area would be the – because we didn't necessarily talk about primary and secondary trailheads – but I think that's something that could be corrected with a public hearing at the Board.

Chair Mitchell: Okay.

Commissioner Candler: Thank you.

Chair Mitchell: Is that enough information for you to make the motion?

Commissioner Lohman: So basically what we would be doing is we would be moving (m) under Administrative Special Uses down to 5 and making it (h), correct?

Mr. Cerbone: Yep. We would be deleting (m) and then we would put it in – reclassify them in alphabetical order. So I would just suggest that you limit it to making it a hearings examiner special use and then we'll plug it in the right spot.

Commissioner Lohman: Right. So the motion then is to make trails and primary and secondary trailheads a hearing examiner special use.

Chair Mitchell: So there's been a motion made to make trails and primary and secondary trailheads a hearing examiner special use. Are there any seconds?

Commissioner Rose: Second.

Chair Mitchell: It's been moved and seconded then. More discussion? Commissioner Hughes.

Commissioner Hughes: To put one more question into this, would this possibly – to solve the gray area – be a docket item for the next year that we could have it go through a process?

Mr. Cerbone: For the rest of the zoning districts, you mean?

Commissioner Hughes: No.

Mr. Cerbone: I think any potential procedural error can be cured before they adopt the docket this year.

Commissioner Hughes: Okay.

Mr. Cerbone: That's my opinion.

Commissioner Hughes: Okay.

Mr. Cerbone: And if our legal counsel's super concerned about that, then they won't allow them to act on that recommendation. And it could potentially be deferred because that is an option that was identified to the docket next year and corrected at that point.

Commissioner Hughes: Okay.

Mr. Cerbone: So, yeah, I think if that's the recommendation of this group, you could put that forward and if legal counsel has concerns about it they'll make, you know, recommendations to defer it to the 2020 docket.

Chair Mitchell: Commissioner Lundsten?

Commissioner Lundsten: I think in the spirit of this – Annie's motion, which I agree with – that we should follow what Amy's referring to. The idea here is that we want to make sure that the public has input, because trails are important. Well, our decisions are important too, and we need the public's input on this issue. I think we _____. I would be uncomfortable voting for this. We need to

go with the administrative hearing now and consider what the public has to say about upping the ante on that. We haven't done that yet. It's not _____. So I would feel much more comfortable having this as part of next year's docket.

Chair Mitchell: One point on that is – it may not change your comfort level at all, it's just to reiterate that the Board of County Commissioners would do a – they would go through and do the public comment period where it would go out to the public. Is that correct, Mike?

Mr. Cerbone: That would be my conservative recommendation to make sure that your concern was addressed and that somebody did not have a procedural error standing.

Chair Mitchell: ____ your concern would be taken care of that way. Commissioner Candler?

Commissioner Candler: And I – this was my initial concern, why I asked for the verification, but the answer provided alleviated my concern about that in terms of the way that this petition was worded. It talks about the entire section that gives us that option, I think, and could have been commented – was, actually, sort of commented on and could be commented on.

Mr. Cerbone: Mm-hmm.

Commissioner Candler: So I was concerned about that originally but my concerns about that are somewhat alleviated, I think, in our discussion.

Chair Mitchell: Commissioner Lohman?

Commissioner Lohman: I think the whole chapter was opened up because initially it was just allowed, and we're saying hold the phone, we think there needs to be – and we received comment from several saying we needed a little more public. Well, there isn't really quite enough public for me in the administrative special use process because you're only noticing a very limited range, where the other one has a lot broader.

Chair Mitchell: Commissioner Woodmansee?

Commissioner Woodmansee: I think one of the benefits of going to a hearing examiner is the concept that staff potentially's going to have a vested interest in the decision that's made about a trail. Because maybe it fits their ideals about this is how I would do trails, and maybe then two years later there's a different staff person who might have a different idea. And if it goes to a hearing examiner – in theory he's an impartial judge – for lack of the right, proper term to use – and it kind of puts the public and the proponent on more of an even playing field. If you have a Planning person who is overly bent toward trails and minimizing – you know, their comments are – I'm not saying we have anybody that's this way, okay, because I have no knowledge of something like that. But for it to be an administrative thing – and let's say that is – it is in a little bit of a ____ rogue decision, well, now that public has to go through another step to get to this hearing examiner, and the cost difference between the two is negligible. And so it seems like it's maybe the safest route – that you would just go right to the impartial third party who's weighing the evidence – the public comment versus the application and staff recommendations – in making a decision. And it kind of protects the staff from being accused of, Well, you just did this because you are predetermined to do this. So I can see some benefit to having a hearing examiner situation. Because it doesn't cost anymore virtually and it's not going to take you any longer to do that.

Chair Mitchell: Mm-hmm, I concur. Okay, any more discussion? Commissioner Lundsten?

Commissioner Lundsten: I just want to make the final point that I – maybe I misunderstood, but I’m concerned that before the Board enacts this that we do get a full public hearing on it, as a policy position. That’s all, and that’s my only concern. I think it’s a good idea, too. But I don’t think we’ve had enough input from other people. It heads that way. I mean, everything I’ve read kind of points in that direction, but I’d like to hear what people say when it’s actually black and white in front of them. And I would vote for this as long as we say to the Board “with a public hearing to decide what’s going to go on” – which I’m understanding now, but you say would have to. Is that right?

Chair Mitchell: It’ll happen if they choose.

Mr. Cerbone: I don’t know. That would be the conservative approach to addressing a potential procedural error – would be to have that public hearing. But certainly your recommendation can include that. I don’t see why not.

Commissioner Lundsten: I would offer a friendly amendment.

Chair Mitchell: (unintelligible)

Commissioner Lohman: You have to offer an amendment.

Chair Mitchell: Right.

Commissioner Lundsten: Yes, I would offer an amendment to that effect: provided that the Board of County Commissioners enables a public hearing on the subject.

Chair Mitchell: Okay, so state your amendment once again, clearly, and then we’ll vote on it.

Commissioner Lohman: We need a second.

Chair Mitchell: Well, we need a second. If somebody gives it then we’ll –

Commissioner Lundsten: I would move that we add to the motion that the Board of County Commissioners provides a public hearing on this motion – on the – before adopting our motion that they have a public hearing on the hearing examiner special use.

Mr. Cerbone: Or you could say on the item – on docketed item C-4.

Commissioner Lundsten: Yes.

Chair Mitchell: Okay, I hear no seconds.

(silence)

Chair Mitchell: Okay. So any more discussion? Yeah, Commissioner Candler?

Commissioner Candler: Just one last point. I don’t think that we should send it to the Board with this, you know, sort of – what’s it called? – ultimatum, or whatever type of language. I think that it’s – I think it would be enough for us to, if we’re going to vote on the motion as proposed, to add a recommendation that we’re not sure how fully vetted this restriction would be and that we would recommend that maybe they consider a hearing. But I don’t think that our recommendation should

be contingent upon that because otherwise we're left with either, you know, they put it back where we didn't want it or – you know what I mean? Our recommendation is still our recommendation and I think it makes sense to recommend what they do but not sort of say that it's *only if* this.

Commissioner Lundsten: I see.

Commissioner Lohman: But remember, Mark, or Commissioner Lundsten, everybody can – you don't have to all vote unanimous. It's all right to vote no.

Commissioner Lundsten: I understand that! I've done it!

Commissioner Lohman: I just want – sometimes people are scared to vote against something and I think we all should realize that we don't have to all be a pack and we can disagree. It's okay.

Commissioner Lundsten: That's pretty obvious to me!

Commissioner Rose: But it's lovely when we hash it out to the point where we all do agree.

Commissioner Lundsten: Well, yeah, it is.

Chair Mitchell: Okay, is there any more discussion for the motion itself?

Commissioner Lundsten: I have another question. Excuse me.

Chair Mitchell: Sure. Commissioner Lundsten?

Commissioner Lundsten: We've already passed that we want to make it at least a – not have it as outright permitted. So we've already passed that. We're sending that off to the Board.

Mr. Cerbone: In my understanding, your recommendation is to make it a hearings examiner special use.

Chair Mitchell: Mm, hmm. We're still – we still have to vote.

Mr. Cerbone: You still have to vote, right?

Commissioner Lundsten: Right, I know we still have to vote on that but we've already passed – we passed the first –

Commissioner Lohman: All we did was said that it's not going to be an outright permitted use.

Commissioner Lundsten: Right.

Commissioner Candler: All we can do is *recommend* – I'm sorry.

Chair Mitchell: No – Commissioner Candler?

Commissioner Candler: All we can do is recommend what the Board do, right? So we – I think we should have language that says we recommend that this is not a permitted use. And then we further recommend that it be a hearing examiner use and we further recommend that the Board consider having a public hearing in the event that because we've leaped across administrative

use, if other people have a voice about that. And I think that – I *really* think we need to ask that Michael add in our Findings the three things that were pointed out by Commissioner Woodmansee, which is that there can be different policies over time as staff changes; it puts the proponent and the public on a more even playing field; and the cost difference is negligible. And so I would ask that we add those to our Finding, if we ultimately vote on this. But all we can really do is make recommendations to what the Board does, and we can make more than one. I think we can make more than one which, I think, answers your question. We can say we voted on this, now we're voting on this, and these are our recommendations.

Chair Mitchell: Certainly. I concur. Commissioner Lohman?

Commissioner Lohman: (unintelligible)

Chair Mitchell: Okay, any more discussion?

Commissioner Lohman: Amy, did you?

Commissioner Hughes: No.

Chair Mitchell: Okay. Peter, could you put your pointer so I can read it right? There we go. Would you read it for me, please? I'm sorry. I really can't.

Mr. Gill: Move to make trails and primary and secondary trailheads a hearing examiner special use.

Chair Mitchell: Okay, did everybody hear that? All those in favor, say "aye."

Multiple Commissioners: Aye.

Chair Mitchell: All those opposes, say "nay."

Commissioner Lundsten: No.

Chair Mitchell: Okay, motion passes. All right. So we are finished with C-4 then. Correct?

Mr. Cerbone: Mm-hmm.

Chair Mitchell: Everybody pull out C-5. C-5, SCC 14.16, Classification of Habitat Restoration. And on our worksheet it says "Habitat Restoration as Hearing Examiner Special Use Permit." The Department recommends – the ultimate bottom line was that the Department recommends the proposed amendments to SCC 14.16 be approved. Now there was quite a bit of information here for the policies and the goals throughout this, and some public comments came in from people on this, as well. Does anybody have any discussion or a motion?

(silence)

Mr. Cerbone: Do you want me to provide a quick overview?

Chair Mitchell: Yeah _____.

Mr. Cerbone: Because this one is not clear _____ the title. So what happened is the County designated habitat restoration as a hearing examiner special use in the Ag-NRL zone – so that's the Agricultural Natural Resource Lands zone. And we have a provision in our code that says if we have a use that's identified somewhere else in the code it can't be interpreted to be allowed anywhere else in the code. So before that was added as a hearings examiner special use in the Ag-NRL it was interpreted to be permitted within all the zones as an outright permitted use. So staff's recommendation is to restore that within all the other zones except for Ag-NRL where in Ag-NRL it would remain a hearings examiner special use. And you did have comments directly from the Forest Advisory Board as well as the Ag Advisory Board about changing it to a hearings examiner special use in some other zones.

Commissioner Lohman: Are you looking for a motion?

Chair Mitchell: Yes. Commissioner Lohman?

Commissioner Lohman: Well, I move that we recommend to the Board of County Commissioners that C-5, Habitat Restoration, be a hearing examiner special use permit in all the zones.

Commissioner Candler: Second.

Chair Mitchell: It's been moved and seconded. The proposed amendments –

Commissioner Lohman: I recommend that the Board of County Commissioners docket C-5, Habitat Restoration, as a hearing examiner special use permit in all of the zones.

Chair Mitchell: Okay, so it's been moved and seconded. Any discussion? Commissioner?

Commissioner Candler: Well, what strikes me is just the same – similar type issue we were having with the last one. I'm a little concerned about that, although we did get comments on it even though – you know, and I think it's a little bit different because this was more specific. So I have a little bit of concern about that.

Mr. Cerbone: So if I could just read what the actual language that was put on the webpage and the petition: Habitat restoration is processed as an HE special use permit in the Ag-NRL zone. Review each of the County zones and propose a permit habitat restoration as an HE special use permit where appropriate.

Commissioner Candler: Okay. Then I do not have concerns.

Mr. Cerbone: So I think that addresses your concern, Commissioner.

Commissioner Candler: Thank you.

Chair Mitchell: Commissioner Woodmansee?

Commissioner Woodmansee: Can you expand on that for me?

Commissioner Lundsten: Me too.

Commissioner Woodmansee: I'm going to be honest with you. I need you to back up a little bit and –

Mr. Cerbone: Sure.

Commissioner Woodmansee: – give me a little better history.

Mr. Cerbone: So I don't recall the actual date, but we did go through. There was some concern about habitat restoration activities that were occurring in the Ag-NRL zone. My understanding is there was concern about loss of productive farmlands due to habitat restoration projects. There was a(n) amendment that went through and classified the habitat restoration projects as a hearings examiner special use specifically in the Ag-NRL zone. And in our procedures section, so that would be 14.06, we talk about 14.06.040, Administrative Interpretation. We have a provision in our code that says if you classify a use – so in this instance prior to that amendment habitat restoration was not identified anywhere in any of the zoning sections in our code. So habitat restoration was just interpreted to be something that was permitted outright in all the zones. And when we went through and took the action to permit it as a special use in the Ag-NRL, that took away the ability to interpret it as an outright use in all of the other zones. And so that's why staff's recommendation was to reinstate that to all the other zones. But you did get testimony from the Forest Advisory Board and the Agricultural Advisory Board and they were concerned about specific zones. And I believe, from my interactions with them, what they were doing is they were looking to see which zones were in closest proximity to those Ag-NRL zones because their concern was either those are kind of buffer areas – and I know, at least with the Agricultural Advisory Board's recommendation, they were also concerned about properties that were zoned as specific designation that they perceived to be good farming areas as well.

Commissioner Lohman: But there's more of a component too.

Mr. Cerbone: Yeah.

Commissioner Lohman: Impacts to the existing drainage infrastructure and those kind of things also. So it's not just taking out productive farmland. Because you do have to give up some because of permit requirements and whatnot. And not all habitat projects would have to go through a permit process. It depends. Certain fish projects – and I don't know exactly which ones or how they decide, but there are certain ones under state statute that are not allowed to be held up by local permitting. But I do know that when they did that project there on Pioneer Highway – the Fisher – I believe that's the Fisher Slough project – that they *did* go through the process because they wanted to demonstrate that – in good faith to the ag community because – so it isn't going to be every single habitat project is going to have to require a permit.

Commissioner Woodmansee: But isn't the motion to make every zone have to go through hearing examiner?

Commissioner Lohman: But those would be for the ones that wouldn't, because of state law, preclude it.

Mr. Cerbone: So there's exemptions in state law for specific projects, and so Commissioner Lohman's pointing out that some projects would fall within that exemption and that exemption allows them to do their project without getting local permits.

Commissioner Woodmansee: So here's what I'm envisioning. I buy 20 acres. I do a short CaRD on it. I have a creek on the back corner of it. And the County says you have to do mitigation for some sort of impact. And let's say that that mitigation is you've got to plant 50 trees. If it's to every zone, I have to go to the hearing examiner to get that approved?

Mr. Cerbone: So this is –

Commissioner Woodmansee: Am I on the wrong page?

Mr. Cerbone: Well, it's a good question, but this is for standalone habitat restoration projects. So if you were doing an application for, like, a CaRD or something like that where you had a buffer variance or something like that where you had to mitigate – you're mitigating onsite so it was on the subject property – then that would be handled through a traditional permitting process. This would be for a standalone project on a separate property.

Commissioner Woodmansee: I see. Well, that makes a difference to me.

Chair Mitchell: It does. It does. Anymore? Commissioner Lundsten?

Commissioner Lundsten: This would be well beyond the bounds of what we've been – what has been proposed and what the public has commented on. The comments of two business communities, agricultural and forestry and logging, are not that extensive at all. And the people who are interested in the habitat restoration process itself are very enthusiastic about having it, you know, streamlined a little bit, which is all it would be. And I've also said very clearly how many hoops they have to go through anyway to get a habitat restoration permit or just to go through all the hoops of having that happen. To me I think I would not, I could not support this because it's – for those reasons. It's much more than was in front of us. It's nothing. If we haven't considered it the public hasn't told us. We haven't had a thorough discussion of it, nor has the – of this particular proposal – nor has the public had a chance to talk about it. I know we can say what we want to the Board and we could recommend whatever we want, but I just don't think it's wise to take this big a bite.

Chair Mitchell: Was that a hand up for you next?

Commissioner Rose: No.

Chair Mitchell: Okay. Anything to add? Okay. Commissioner Woodmansee?

Commissioner Woodmansee: So I guess I probably agree with Mark on this one that it's a pretty big swing from talking about a zone to every zone. And property owners in every other zone who may have ignored the public notice because they don't own any property in that zone may be surprised to wake up the next morning and find out, Hey, they added every other zone in and we didn't get a chance to comment on it. So I would kind of echo his concern on that aspect of this.

Chair Mitchell: Commissioner Candler?

Commissioner Candler: Can you read the proposed thing one more time?

Mr. Cerbone: Yeah. So this is what we put up on the webpage prior to the decision for the Board to docket: "Habitat restoration is processed as an HE special use permit in the Ag-NRL zone. Review each of the County zones and propose to permit habitat restoration as an HE special use permit where appropriate."

Commissioner Candler: Okay, so while it does say "Ag," it *clearly* says that it's to review *each zone*. So I feel like the notice that you guys are concerned with – excuse me. I said "guys." It's informal – but the concerns that have been expressed by both of you Commissioners are, I think

– I like the way you’re thinking, but I don’t hear how that applies in this situation. It sounds to me like the language was clearer that this proposal was requesting the public comment was to review *each* of these zones. And so now the motion is to change in each of these zones. I think it’s very consistent. But that’s just my two cents.

Chair Mitchell: Commissioner Lundsten?

Commissioner Lundsten: Well, I can see how you can – I see your point. Well taken. For most people, they see the proposal and they read ____, but the letters are pointed to this proposal, the staff recommendation.

Mr. Cerbone: Mm-hmm.

Commissioner Lundsten: That’s what – the business side said they want to add this zone and this zone, and the public side that was not financially tied to this but, rather, just on a policy level, were wholeheartedly in favor of it. We’re bucking a huge public comment – unanimous – from the environmental side, and we’re also changing and greatly enlarging what the business community has said. The business communities – if I may just lump agriculture and logging together – have not been nearly as extensive, so to me it’s – although from a regulatory framework point of view that you point out it’s consistent, it’s not of the gut of it and it’s not what people understood. It’s not what we heard from the public. It’s nowhere near what the public said. These letters that we’ve gotten have been very clear that it takes a lot of work to do habitat restoration projects anyway. Are we trying to say that we don’t want to destroy the habitat? I think we want to facilitate it and oversee it as necessary where it does get in the way of economic use. And I think that’s what the staff is proposing. But to put that \$3000 price tag on any – or whatever it might be – on any project to go before that kind of board is just onerous and it’s not what the public was expecting.

Chair Mitchell: Commissioner Lohman?

Commissioner Lohman: Michael, you said in the – I’m looking for it – where you said it was noticed.

Mr. Cerbone: Yes, I was reading that off our webpage. So that’s off the webpage. I could read you the summary from the staff report but the staff report does focus, you know, on the recommendation from staff.

Commissioner Lohman: But when you say the phrase at the end –

Mr. Cerbone: Do you want me to read it again?

Commissioner Lohman: Yes, please.

Mr. Cerbone: “Habitat restoration is processed as an HE special use permit in the Ag-NRL zone. Review each of the” – and there’s a period there – “Review each of the County zones and propose to permit habitat restoration as an HE special use permit where appropriate.”

Commissioner Lohman: So the last part of that, “where appropriate,” how do you define where appropriate is?

Mr. Cerbone: Well, where appropriate I think is left up to the judgment of this group to make a recommendation.

Commissioner Lohman: Well, and doesn't asking for a hearing examiner's –

Mr. Cerbone: I think it depends on the lens that you look at _____.

Commissioner Lohman: Because it's back to the same thing with the trail. It really isn't any different. And we're not just the business community. We're property owners. It isn't just – not every single person in the Ag zone is a farmer, or same thing with timber. These are property owners. And you're doing a – you're changing the contours of the land potentially or the drainage. There's an awful lot of things that are going on. Nobody is against doing a habitat project. It's let's do it responsibly so that you're not impacting the neighbor who is adjacent to it or the system that is adjacent to it. It's making sure that it's done appropriately and – because there *are* some that have – I'll be right-up blunt: they're failing. And I can take you to some in this county that they're having trouble with. So they're not all just perfect. And I'm not saying that agriculture is perfect and forestry's perfect. That's not it. It's – you need to consider the whole project, not just the project itself but the surrounding area.

Chair Mitchell: If I may? I think one of the things it brings to mind, and it's not exactly the same thing, but when we were discussing the Guemes wells and those kinds of things and reading about that, somewhere in there the County was relying on the petitioner for doing a well for telling them if they knew of some sort of problem or contaminant or something around the zone. And so when you look at something like that, the intent on that is to try to gather any information that the local people around that habitat project – example, I just said “well,” of course, but in this case it would be habitat restoration project. There's people in that vicinity that may know more about what's going on than the folks that are proposing it. I think that's what some of it comes back to. And if it were to go to the hearing examiner it goes back to what we were talking on the trails earlier when Commissioner Woodmansee made his point by saying it levels the playing field and it allows an impartial person to read and review all that information. But at the same time it allows everybody to come to the table and give all their information for what's going on. And from that standpoint, I understand that. Now I don't know if that makes anybody else feel any better or not, but I think it allows for better chance for more input to go in on even restoration projects. I think we have seen things that have been successful. We've also seen things that have not been successful. And just because we do it doesn't mean they were the right thing to do in the right place.

So that's my thinking process at this point. Is there anybody else _____?

Commissioner Rose: _____. So I agree with what you said, but the small difference, I think, between, say, the trails and habitat restoration is trails might be widely used by the whole community where the habitat restoration would primarily affect the property owners that are abutting the restoration project. Presumably if it went through administrative review, all those neighbors would be notified and they would have a chance to participate in the process by comments and stuff like that. So I see that as a difference, where as long as these restoration projects went through administrative review, to me that would be adequate because it would get the input of everybody around the project.

Chair Mitchell: Okay. Commissioner Hughes?

Commissioner Hughes: I'm taking it back up to the high level, and I appreciate Commissioner Rose's comment. I think that it was a very good one.

I think that we're getting – we're having to put words and rules and regulations into something that I think that this county has been excellent at in the last hundred years. We have something here that we can have all these different things going on. We can have restoration. We can have natural resource areas. We can have clean waters. And I do think that we're working together more than we're working apart in Skagit County. And so for now trying to put words into something so we continue to work as a county is hard. But I agree with Commissioner Rose that if we put it back into the hearing commissioner's purview it does bring everybody to the table and that's what we need to do if we're going to go to the next hundred years. We need to be working on this together.

Chair Mitchell: Commissioner Candler?

Commissioner Candler: I might have misunderstood Commissioner Rose but I did not understand you to be saying that.

Commissioner Hughes: Oh!

Commissioner Rose: You're right. I –

Commissioner Hughes: I'm sorry.

Commissioner Rose: – suggested that going through the planning examiner was probably one level too high, like it would probably be adequate to have administrative review. Because then all of those adjacent property owners would be notified, and those are the ones that are impacted by those types of projects, more so than the general public. That was my point. Yeah.

Chair Mitchell: Commissioner Candler?

Commissioner Candler: For my part, I thought that the objection earlier was sort of more purely a notice, but it sounds to me that the objection is a more merit-based – partially a more merit-based –

Commissioner Lundsten: A more what?

Commissioner Candler: Partially a notice concern but also a merit-based concern about this owner's process. And so I'm thinking about it a little bit differently also.

Chair Mitchell: Commissioner Lundsten?

Commissioner Lundsten: I'd like to – I mean, what we're saying then is that just outright permitted use that we allow for many things is not going to include habitat restoration, and it seems like it should be there to me. I mean, it doesn't – I'm sure some are failing, as Annie's pointed out. I'm sure some are not done well. Some houses are a right permit and they're not built well, even though they're inspected. I mean, things happen, and if you raise that bar then it has – if you try to make it clear that bar that everything that would be done would have to qualify as if it were in front of a hearing examiner you wouldn't pass it. But that's not how we operate. I don't think that's what we do. We let people build houses. We let people do all kinds of things with just outright permits. And it seems like we have professionals who are – have seen a lot of these things and they are recommending to us that we have it streamlined to have outright permit everywhere except where there's been an objection. And that objection has been stated and they made the same proposal, that, Well, we'd like to have these other two areas around us too. To me, we start

with the proposal that's in front of us and we either deny it or we pass it. But to suddenly make it a hearing examiner all across the board on its merit is something I would do.

Chair Mitchell: It looks like we've run this pretty –

Commissioner Lundsten: I'm restating myself. I'm sorry.

Chair Mitchell: No, no. That's fine. I think you made yourself clear. That's great. I think we've gone a few rounds on this. Are there any more points to discuss?

Mr. Gill: Chair?

Chair Mitchell: Yes?

Mr. Gill: Did we get a second on this? I don't think we ever did. Did you?

Commissioner Lohman: Yeah.

Commissioner Candler: Somebody did. I can't remember who.

Mr. Gill: Who was it?

Chair Mitchell: Did we get a second?

Commissioner Candler: It might have been me.

Chair Mitchell: It was Tammy. Yeah, we got a second. Sorry.

Commissioner Hughes: I would like a clarification.

Chair Mitchell: Sure.

Commissioner Hughes: Again, if it is a (n) administrative hearing, it can be appealed and taken to hearing examiner?

Mr. Cerbone: Administrative special use would be a decision issued by staff which is appealable to the hearings examiner.

Commissioner Hughes: Okay.

Chair Mitchell: Okay. Any more discussion?

(silence)

Chair Mitchell: Are you ready to vote?

Commissioner Rose: Can you restate the – yeah.

Chair Mitchell: Yeah, we're going to – Peter, would you read the motion for me, please?

Mr. Gill: Sure. I recommend to the Board of County Commissioners that docket item C-5, Habitat Restoration, as a hearing examiner special use permit in all zones. This would be to add.

Chair Mitchell: Thank you. And if you guys don't mind, since it sounds like the room is kind of split, is it okay if we do this by raising our hands so we can count?

Commissioner Lundsten: That's fine.

Chair Mitchell: All those in favor, say "aye" and raise your hand. Okay, that's three. All those opposed, raise your hand (and) say "nay."

Several Commissioners: Nay.

Chair Mitchell: Three. And all those that abstain, raise your hand. Okay, so 3, 3, 1. Okay.

Commissioner Candler: What does it look – I don't –

Mr. Cerbone: I need a majority. So you've got a tie. You've got to try and convince Commissioner Hughes over to your side. Maybe chat with her a little.

Commissioner Candler: Or does the motion fail or do we have to keep discussing?

Mr. Cerbone: Yeah, I think the motion fails at that point.

Commissioner Candler: I would move to recommend that we recommend to the Board of County Commissioners that, as proposed, the Ag-NRL move to a hearing examiner special use permit. The habitat restoration. I'm not saying this very well.

Commissioner Lundsten: The staff recommendation, in other words.

Commissioner Candler: Yes, the staff recommendation. I'm having trouble saying it.

Mr. Cerbone: And just to be clear, that keeps the hearings examiner special use review for Ag-NRL and all of the others would be permitted. So it would go to all the other zones and _____ permitted.

Commissioner Rose: I second.

Commissioner Lundsten: I second it.

Commissioner Rose: Go ahead. You can have it.

Commissioner Lundsten: Okay, I'll second.

Commissioner Rose: You can own it!

Chair Mitchell: Discussion?

Commissioner Woodmansee: Yeah, can I get a point of clarification from staff?

Chair Mitchell: Yes, please.

Commissioner Woodmansee: That permitted use does not go through an administrative process?

Mr. Cerbone: If it was a habitat restoration project that didn't require any other decisions associated with it, it could potentially go to building permit review. Most of the habitat restoration projects typically impact shorelands or any water work permits which require board reviews which then would trigger that.

Commissioner Woodmansee: Even potentially JARPA review?

Mr. Cerbone: Anything that's in water would require that, yes.

Chair Mitchell: Any more discussion?

Commissioner Rose: Call the question.

Chair Mitchell: Commissioner Rose? Oh, did you say call – I thought you said –

Commissioner Rose: No, I said call the question.

Chair Mitchell: Okay. I'm looking to try to find the motion – Peter? I'm so sorry. I can't see from here.

(several people speaking at the same time)

Chair Mitchell: All right, so the staff recommendation –

Commissioner Candler: The docket item C-5, Habitat Restoration –

Chair Mitchell: Yes, the motion is the Department recommends the proposal amendments for SCC 14.16 be approved for the habitat restoration as hearing examiner special use permit. Is that correct?

Mr. Cerbone: No, staff recommendation would be that all the uses outside of the Ag-NRL would be permitted uses and then the Ag-NRL would remain as a hearing examiner special use.

Chair Mitchell: Okay.

Commissioner Lohman: And that's contrary to what the FAB and the ____.

Commissioner Rose: It is, it is.

Commissioner Lohman: Just sayin'....

Chair Mitchell: Okay. So all those in favor, raise your hand and say "aye."

Multiple Commissioners: Aye.

Chair Mitchell: One, two, three, four. Okay.

Several Commissioners: Five.

Mr. Cerbone: Five – Commissioner Hughes.

Chair Mitchell: Okay.

Commissioner Hughes: I'm still going to abstain.

Chair Mitchell: Okay.

Commissioner Rose: So there's still four.

Chair Mitchell: So all those opposed say – raise your hand and say “nay.”

Some Commissioners: Nay.

Chair Mitchell: That's two. Okay. Better number?

Mr. Cerbone: Abstentions?

Chair Mitchell: And abstentions, one. Thank you. So it's four, two, and one abstention.

Okay. It's getting to be a long night, you guys. Okay, C-6, please.

Mr. Cerbone: Good work.

Chair Mitchell: Yep. This stuff's hard. And C-6 is the Fire Code Consistency with the IFC Appendix D. And I'm going to read the bottom line, Staff Recommendation, and, Mike, you want to do a quick –

Mr. Cerbone: Mm-hmm.

Chair Mitchell: – description. “The Department recommends the proposed modification to SCC 15.04 be approved.” So a little history on this, please.

Mr. Cerbone: Sure. So the County, much like other Cities and Counties in the country, we adopt the International Fire Code, the International Building Code. So that's a standardized code that's designed for application everywhere. And when we adopt that, we sometimes choose to modify it and so this deals with how we modify that section of the code. And I was just going to pull it up. Really one of the things we're trying to do with this is make sure that the language in the IFC is consistent with our modifications. So that's some of them. I'd say the largest change that is part of this package is removal of the cul-de-sac minimum standard. I'm just pulling that up so I can make sure I reference it properly. And there was a question asked about this that was clarified with the staff report. Commissioner Woodmansee wanted to know whether a hammerhead could be approved as a request or if it was at the discretion of the fire marshal, and the fire marshal said that it was an allowed option for the applicants _____.

So, yeah, we changed the language here. _____ clear on that. So in here we have a 70-foot cul-de-sac as a minimum standard for a turn around, and that does not allow adequate space for fire apparatus – a fancy name for fire trucks – to be able to actually turn around in that distance. And so we're proposing to remove that.

Chair Mitchell: Thank you. Okay, any discussion or a motion?

Commissioner Candler: I move that we recommend to the Board that docket item C-6, Fire Code Consistency with IFC Appendix D be adopted as proposed.

Commissioner Woodmansee: Second.

Chair Mitchell: It's been moved and seconded that the fire code consistency with IFC Appendix D have the proposed modification for SCC 15.04 be approved. Any discussion?

Commissioner Woodmansee: Second.

Chair Mitchell: Okay. You said "second," right?

Commissioner Woodmansee: Yes, ____.

Chair Mitchell: Any more discussion?

(silence)

Chair Mitchell: Okay, seeing no discussion we'll go straight to the motion. So all those in favor, say "aye."

Multiple Commissioners: Aye.

Chair Mitchell: All those opposed, say "nay."

(silence)

Chair Mitchell: Okay, the motion carries. C-6.

All right, flip to C-7, please.

Mr. Cerbone: As you're flipping to that, this would modify chapter 14.16.820 and that is a section of our code that deals with signs. The purpose of this is to make it more clear for folks that may be reading the code at night trying to determine whether they need a building permit in conjunction with their sign, proposed sign for their business.

Chair Mitchell: Thank you. And the Department recommendation was to approve this?

Commissioner Candler: Yeah, I have a motion.

Chair Mitchell: Commissioner Candler?

Commissioner Candler: I would move that we recommend to the Board of County Commissioners that docket item C-7, Building Permit Requirements for Signs, be adopted as proposed.

Commissioner Lohman: Second.

Chair Mitchell: Okay. It's been moved and seconded. Any discussion?

(silence)

Chair Mitchell: Okay, seeing no discussion, all those in favor of the motion, say “aye.”

Multiple Commissioners: Aye.

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

(silence)

Chair Mitchell: Motion carries. It’s nice to get an easy one

Okay, everybody flip to C-8, please.

Mr. Cerbone: This is an amendment to 14.16.210, Airport Environs Overlay. So this is an overlay zone that goes over the airport. The intent is to protect the integrity of the airport. These amendments came out of discussions with the Port of Skagit, who operates the airport and so they had requested that this language be changed to include a notice when boundary line adjustments occur within that area and then when we do variances to the height. So think about it in terms of protecting the integrity of the airport in terms of planes taking off and landing. And so what they are requesting is if there’s a variance to the minimum height standard that they be involved in that decision.

Chair Mitchell: Okay. And the staff report had recommended that the proposed modification to SCC 14.16.210 be approved.

Commissioner Rose: I’d like to make a motion that we approve the staff recommendation on this one.

Commissioner Lohman: Second.

Chair Mitchell: It’s been moved and seconded to approve the staff recommendation for C-8, Airport Environs Overlay amendments. Any discussion?

(silence)

Chair Mitchell: Okay, Seeing no discussion, all those in favor of the motion, say “aye.”

Multiple Commissioners: Aye.

Chair Mitchell: Okay, aye. All opposed, say “nay.”

(silence)

Chair Mitchell: The motion passes – all in favor.

Thank you very much. That was a lot of information. Thank you for your help from Mike and Peter.

Mr. Cerbone: Chair, could I just have a moment? I did want to correct on the record that I did provide some misinformation during PL18-0404. I did reference two per 10 as being the density allowed within the MRO. It is one per 10. My recollection was not very good. I did read an email response back and forth since that time. At issue was whether you could approve a subdivision

within the MRO and buffer, and that is something we did clarify, that you can approve a subdivision, but it is limited to that one/10 for density.

Chair Mitchell: Okay.

Mr. Cerbone: I just wanted to make sure I got that on the record.

Chair Mitchell: Commissioner Candler? Thank you very much.

Commissioner Candler: Thank you for the clarification. It doesn't change anything from my perspective.

Chair Mitchell: Okay.

Commissioner Candler: To what we've already moved upon.

Mr. Cerbone: Yeah. I just wanted to make sure it was there.

Chair Mitchell: Okay, thank you very much. Okay, item number 4 is Planning Commissioner Comments and Announcements.

Commissioner Lundsten: My hand is healing.

Chair Mitchell: And Mark Lundsten's hand is healing. That's always good! Thank you. Anybody else?

(silence)

Chair Mitchell: Okay, moving on to number 5 for the Director Update. Mike, I think you have a few things for us?

Mr. Cerbone: So, yes. Hal did provide this to me to share with you. He just wanted to point out that there were some new townhouses going in at the University of Washington, Bothell. These are, again – you know, as he shared with you previously, he's keeping an eye on the region, identifying where new residential development's going in, trying to highlight projects for you he thinks are important. He also identified Woodinville uses in City-owned properties to address housing needs, so mixed use ____; reusing historic 1904 Woodinville Grade School – so adaptive reuse of historic structure.

Housing efforts are continued and so there is a 72-unit nearly two decades in the making along College Way. So this is a new project here in Mount Vernon. Another is the BYK effort locally on George Hopper Way.

Commissioner Woodmansee: That's actually in Arlington. This screen is anyway.

Mr. Cerbone: This shot that he pulled? Yeah, it says Urban Village, Arlington above it. Yep. And a proposed project announced last week in Arlington is also noteworthy since it's a local developer, BYK, proposing an urban village of 448 units and 70,000 feet of retail. Just to the south of Skagit County.

Fairgrounds Update: County Parks Department is getting underway with the planning process for finding a new fairgrounds, so we are starting to take a look and work with our GIS Department to identify potential locations if the fairgrounds are moved. Makes sense to identify a place where they can move to before we decide to vacate that property. County legal team is sorting through some title issues right now.

Capital facilities planning update: So this would be consensual agreement has been reached in what that capital facilities planning is for the downtown area. So if you recall, Hal's come in and talked to you previously. In addition to the buildings, we have a lot of parking lots and there's been some discussion around that. But the capital facilities planning update for downtown would be to retouch the project, identify space needs for all the different users that are down there, and then look at the assets we have and see how those can be accommodated.

We are also continuing to support Hamilton, the Town of Hamilton, in their mission to build 220-plus housing units for the community. Hal has been working to try and find them some assistance to do some additional planning there that they need in order to be able to actually get some vertical movement in Hamilton. So he's been helping them identify funding sources and trying to shake some money free from the state.

So these are just reports that are available online if you guys want to go check them out:

The Annual Agricultural Permitting Report is available online. So one of the things that'll highlight is, you know, type of development that's occurred within the agricultural areas in the county; types of permits; evaluation; et cetera. Pretty interesting.

And then there's the Annual Housing Permitting Report available online as well. So that'll go through and detail types of housing that's been reviewed and approved in the county this year. And the Annual Permit Report. So if you really want to get into the weeds and see who's getting water heaters and whatnot, you'll be able to see the total number of different types of permits that we have ____.

And we are working right now to compile housing permit numbers for the whole county, and so that is reaching out and gathering information that's available and then trying to work with the other __, realizing that we are short of the housing needs that we need for the community.

So trends to watch: Kaiser Permanente is looking to adding a significant amount of jobs in the region. So in the Everett area, so that could be a potential larger employment hub. And they will be putting a fair amount of money into Seattle and other communities in the region.

Legislative updates: It's a short session but they're still doing stuff down in Olympia. Legislative efforts related to planning and development: There's a salmon enhancement effort that's going through through the Growth Management Act and there's also some bills intended to address the housing crisis through the Growth Management Act as well. So they're tracking them, commenting on them. I can also tell you that we've been active commenting on forestry issues as well. The Forest Advisory Board has been taking an active issue on that as well. I think that's it.

We're currently in the process of looking to hire a new staff member. So the application has been closed. We received a fair amount of applicants. We're going to start interviews hopefully next week. And that is to fill a position in our natural resource team and the hope is that that additional position's going to help us be more responsive to critical areas and shoreline applications. You'll be able to get those done and turned around in a more quick fashion. We'll also be doing some

internal looks within the division as well to try and identify ways to streamline permitting process as well – try and make things get done a little quicker.

You guys have any questions?

Chair Mitchell: Good stuff. Thank you.

Mr. Cerbone: Okay. Thank you.

Chair Mitchell: Well, that brought us to our last item. Seeing there's no more business, I call this meeting adjourned (gavel).