

MASON COUNTY PLANNING ADVISORY COMMISSION

**Minutes
December 02, 2002**

(Note audio tape (#4) dated December 02, 2002 counter (#) for exact details of discussion)

(This document is not intended to be a verbatim transcript)

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1. CALL TO ORDER

The meeting was called to order by Chair Diane Edgin at 6:00 p.m.

2. ROLL CALL

Members Present: Bill Dewey, Diane Edgin, Steve Clayton, Theresa Kirkpatrick, Marilyn Johnston. Bob Sund was excused.

Staff Present: Bob Fink, Darren Nienaber, Allan Borden, Susie Ellingson.

3. APPROVAL OF MINUTES

None.

4. NEW BUSINESS

(#0025) Diane Edgin: The first thing on the agenda is the continuation of the public hearing from November 18, 2002 on proposed amendments to Mason County Development Regulations and Comp Plan. We'll have a staff update and take public testimony.

(#0045) Allan Borden: My name is Allan Borden and I'm with the Department of Community Development. This continued hearing provides time to address the responses of the county to the two August 2002 GMHB orders. As part of this public hearing you will attempt to address whether the county has adequately provided responses to each of the issues set forth. The county has provided the additions to the draft supplemental EIS that addressed the isolated industrial and commercial areas in Mason County as designated in May of 2000. There are several things that I am going to briefly discuss. You were sent last week a cover memo that says December 2, 2002 and we provide you revisions to the text of the DR's to clarify the purpose the zone designations for the rural lands such as Rural Commercial, Rural Industrial and Rural Tourist. We've also provided additional text to the Mason County Comp Plan policies on ICIA's and Parks and Trails policies to address specific issues ordered by the GMHB. So at the public hearing the PAC will be evaluating whether the county has presented information and proposed ordinance revisions that are consistent with the August 2002 orders of the GMHB. In order to aid in this evaluation I'm going to pass out this summary of issues of the orders and associated responses that staff has provided

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through the materials that you have been sent. As noted on here these are formatted in several questions that staff is proposing that the commission ponder. The first one is "Has the county assessed through an DSEIS the probable adverse environmental impacts and cumulative effects of the creation of 194 new LAMIRDS's and the 13 old and previously un-assessed LAMIRDS"? The county addressed that in the DSEIS. Next, "In this environmental review, has the county included consideration of the effect of the policy allowing ICIA expansion up to ten percent of the 1990 boundary?" This was in the text of the Comp Plan that was in your packet dated December 2nd. There are two policies; one on Isolated Commercial/Industrial Uses and one on Parks and Trails. The policy on ICIA expansion was adopted in May of 2000 and staff is proposing to delete the text having to do with LAMIRD boundaries. Next, "Has Mason County mapped the new LAMIRD's locations on a county map"? Yes; this is the Development Areas Map and they have been located on here. There are 175 LAMIRD's located on this map and they give an idea of how they're distributed in the county. That was one of the issues that came up from the GMHB. Next, "Has the county determined which subsections of RCW 36.70A.070(5)(d) apply to each LAMIRD"? That's contained in the DSEIS and in Table A which appears in your staff report from November 18th. It's the table that we have been working with showing the parcels with non-residential land uses in the rural area in order by parcel number. Next, "Has the county identified an open space corridor between the UGA's of Ally and Shelton"? We've included text revisions in the open space policy RU-OS-605 that was included in your packets. The map that goes along with it is here. (*Allan indicates open space corridor from Grapeview across Highway 3 along Sherwood Creek and then up towards Hood Canal or Mason Lake*). What's not illustrated here are that these four sections are Long-Term Commercial Forest.

(#0420) Theresa Kirkpatrick: What about Grapeview south to Shelton. Has that area been addressed?

(#0422) Allan Borden: Not at this time. We do have the railroad corridor that we proposed back in March of 2002. The corridor that parallels the railroad right-of-way. Next, "Has Mason County demonstrated that its restrictions on rezones in criterion I effectively reduce sprawl, extend to RT and RNR and extend to the 194 new LAMIRD's"? That information is in the DSEIS. Now on to the Resource Ordinance related issues. On the Frequently Flood Areas. "Has Mason County adopted a dike monitoring procedures and regulations which will preclude individual homeowners from preventing inspections and which will make provision for inspecting, monitoring and listing existing dikes"? We've included text in the Flood Damage Prevention Ordinance that creates a section that establishes dike monitoring procedures. The Flood Damage Prevention Ordinance is the implementing regulations of the Frequently Flooded Areas and it was included in the November 18th mailing. Next, "Has Mason County designated the FFA in the Skokomish River Valley as a designated floodway under county code and declared this designated floodway an avulsion zone"? We have spelled out that language in the Flood Damage Prevention Ordinance and discussion of it is also in the November 18th staff report. Next, "Has Mason County precluded new construction in the Skokomish River Valley FFA"? That also is in the DSEIS and the Flood Damage Prevention Ordinance draft and in the November 18th staff report. Next are the issues on Fish and Wildlife Habitat Conservation Areas. "Has Mason County raised these critical areas buffers to BAS ranges not less than 100 feet for saltwater shorelines and lakes 20 acres or greater"? We've included the change in the actual ordinance text under Section 17.01.110. The 75 foot buffer has been changed to 100 feet.

(#0585) Steve Clayton: The table has been changed to 100 feet but the text still indicates 75 feet.

(#0590) Allan Borden: There is a November 2002 version that I thought was sent to you. All those references will be corrected from 75 to 100. We'll get you the new revised copies. The last question is "Has Mason County eliminated the Mason County Code blanket permit exemption for agriculture activities"? We eliminated those references in the revised Fish and Wildlife Ordinance and discussion is included in the DSEIS and the November 18th staff report.

(#0736) Theresa Kirkpatrick: I have a question about the exemption for agricultural activities. In the October 2002 revisions to the RO one thing that jumped out at me was on page 8 Section C "in all development

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proposals which would permit introduction of agriculture adjacent to FWHCA". Why are we introducing agricultural activities at this late date?

(#0758) Steve Clayton: It says 'adjacent to'.

(#0760) Theresa Kirkpatrick: So that's okay then.

(#0765) Allan Borden: We haven't made any changes to that part of the text; that's the original text. We don't have a dimension to define 'adjacent'.

(#0838) Diane Edgin: It's addressed in the next paragraph where it talks about protecting water quality. To protect water quality they have to have a farm conservation plan.

(#0858) Allan Borden: We didn't address that because that was not an issue with the GMHB. Prior reviews they haven't had an issue with that terminology.

(#0865) Steve Clayton: The GMHB mentioned that we did not define designated floodway.

(#0875) Allan Borden: It's only used twice in the Flood Damage Prevention Ordinance and in each case 'designated' typically is the verb in the sentence. It's not an official title of 'designated floodways'. It just means floodways that are designated. I didn't figure it merited a definition because it was not used in the context that a floodway was a special use in that we called it a 'designated floodway'.

(#0902) Steve Clayton: The reason I ask is because in particular the GMHB said we did not define it.

(#0912) Allan Borden: It wasn't in the order. There is no such thing as a 'designated floodway'. There are floodways that are designated and they're designated by the National Flood Insurance Rate maps. It shows floodways; that's why they're designated.

(#0950) Steve Clayton: Do we have a copy of the DSEIS?

(#0960) Allan Borden: The PAC was not sent a copy.

(#0866) Theresa Kirkpatrick: How can we make a decision on a document we haven't seen?

(#0970) Bob Fink: You don't make a decision on the EIS. The information in the EIS should be available to you but you don't make a decision on it.

(#0985) Diane Edgin: We respectfully request a copy of the EIS. We will now take public testimony.

(#1020) Steve Clayton: Would this be an appropriate time, given the audience we have and their relation to this, would it be a problem not to close the public hearing aspect so that we can continue to take testimony during the course of our hearing? The pros are in the audience; we're not the pros.

(#1030) Diane Edgin: Yes, so if we had a question we could call them back. Jeff Carey?

(#1050) Jeff Carey: My name is Jeff Carey and I'm from Allyn. I'm here personally representing myself. The subject I was going to talk about was two points. One is the proposed Grapeview//Twanoh trail open space. In general I'm in favor of some corridor in that area because you've got a lot of it being Long-Term Commercial. Obviously what the county has to work out is the DR's in time and how that's going to work. Fundamentally I'm in support of it. I take it, at least with this corridor, it has some criteria as to how it was created. From my understanding the minutes from October 7, 2002 meeting have been accepted? From page 9 on through about page 16 and a little bit of 17 there's quite a bit of reference to the Allyn Sub-Area

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Planning Committee and certain individuals. They never called out who that individual and does this Board know it's me? Okay, the next part of the statement is looking at that I have to state that I'm in disagreement with what's stated there. Those are not events that occurred, generally speaking. Personally I'm at odds with that both because I participated with that group for five years almost and I made almost every meeting and that's not the only meetings I'm going to. I participated with the Victor Club, I participated with the PAC up at the Bremerton Airport, I participate quite often with Fire District #5 so I'm not creating these out of the blue. There was criteria applied to it and what that whole thing, in my looking at it, basically points out that there's a process that we've gone through. We, the county and everybody to get to different portions of this GMA thing passed. To the best of my ability I followed every requirement that the county and the Allyn Community Association and others specified and that if they do not find that applicable or doesn't work then I would suggest that your whole plan for the whole damn county, lock stock and barrel, does not pass muster because I followed rules and compliance as best I could to each level. I suggest serious consideration be looked at that and that issue addressed and in addition what that means, if it was true, is it means gross malfeasants on my part and I'm not ready to accept that in any way, shape or form. So I would carefully look at that. I stress to the Commission here and the county that my level best was done to prepare that with no blind sides to anybody and if you ask anybody in Allyn did they vote for a UGA or did anybody in Belfair vote for a UGA; did meetings go beyond a certain level? The answer is there was all the proper meetings, as I understand it, but nobody ever asked to be a UGA and so whenever the county is putting down designations or we're putting down designations you're going to have to get this straight in your mind how that goes. The corridors had criteria and we can get into that at a latter time. But I find it very unsettling, to say the least, that one member naming names and point out problems and never being called to defend myself or the actions I've taken. That's my position on that.

(#1250) Bill Dewey: I'm confused; is what you are saying is what was adopted in the minutes is inaccurate or that the minutes are accurate but they misrepresent the issue?

(#1258) Jeff Carey: I wasn't there so I don't know if the minutes are accurate but what was printed is not what occurred. If we're going to have a game of saying this party said this and that party said that, I don't think you can go down that path. That can be worked out with meetings with the BOCC.

(#1293) Bill Dewey: I'm just trying to understand procedurally what happened and how we've been misinformed and how we can remedy it.

(#1295) Darren Nienaber: You're just saying that you were unfairly characterized when those other parties were accusing you of having done things without procedure. You feel it wasn't fair not to include you in the conversation and ...

(#1315) Jeff Carey: If it's stating like it is and you look up the legal definition of malfeasants, because I'm working in a non-profit planning organization, that's saying I'm committing that and that's not right. It's a serious issue.

(#1328) Steve Clayton: Perhaps as a learning experience, unfortunately for us, we did take testimony from someone and discuss an item that was not on the agenda and we created a letter to the BOCC based on testimony from one side of an issue on an item that was not on the agenda and that's probably not a good idea for us to do in the future.

(#1360) Marilyn Johnston: The letters that we wrote to the BOCC was simply that this was brought to us and that we were looking for both sides. We had one side and we were not in any way making a decision; we were simply sending it off to the BOCC.

(#1380) Jeff Carey: I'm not trying to pin this on anybody. What I'm saying is that the criteria and the things

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are used in the Allyn / Belfair open space are inevitable are going to be criteria and things you're using on this other open space between Allyn and Shelton. So to say that you're not using that in some form as influencing potentially how you approach a problem I would say is not ...

(#1398) Marilyn Johnston: All we were trying to do was to get it out on the table and to assess it. When someone gives you one-sided information you want to make sure that you have in total that which is affected. That's what we attempted to do but it's my understanding that we were told that that was not something that we needed to concern ourselves with.

(#1420) Jeff Carey: The only problem I have is that it states a bunch of things in there and if everybody here understands who that is that's messing with me; that's the way I look at it.

(#1430) Diane Edgin: I appreciate your point, Mr. Carey, and I'm glad you brought this forth and it is in the record so your position is stated. At this point in time there's not much that we can do about it.

(#1472) Steve Clayton: On today's agenda we're looking at the Allyn and Shelton buffer and Allan Borden talks about a Comp Plan policy that this was built around. How did your plan go around this Comp Plan policy?

(#1482) Jeff Carey: It did not go around it ...

(#1488) Steve Clayton: How did your plan use the Comp Plan policy? Are you familiar with what Allan Borden refers to as the Comp Plan policy RU-OS-605?

(#1495) Jeff Carey: I don't know if it's the one that we used at the time. All I know the minutes from that meeting talked about the process and how it got underway and I support his statement. It went through the public process.

(#1545) Warren Dawes: I have a handout for you and I want to talk about the DSEIS and the letter that I submitted and the letter that was submitted by Fish and Wildlife. This is a reprint from the county's exhibit #2385 that was submitted to the GMHB back in 2002 and it shows the approved Deer Creek, Bayshore and Spencer Lake Hamlets as approved May 2000. On it I've drawn what Fish and Wildlife was talking about and what I was talking about in terms of parts of those Hamlets that we think are incorrectly or inappropriately included in the logical outer boundaries. Before I begin I would like to point out that I also have comments on the Comp Plan area and a question and if this is my only time to speak I will do that now.

(#1600) Diane Edgin: Let's do one subject now.

(#1604) Warren Dawes: I hope you have had a chance to read my letter and the letter from WDFW. This was an issue that we had briefed before the GMHB before and as a result of this order coming back to reassess the 13 unassessed LAMIRD's in that list the GMHB did list these three Hamlets. These three Hamlets were approved in May of 2000 and we are responding to this EIS that we believe should have assessed those three Hamlets and we don't find that. Specifically what we are presenting is that the eastern boundary of the Deer Creek Hamlet has a Type 1 salmon spawning stream in it. The four parcels that adjoin it are residential; two of them are completely vacant; one has a house on it. Fish and Wildlife has also submitted their letter which identified not only Deer Creek for the same reasons that I stated but also identified the inappropriate inclusion of waterfront lots in Bayshore Hamlet. If you look at that Bayshore Hamlet and the line that I've drawn you'll see that the line follows the outer parameter of the golf course. In the area that is surrounding the golf course the three parcels are currently owned by WDFW. They have been in negotiations with the parcel that is outside the golf course on the water for purchase and they haven't been able to work that out yet but they are in continued discussions about that. This outer parcel is technically unbuildable; at high tide there's no access to this property. It just seem inappropriate

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to me that properties that would be included into a rural center or Hamlet, which is eligible then for more intensive use as commercial property serving the rural area, that we would want to include sensitive areas like this. Certainly if we went from residential use to a commercial use we would be looking at more traffic from vehicles, more people coming in, probably more impervious surface, more stormwater runoff into Oakland Bay. The property to the very east is all residential. The only way you could get to these top three parcels would be to go over up the hill to get to them. You wouldn't consider that as being adjacent to the Hamlet. So I think that WDFW's statement that that's inappropriate in an environmental sense to include those properties is correct. We would ask that you consider changing the boundary to eliminate those properties because to allow them to develop to more intensive use would be detrimental to Oakland Bay.

(#1890) Theresa Kirkpatrick: Can you point out for me on this map where the sand and gravel company is?

(#1895) Warren Dawes: (*Warren shows location on map*). The Spencer Lake Hamlet is the third one. WDFW pointed out the problems with having waterfront Hamlet locations for more intensive development would impact Spencer Lake. All those properties that are included between the arrows would be removed. These properties that are close to the lake they don't front on the road the neighborhood will be using for access to any convenience that you might be seeing. We just question why that would be included. WDFW has stated their objections and we concur with their objections on Spencer Lake and on Bayshore and we would ask that you consider removing those from those logical outer boundaries so that you wouldn't be steering more intensive development into those sensitive areas.

(#2085) Theresa Kirkpatrick: Getting back to the Deer Creek Hamlet could you specify which precise parcels that you're interested in having removed?

(#2100) Warren Dawes: They're listed in my letter to you dated November 20, 2002.

(#2125) Diane Edgin: I don't know of any commercial development down in that area at all. These are basically nice residential homes on water uses. It's a very small cove off of Spencer Lake with a very narrow mouth so it doesn't make a whole lot of sense to put something in there that could possibly compromise the water in there because it doesn't have the flush out of it. I don't think they would appreciate it either because it is so residential at this time.

(#2305) Holly Manke White: My name is Holly Manke White and I represent Manke Lumber Company. We're owners of waterfront properties in Mason County. I'd like to restrict my comments to the Fish and Wildlife Habitat Conservation Areas and specifically whether or not this 100-foot native buffer truly represents Best Available Science (BAS). First of all, the GMHB decision is remarkable. The fact that Mason County is not in compliance does not give the Board the legal right to legislate a 100-foot native buffer which is exactly what they've done in their decision. Second of all, a letter from an agency does not constitute BAS. In the Board's decision, in the EIS, in the staff report everything I've read points to this Fisheries letter as being the basis of this 100-foot native buffer and as representing BAS. The Board itself calls it out at BAS. What is BAS? Simply stated it requires peer review; that letter didn't have any peer review. It must identify the problem; it must quantify the problem; it must empirically link the problem to a cause; and then it must empirically link the cause to a solution. This is simply stated. Legally stated I have about four pages here in the RCW's and the WAC's of our state specify what is BAS. It's very complex. That is because BAS is a very important issue and if they're going to use it to legislate then it better be well defined. It is by the law. I think that there's clearly a severe lack of studies and information on our record representing BAS to support a 100-foot buffer and even DOE is not supporting a specific buffer width in their draft guidelines to counties for the SMP's. The Kitsap County Comp Plan, passed in 1998, includes interim provisions based on a lack of available information at the time of adoption of their Comp Plan. The county preserved their options but they erred on the conservative side as this ordinance would do. This concept was supported by the Central Growth Management Hearings Board all the way up to the court of appeals. The reason I know that is because I took it to the court of appeals and I lost. The county won the

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right to include interim provisions in their plans based on a lack of available information at the time of adoption. So legally the test for BAS has not been met here. In addition, a listing of these supporting BAS is required of any city or county ordinance which regulates critical areas; this is lacking. It would be premature to adopt permanent ordinance in Mason County for this FWHCA's. An interim ordinance would address the Board order, it would meet the legal requirements of BAS in that you would be seeking that out in the interim, and it would seek to balance the goals of the ACT which this doesn't do. The purpose of an interim ordinance then is to allow the county to review studies which meet the criteria set by law for BAS before a permanent ordinance is adopted. Not only is this a legal requirement but I believe it is a moral one as well since valuable property rights - waterfront is valued by the foot - may be taken away from Mason County citizens. So my proposal to you is that you consider adopting these ordinances as interim. I think it would be a more balanced approach.

(#2670) John Diehl: My name is John Diehl and I'm representing Advocates for Responsible Development. I will at this time confine my remarks to elements of the amendments to the Resource Ordinance with the understanding that those that deal with DR's associated with the Comp Plan will be handled later. I submitted already some written comments on November 18th and some additional comments which Allan promised me that you would be getting this evening. Have you received those? Please read them. Just a very brief comment on the matter of designated floodways. I think the real rationale is that there's a statute that says that where you have a designated floodway you will not have new residential construction in that floodway. It's not part of the GMA; it's been on the books long before the GMA. This county had designated a number of floodways but never designated a floodway for the Skokomish River, although Allan is correct in saying that there is an indication of a floodway on a FEMA map. The GMA overlay on that is that you have to protect Frequently Flooded Areas (FFA's). Since that was adopted the earlier statute that calls for restricting residential construction in floodways one supposes the legislature intended something more should be done than simply prohibiting residential construction in floodways. The GMHB has said that it's not sufficient simply to prohibit residential construction but they've asked that there be a restriction on new construction in FFA's which means the floodplain which is wider than the floodway. I think that's in recognition of the really notorious flooding especially in the Skok Valley. With respect to the matter of buffers and setbacks I wasn't going to say very much until Ms. Manke spoke on that. Allan has corrected the text where you now have 100 feet instead of 75 feet but in the text we have references to setbacks of 15 feet, which I think is entirely appropriate. Setback is not a place where you're trying to preserve a vegetative buffer but it is important because if you don't have a setback from a buffer how do you really protect the buffer? You have a house or other structure right up against the buffer and so in installing that you're most likely damaging the buffer so you really need some kind of a setback from the buffer and I would urge you to restore the concept which is found everywhere else in this ordinance of having a 15 foot setback from the buffer. You notice in the table that was deleted. We have now a 100 foot buffer but we have a 0 setback so I would say let's restore the 15 foot setback on top of the buffer for the sake of protecting the buffer. Beyond that I want to respond to what Ms. Manke White had to say. I agree with her in part that there is not as much science as one would like to establish shoreline buffers but what she really doesn't point out is that the WAC's that deal with BAS are pretty clear in establishing that if you are in doubt as to what BAS demands then you should adopt one of two approaches. You should either adopt a very conservative approach or you should adopt a tentative approach with a provision for monitoring so that you can make a quick adjustment if you've got it wrong. So you have some choices but you need to look at what the science is and either make a conservative choice or provide for the staffing to do the monitoring. What would the conservative choice be? I think it would have to be at least 250 feet; not 100 feet. The reason I say that is that probably the BAS for riparian buffers, both stream and shoreline buffers, is a publication of the WDFW by Knutsen and Neff dated in the 1990's. In that publication the recommendation is for 250 buffers for Type 1 streams and shorelines so if you were really to take a conservative approach and adopt what probably can be as well defended as BAS as anything around you would set the buffer at 250 feet. In talking about 100 feet various interests have been lobbying with the WDFW saying that there really isn't a lot of science here and couldn't we get by with a little less. First there was a letter that said that you should have at least 150 feet and then there was this final letter that said that at a minimum you should have 100 feet. You can

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make of all of that what you will. I think there was some science and some politics involved there but whatever you make of it it's certainly not as though 100 feet was some kind of conservative maximum that anybody ever set. The GMHB, rightly or wrongly, said you need at least 100 feet. I think they would have been equally right to have in effect followed Ms. Manke White's suggestion but not in the way she wanted it in that you ought to be conservative and adopt 250 feet given that you don't know as much about this as you'd like to. The last draft of the model critical areas ordinance which the state had prepared and was circulating for comment included that recommendation for shorelines. As for whether you might want to approach this as an interim ordinance I think that's an issue if interim is just a term that's attached to the name of the ordinance. In fact there's some case law on this where the decision was that an interim ordinance is a permanent ordinance. There is a kind of interim ordinance that isn't and that's one that contains a sunset clause that says this is going to expire at a certain time. The GMHB is not about to find that in compliance with the requirements of the ACT. If you want to revisit this at any time in the future you may do so. I don't think it serves any useful purpose to call an ordinance interim even if it is your intent to revisit it at some point. We need in order to get into compliance we need a set of DR's that will be in place until such time as we adopt better DR's. My final point is with respect to the open space corridors there really is quite explicit language in the ACT that calls for establishing these between UGA's. When I see as a proposed open space a Grapeview/Twonah trail I think that's dandy but it doesn't address the requirement of the ACT and I would urge you not to ignore the requirements of the ACT; we've done that too long in this county.

(#3310) Diane Edgin: I will close that portion of the public hearing so we can have some discussion then we will revisit the other portion later.

(#3355) Steve Clayton: Can I get a response from the county regarding Ms. Manke White's comments regarding interim? We've heard comments about that.

(#3380) Bob Fink: My name is Bob Fink and I am the Planning Manager with the Mason County Department of Community Development. I'm not familiar with the specific case that Ms. Manke said that she tried but the GMHB specifically ordered the county to remove the interim from our RO. It was an issue that came up prior and the county proceeded to do that several years ago. I would also point out that the only provision in the statute for the county to adopt an interim provision other than prior to adopting the Comp Plan is the provision that allows the county to adopt an interim regulation that may exist only for six months or with the adoption of a work plan for a longer period for up to a year. Those are the only provisions in the statute that allow us to adopt interim provisions.

(#3438) Diane Edgin: Allan, you said we have some reading material to review that was submitted today?

(#3455) Allan Borden: Yes, I will hand these out. There are two letters that are stapled together. The top one is about rural lands issues and six pages long and the second one is on RO issues.

Break in meeting to read new material submitted on December 2 by John Diehl.

(#3580) Diane Edgin: Has everyone read the documents? Okay, but we need to have a couple sentences read to us on page 4 that were not transmitted clearly.

(#3630) John Diehl: This pertains to cottage industries and home-based occupations. "But the language of the ordinance allows an operation of several thousand square feet, five non-residential employees (and more on a seasonal basis), a sign as large as a standard sheet of plywood, and traffic increases in well-traveled locations of hundreds of vehicles per day. Borrowing from a Skagit County ordinance, we would propose that section 1.03.021 be amended to read: Any use allowed in RC 1, RC 2, or RC 3 is allowed in rural residential areas provided it (a) is carried on exclusively by a member or members of a family residing in the dwelling unit (b) is clearly incidental and secondary to the use of the property for

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dwelling purposes, with the floor area devoted to the home occupation not exceeding 25% of the living area of the dwelling unit" ...

I would just point out that it has two sections here. One is the tighter restriction which you could call home-based occupation and the other is the looser restriction subject to a use permit which you might call a cottage industry.

(#3788) Marilyn Johnston: Diane, you wanted to move into the Hamlets and I can see that. I would like to make just a general comment. It will have something to do with the Hamlets but it won't be in anyway getting in the way of what Warren was proposing. After our last meeting I went home and went back to thinking about all that we had struggled through when we were dealing with Hamlets and RAC's and refreshed my memory about that and then came back to what I talked about last time and that had to do with the premise that businesses in rural centers and hamlets must be limited to serving the goods and service needs of the existing and proposed rural population. The primary question to me becomes what kinds of services should be offered in our rural areas. So when you decide on what it is and you decide on categories then it seems to me that the next thing to do is to map the boundaries because to me until you really map those boundaries you may have within 'x' what may have what now is judged to be an RC 1, you might have an RC 2, or you might have an RC 3. In other words you'd have a mix of those rural commercials. But without mapping the boundaries you still have land in there that has not been designated so to me until you map these boundaries what you're doing is you're doing a zoning but you're doing it here, here, and here; you're not doing a totality of zoning as I see it. I come back again to the bit that within this the goods and services the business needs must be compatible with serving the rural population needs. So I took, for instance, Spencer Lake since I happen to be familiar with that and it's not clear to me where the boundary is. I don't see a boundary; I see this designated as a RC 2 and then I see the residential but I don't know whether it ends right there or as is shown here is a wider section. (*Marilyn indicates on map*). The same thing would be true for Deer Creek and Bayshore. My confusion is that if I'm asked to decide and make the decision unless I know the boundaries as mapped then I can see what's here but I don't see what may be the rest of this. I think it's something that needs to be considered because I come back again to the general premise that whatever businesses are in a rural center or a hamlet that they must be limited to serving the goods and services needs of the existing and proposed rural population. I then went to just looking again at the 175 LAMIRD's and I went down and looked at the RC 1's and I see a retail eatery and you follow on down to the restaurant / lounge and I see RC 3 is electrical repair. Now some of those are listed in the notations of what would be in RC 1, 2, 3, and 4 but then you look at the matrix and the matrix for all it's fault we came to what we felt was a pretty good compilation of different descriptions of use and if you look here not all of them that we were looking at in the matrix are listed here. So the questions comes do I go to saying something such as under uses permitted just simply going to the fact that whatever is there must serve the rural population and then say that you would need a special use permit for anything that might not fit into that category. Now there's a problem with that because that's pretty broad and it doesn't delineate as the attempt was to do here but then when I went to the matrix not everything is here that we discussed. Again I really stuck with these 175 and looked at the 14. Now granted there are some things that are already there and were there prior to 1990 so you've got the grandfather issue to look at and coming back to Spencer Lake you have the restaurant and you have the convenience store and the gas station together; you've got the espresso stand and there was an auto repair but I don't see that's still there. Then there's the boat yard. Now I see that boat yard as being okay because it does serve the needs of people there at Spencer Lake. To me as I thought about this I could see that as being acceptable. My point in all of this is that as I went through this, and maybe I'm the only one, but I found this quite confusing. What I have trouble with is when you put so much in and it's really not, to me, ... what are you really saying here? I still think that until there are boundaries around either the hamlet or the rural center ...

(#0432) Darren Nienaber: I don't know if people think the boundaries should be different but I've never heard it disputed that what's colored is the boundary. No court in the world would suggest that the white

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area on the map is inside a hamlet. If you want to recommend a line or a dotted line around the colored area as a means of clarifying that's perfectly fine but that's an easy fix.

(#0452) Theresa Kirkpatrick: To tag along with that, one piece of language that I ran across time and again was it said 'logical boundary'. Now what's logical to me might not be logical to the next property owner and that's something that I would like to see clarified.

(#462) Diane Edgin: Usually when you talk about logical you're usually talking about property lines. You're going to pick a property line because you don't want to divide somebody's property into two different classifications.

(#0468) Theresa Kirkpatrick: The clarification on the boundaries I agree would be helpful.

(#0470) Steve Clayton: Aren't these particular parcels and boundaries in and of themselves?

(#0472) Bob Fink: Yes.

(#0480) Marilyn Johnston: I still think that even though you say that that is the boundary that for clarification for people who don't have the knowledge that we have that they don't have to ask the same question.

(#0490) Bob Fink: For you information, there was another series of black and white maps with the boundary marked in a dash line and if you look at the maps that Warren submitted to you in testimony today that was taken from those maps. That was public information that was adopted previously in 2000.

(#0508) Marilyn Johnston: Allan was saying something about have we mapped the LAMIRD's?

(#0515) Bob Fink: The new LAMIRD's are the 175 shown on the map behind you as numbers. They're individually identified as numbers keyed to a table you also have that identify the existing land use and parcel number. In addition there's a 175 pages showing the individual parcels. Given the fact of the scale of the county and the limitations in our map making ability we tried to be as clear as possible. The Hamlets and the Rural Activity Centers were mapped in 2000 and those were boundaries that were accepted by the GMHB although some of that might be considered contingent based on an analysis of the environmental impact. If you don't want to maintain that boundary that itself is a recommendation for an action.

(#0580) Bill Dewey: Warren raised some good issues. I'm curious; you said these Hamlets were identified in 2000 and what sort of public input or environmental review went into that to establish them?

(#0588) Bob Fink: There was an environmental addendum published at that time which detailed some of that analysis. It fell a little bit short and that was why it was remanded for additional analysis. What they did is they set the logical outer boundaries and you have to realize that the logical outer boundaries is not the boundaries of a commercial area. The logical outer boundaries include residential areas. That was always the intention. It was adopted in the Comp Plan under what's called GLU 17 (General Land Use Policy 17) which specifically said very small hamlets of limited industrial or commercial uses and a few residential uses would provide for limited commercial shopping in serving the immediate needs for rural and remote residences. So the idea that these properties include residential properties is appropriate and intended. The idea of a logical outer boundary that came up earlier is the creation of the GMA which lays out criteria for determining that logical outer boundary and those were the criteria used by the county and is referenced in the Comp Plan for setting those boundaries. That was what was done in the year 2000. So these areas in and of themselves are appropriate to designate. You can look at the possible effect on critical areas and we will expand the environmental analysis a little bit as part of the process of SEPA review where we sent out a draft document and the parties have a chance to respond to it and then we look

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at those comments and then we respond to those comments. In the case of these Hamlets you have to look at what is the effect of designating these areas? These areas next to a critical area are not designated for any commercial use. They're all designated as residential at a 2.5 density. But they're already divided to smaller than that so there's no additional development potential there. You could designate them at 20 acres as a rural residential and it wouldn't change the development potential of that property as we designated it. You have to also consider that the purpose of the ACT is not only to address the existing commercial needs of the rural residents but also the future needs of the rural residents. In Mason County a large portion of the population is expected to go to the rural area so the rural area population will be increasing. So it makes common sense to say that there is a need for some additional commercial development in the rural area and the GMA sets those logical outer boundaries following the guidelines of the ACT saying that these are the areas appropriate for additional services. So just because an area isn't currently developed doesn't mean that it shouldn't be developed. The other thing to consider is we have stormwater regulations. In fact, if anything, the stormwater regulations are more restrictive in the case of commercial development than it is for residential development so if you have a residential use on a small lot the protections under the county stormwater ordinance are actually not as strenuous as for commercial. So if you transform that to a commercial use you would actually have to develop a stormwater site plan and you might have to have better protections as a commercial or industrial use than you would as a residential use. So to say in a blanket way to allow this activity automatically leads to additional impacts or even leads to probable impacts to the environment that seems to me to be incorrect. We didn't really come here to ask you to reexamine the LAMIRD boundaries and the Hamlet boundaries. Obviously Warren has raised that as an issue and WDFW has expressed concerns which they don't really bolster very well. We will do further environmental analysis on it such as writing up the mitigating factors that we discussed and the actual impacts.

(#0862) Marilyn Johnston: Let me be clear. What you're saying is that we are here to look just at what you have given us: RC 1, RC 2, RC 3, and RC 4 and I guess for lack of a better term to simply agree to what you have said. Please don't misunderstand this but I have a real problem when I get something and I come to a meeting and it is of the extent where I should have been home studying all of this before I came. It really bothers me because I do come here trying to be prepared and to make intelligent comments and I can't do it.

(#0895) Darren Nienaber: Those came exactly from the order.

(#0900) Marilyn Johnston: That doesn't matter. It takes going back to all of these different references, reading them and if I'm going to give you what I would say is the purpose of serving on this Commission and I can't do it. So I have to say tonight that I cannot give you the type of answers and rationale; I can't do it because it's simply impossible. I want you to put yourself in my place and how would you feel if you got this and know that you're ill prepared to make the kind of intelligent comments; you just can't do it.

(#0930) Steve Clayton: Could we move into doing some of this preliminary stuff via e-mail and distributing it that way where previously it's all been US Mail?

(#0934) Bob Fink: If you have specific questions about what you have that you ask us and we'll try to respond as best we can. It would be nice if you thought the proposal that we offered made sense. If there's something that you feel needs to be changed or improved that's your responsibility and we certainly welcome improvements to what's been proposed. Our purpose is to address the remand of the GMHB. They're the people who laid out the task and the timeline by which we had to respond. If we took all the time that they allowed we would at best only have a couple of weeks extra.

(#0962) John Diehl: You have 180 days from the middle of August.

(#0966) Bob Fink: We're looking at February. That's not for the PAC to figure out what they would like to

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recommend. That's for the county to take an action. Even if the PAC took an action tonight the action by the county would not be expected before the end of the month. If this were continued for another month we're looking clearly into late February before we could take action.

(#0988) John Diehl: If that's so then couldn't this group take a longer period of time during which time presumably the BOCC would also be thinking about what action they eventually wanted to take?

(#0992) Bob Fink: What I would suggest is instead of the PAC trying to figure out everything that might be there is if they have a particular question about what's being proposed, why it's being proposed, what our response would be to the comments that you heard from the previous nights, that if you simply asked us now and we'll get through as much of this as we can and if at the end of the evening if we can't answer some of those questions and you can't make a decision then we could look at maybe continuing it until your next regularly scheduled meeting. Rather than doing that right now I would suggest that you go ahead and ask the questions about the specific draft you have in front of you and how that reflects because there is a great body of information that backs everything up. We're just dealing with the tip of the iceberg. If you want to examine the entire iceberg you're talking about a year or more. But all we need to address are those issues remanded by the GMHB. If we do a satisfactory job of doing that then we will have done our task and we will come into compliance with GMA. So your focus is on the remand of the GMHB.

(#1075) Theresa Kirkpatrick: And is that just simply on these pages we were given tonight?

(#1177) Bob Fink: Yes.

(#1080) Theresa Kirkpatrick: So the hours that I have spent going through page by page and coming up with questions from the other material you have sent us perhaps has not been the best focus. I focused on all the other materials that you sent us for the November 18th meeting and this meeting and now I'm given this half way through the meeting.

(#1090) Bob Fink: We had a workshop a couple of months ago that focused on what our strategy would be.

(#1095) Theresa Kirkpatrick: I missed that meeting and I don't believe I've seen the minutes from it yet.

(#1110) Bob Fink: Just to make you feel better the time you spent looking at the ordinance as a whole is not wasted. It's good background.

(#1135) Marilyn Johnston: I don't feel that what I was talking about in any way was foreign to the four different rural commercial designations that we have here. You may not see it that way but I see it as the fact that what I said before is that if you're going to have an RC 1 or and RC 2 or an RC 3 in whatever configuration we're looking at I find the way this is worded and the way it's been presented to us it's not clear or concise. All I was attempting to do was to try to state what confusion I saw. And I don't think I was off track.

(#1190) Darren Nienaber: Marilyn, you remember the previous PC and SAB were reformed and they were given a bunch of packets, you were given at that time the most recent orders of the GMHB. Did you read them? Those questions that you have there are taken directly out of the order. That's what we're here for and that's the scope of SEPA review.

(#1212) Bob Fink: We apologize for not getting you this information sooner but it's simply a convenience to help you focus on what changes are proposed in response to those orders because we are interested in making sure that our responses are complete enough and correct to what the GMHB provided.

(#1238) Steve Clayton: As a summary, on the first one the DSEIS, the comments we had from the

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audience, Mr. Dawes referred to some problem areas in three different Hamlets. Those are for us to review and at this time none of us have any objections or questions on that particular item but we could review that and come back later if we decided to continue this meeting.

(#1270) John Diehl: I had quite a bit of written material on the EIS also. It's in the November 18th letter. In part I agree that this is nothing new. But at the same time this issue should not be taken too seriously. I certainly can lay claim to being as intimately familiar with the issues before the GMHB as anyone and I have written in comments submitted to you about things that don't seem obviously to be connected with the issues as stated here. It has to do partly with a matter of sequency. Sequency is the process by which you proceed to accomplish what's necessary to accomplish under the GMA and under SEPA, too. In this case there's a requirement to do environmental review before you proceed to other things. The environmental review is defective according to the GMHB and as a result all these other things are really still up in the air. If in your best judgment some of the environmental impacts are such that we should take another look at things that were not explicitly mentioned in the order that's perfectly okay. Because the GMHB itself may want to look at those things in the light of the environmental impact report. As an illustration, the GMHB didn't specifically mention cottage industries in it's order but it did specifically mention the defects in the EIS. If in your judgment you feel that once we look at what really needs to be said about the impacts of rural development and the kinds of development that can occur within the zoning for cottage industries that we need to take a further look at how we frame what can be counted as a cottage industry. That is entirely within the scope of your review and because it's certainly going to be within the scope of the GMHB review. The county may object but I can assure you that that's going to be an issue that I'll be briefing when we go back to the GMHB if it's necessary. Use a little common sense here and don't feel that you have to go through 1,2,3. These are really questions in some sense out of context. They have a value; I don't mean to dismiss them entirely. But you are looking at a very broad issue because some of the fundamentals have not really been addressed or are only now being addressed in the DSEIS which is supposed to give you the background that you need in order to assess the impacts.

(#1405) Steve Clayton: So the second item we haven't had any chance to review because we just got the EIS. So we'll put an arrow next to that.

(#1415) *Miscellaneous discussion.*

(#1620) Steve Clayton: So is there any comment regarding the expansion of up to ten percent of the 1990 boundary in item 2?

(#1635) Darren Nienaber: The county is proposing deleting that ten percent.

(#1642) Steve Clayton: The third item; mapping the LAMIRD locations. Any comment?

(#1666) John Diehl: I think you must be a little bit weary of this. I'm going to take off of something that Marilyn was concerned about; the certain nebulousness of boundaries. I understand that the boundaries are the areas that are shown on these maps that are colored but what is really quite disturbing is that within these larger boundaries there are these smaller boundaries and those smaller boundaries haven't any principle so far as can be detected from anything that has been released by the staff. I mean that we don't have any coherence. If you look, for example, at the map of Hoodspout we've got spots out here in the middle of nowhere that are zoned for various kinds of commercial and tourist uses. Maybe there's some justification for that but we don't have that and in it's absence it smells; it smells like spot zoning. This is not zoning in the sense of most peoples concept of zoning. Zoning is you choose an area which you are going to make predictable what kind of further development will occur in that area and lay over it certain restrictions. Presumably you choose those areas in part by virtue of what is already there. What can you infer from something like this where in effect the zoning has been created not on the basis of any future potential but on the basis of what exists. If we're going to make any use of the notion of zoning we need to

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establish zoning boundaries that are not just around parcels but are around areas so that we can have some predictability in terms of future development. When we look at a place like Hoodspport we clearly have an embryonic UGA and it's clear in that situation that you want to allow a range of commercial uses that you would not think appropriate to a little crossroads like Agate or Spencer Lake and I think that that's an area where proper zoning can be utilized so that you may want to say if you're going to have this large an area for Hoodspport maybe most of it needs to be residential but let's make that clear. Let's create a core area. In the RAC what kinds of uses are appropriate to that sort of place? Probably very different kinds of uses say than Spencer Lake or the Agate Store and within that area if you're going to have additional zoning then fine but do it coherently and do it with some continuity so that we have some predictability so they're not just isolated parcels.

(#1882) Steve Clayton: Would that be similar to the Belfair areas designated UGA which wouldn't be what you're looking at. You're looking at individual zoning and what the county has done with the Belfair UGA is designate local residents to decide what the individual zoning would be. So what you're inferring is that local residents of the RAC, Hoodspport, would do zoning for their particular RAC.

(#1916) John Diehl: That's possible certainly. You would hope that the community would be interested in planning for its future. Given the nature of government it still has to go through the PAC and it needs to become a part of the Comp Plan if it's to be done in a regulatory way. What I'm concerned about is the practical importance of creating a pattern that is patchwork. It seems to imply that the next guy along no matter where he is within these boundaries can do more or less anything that's in the category of rural commercial.

(#1980) Diane Edgin: We have these isolated lamirds and one of the things we need to look at there with them is it going to be continued use, will the use be allowed, when did it come into being?

(#1995) Bob Fink: I'd like to clarify a little bit about the zoning designations. The zoning designations were reviewed in 2002 and the county intentionally designated primarily areas based on existing use so that those businesses of various types would be conforming with the zoning district they were in. That was one of the primary purposes. The question that Mr. Diehl poses is that you need to plan more for future growth. My response would be that's fine but we don't have time to do that in 180 day cycles of planning. What we need to do is come into compliance and then just as we're doing in Belfair, and Steve suggested -that we go back to the community and have supporting analysis for designating larger areas for commercial use. We have the analysis to support that rezone and we have a more detailed chance for a neighborhood to comment on how they want their future. That's certainly something that would be an interesting project to pursue but that's not something that's been remanded by the GMHB for us to address; it's something that's been accepted by them. So I would suggest that you simply move on to the other issues.

(#2072) Bill Dewey: You posed the question regarding whether the county has mapped the LAMIRDs. I think it's pretty clear that they have. Whether they make sense or not I think Mr. Diehl raises some very good points but for the purposes of coming into compliance it appears to me that the county has met that requirement. As far as whether the county has determined which of the subsection apply to each LAMIRD? You appear to have done that to me as well through that table. Myself, I am ready to move on to the next issue. The open space corridor. I think there is a valid question raised in public testimony that what's proposed here doesn't go between the two UGA's.

(#2115) Theresa Kirkpatrick: Will the GMHB accept the railroad corridor?

(#2125) Darren Nienaber: Let's just say that that map will be in better condition.

(#2127) Theresa Kirkpatrick: Will we have an opportunity to view the new improved version before we recommend it to the BOCC?

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(#2145) Bob Fink: This green belt area is identified. It has a number of attractive features for future trail planning. It connects two state parks. It also connects with a whole system of trails that's being proposed by the Tahuya Port District. They want a series of water trails that connect with the Twanoh State Park and then go over and run all the way over to Dewatto and provides places for people to stop and camp. That's all in draft consideration by the port. So there's a number of reasons why this was proposed. It goes through sensitive areas and a lot of it is already well protected as being long-term commercial forest land. It avoids as much as possible areas that are already dedicated for development either through platting or through development and it is a complete physical separation between the UGA's of Allyn and Shelton. It was not intended to run from Allyn to Shelton. It clearly separates any potential of the UGA's clashing although I don't know how the Shelton UGA will ever make it the 16 miles or so up to Allyn. It does provide a separation of those UGA's very clearly. There's also shown on this map an open space corridor that runs actually continuously from Belfair to Allyn to Shelton that is designated as well. We believe as far as we can understand the directives of the GMHB that this complies with what they're looking for. What we will do is do a slightly less detailed map which will include the area down to Shelton so that that entire area is portrayed on one map just simply to make it clearer and shows how it will lie on the ground.

(#2265) Bill Dewey: Thanks for that clarification, Bob.

(#2270) Constance Ibsen: My name is Constance Ibsen and I'm from Union WA. That map doesn't really have any reality planning to it at all. It is a hopes, wishes and dreams from a brand new plan that's coming out of Tahuya in their Comp Plan. Nothing has been coordinated with Belfair planning or the Allyn planning group. They don't know anything about this. This just all of a sudden came out and you're telling me that this is more likely to be implemented than a real open corridor that goes through mainly forest land that maybe we could get easement from the long-term forest people that this is more practical that this might actually be done?

(#2310) Bob Fink: This does go mostly through long-term commercial forest land. The forest land doesn't go entirely to the shoreline; nowhere.

(#2325) Constance Ibsen: Is there ever any idea of implementing any of this? I mean we're just going to put out a map so why don't you just put a map that shows an open corridor between the two? It doesn't have to be a reality document at all apparently. That's what I've just heard. This is just something to show them. I look at this and I've said this in testimony about the variances and I'm following the variances because all I've heard is we get this into compliance and then we're going take care of everything else through the variance process so that's what I'm watching is the variance process.

(#2375) Allan Borden: We didn't say that we're going to settle things locally and then handle every other issue by variance. We said that we would come into compliance with these issues and then address local planning in the future.

(#2382) Constance Ibsen: I'm going back to January 29, 2002 where the Director of Community Development, Ron Henrickson, said we will just push this through and get into compliance and then we can come back and revisit. He was even talking about the buffers at that time when he said that we're going with 100 and then we'll drop them down to 50 after we get into compliance. We can take care of everything else with a variance. I believe in my testimony previously I said even Senator Sheldon wrote a letter about his property saying that staff said he could come back and ask for a variance after we were in compliance.

(#2420) Diane Edgin: That doesn't mean they'd grant it, though.

(#2422) Constance Ibsen: Exactly so no one has predictability.

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(#2430) Theresa Kirkpatrick: Getting back to the question at the bottom of page 1 where it references RU-OS-605. It says "an open space corridors should be designated northward between Allyn and Belfair and southward between Allyn and Shelton". So to answer the question at the bottom of page 1 to get us back on point using this criteria I don't think that we could give a positive answer. I didn't get an answer as to whether or not we would have an opportunity to view the improved map before it's submitted to the GMHB.

(#2483) Bob Fink: It will simply show the area down to Shelton.

(#2485) Theresa Kirkpatrick: And will that area contain open space corridor as defined in OS-605?

(#2492) Bob Fink: We can show you a county wide map that shows it. It's a separate map. We can show it to you.

(#2520) John Diehl: This map is showing a bunch of DNR land and that's the real motive for trying to construct an open space corridor here that most of it is on state lands. The next question of implementation is how in a commercial forest area are you going to maintain this as useful for multiple purpose including wildlife and other recreation and I don't know if DNR has a good answer because they don't have the same commitment for multiple uses as the Forest Service does. I think it's frankly a cheap effort. Instead of trying to establish something that is actually called for in the Comp Plan between UGA's but which would involve going over more private land and establish regulations that would actually implement such a corridor and preserve open space they're just trying to make use of stuff that may not be very useful to the public but is going to be open space because it's state owned.

(#2610) Steve Clayton: So is the intent on this open space program to lock in on particular parcels or is this a corridor with particular designations to come in the future? The impression I got from the Allyn plan was that it was a well mapped relatively wide corridor with specific parcels that will be subject to regulations at some time in the future.

(#2650) Bob Fink: The reason for the designation of open space corridors is the GMA section 36.78.160 says each county and city that is required or chooses to prepare a Comp Plan under the GMA they shall identify open space corridors within and between UGA's. "They shall include land useful for recreation, wildlife habitat, trails and connection of critical areas as defined in RCW 36.78.030. Identification of a corridor under this section by the county or city shall not restrict the use or management of lands within the corridor for agricultural or forestry purposes. Restriction on the use or management of such lands for agricultural or forestry purposes imposed after identification solely to maintain or enhance the value of such lands as a corridor may occur only if the county or city acquires sufficient interest to prevent development of the lands or to control the resource development of the lands. The requirements for acquisition of sufficient interest does not include those corridors regulated by the interstate commerce commission under provisions of 16USC. Nothing in this section should be interpreted to alter any authority of the state or county or city to regulate land use activities. The city or county may acquire by donation or purchase the fee simple or lesser interests in these open space corridors using funds authorized under 8334.230 or other sources". That's the provision in the GMA that regards the identification of open space corridors.

(#2748) Steve Clayton: So we don't have to lock it in on a parcel by parcel basis and put literal restrictions on the parcel?

(#2752) Bob Fink: What the policies call for in open space sections of the Comp Plan and the policy that's proposed basically begins a planning process to capitalize on these open space areas identified for future use for things like recreation. This conceptually identifies a potential trail; that's a recreational use of the area. Part of it's along a salmon trail that might be useful for educational purposes. It connects two state parks; people could use it for recreational purposes. It capitalizes on the assets that are in the area, and

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yes, it's intended to do so in a way that the county is likely to be able to fund. The county is not likely to be able to purchase 20 square miles of county property and turn it into a park. The county may be able to work with the state and various other private property owners to develop a trail system with some acquisition, some easements, or some other technics. This is the beginning of the process although this in itself does not change the use of the property but it sets in place a process by which land might be acquired, trails might be developed, by which parks might be developed, by which critical areas might be protected through easements, etc.

(#2860) Steve Clayton: In the Allyn/Belfair proposal there was public process as far as it was advertised, brought before the commission, brought before the BOCC; we haven't done it with this one. Is that a necessity before we give it to GMHB?

(#2880) Bob Fink: This is the public process by which people can comment.

(#2885) Theresa Kirkpatrick: Was it advertised that we would be discussing this map behind this other one?

(#2910) Bob Fink: It was advertised that a package of amendments were available for review. The specific text or maps of any particular action are not individually advertised.

(#2912) Theresa Kirkpatrick: But the packet was available for public review so the public had the opportunity to review it?

(#2916) Bob Fink: Yes, including the map and the text that you're looking at.

(#2955) Theresa Kirkpatrick: I'm just very concerned that the public has adequate opportunity to know what's coming.

(#2962) Steve Clayton: We got kind of chewed on because of the actions of the previous committee to approve the Allyn/Belfair one and now it seems like we're doing even less public notification on this one. So I'm assuming that down the road when this gets locked in we'll do an actual notification to the landowners that their property will be included?

(#2988) Bob Fink: There will be a whole planning process. That doesn't mean that every landowner will receive individual notice that his property is being considered for this.

(#3000) Darren Nienaber: The case law specifically says that we are not required to notify every landowner of every regulation that may affect their land including the open space maps. That would be impossible for a county to do that.

(#3015) Steve Clayton: So in that matter when Mr. Overton came before us before complaining about that then based on the law that you're stating he really wasn't justified in that.

(#3024) Bob Fink: He's not unjustified for saying I didn't know about it but you hear that a lot and people do indeed not know about it if they don't read the paper and they don't come to hearings and they don't request information; they're not aware that things are happening that can affect their lives and their property. That's true not only at the county level but at the state level. This is a legislative process and it's the process that's laid out to allow for public notice and public participation within the capabilities of what's been deemed reasonable to do. Whenever I hear someone say that they haven't heard I always regret that they didn't hear about it because I really wish I could find a way to get word out cost effectively to people about everything that might possibly affect them.

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(#3110) Theresa Kirkpatrick: Maybe you could use the website more. It would cost the county no postage.

(#3114) Bob Fink: We are moving in that direction. Websites are expensive to maintain and update.

(#3158) Theresa Kirkpatrick: So has the county identified an open space corridor between the UGA's of Allyn and Shelton?

(#3166) Diane Edgin: I think as well as the law defines at this time.

(#3260) Theresa Kirkpatrick: The new language does say 'northward' and 'southward' but the map does not seem to comply with the language here.

(#3278) Bob Fink: The reason we brought this map in is to show the open space corridor that is designated and will be mapped in its entirety and it's this green corridor here which is shown as being railroad right-of-way but it's the designated open space corridor and this is following the 'rails to trails' theory. It often happens that a great opportunity to convert railroad corridors into trails is lost because when the railroad ends up being abandoned the community is not ready to convert it and the property owners that are affected jump forward and say I want my land and in most cases it was never theirs to begin with.

(#3325) Theresa Kirkpatrick: Will the GMHB go for the railroad right-of-way?

(#3330) Bob Fink: I can't read minds. Of course when this goes back to the GMHB it won't even be the same GMHB that remanded this to us; it will be a different body.

(#3342) Theresa Kirkpatrick: So will you be submitted this map with the green railroad corridor or will you be submitting a new improved one of the previous map that's behind this one?

(#3348) Bob Fink: We'll probably submit both; we'll update this map and we'll present a more detailed map just of the Shelton/Allyn area.

(#3370) Steve Clayton: I believe there were written public comments to the extent that we needed regulations to implement it and we're saying at this time that that's not something that we're going to deal with because GMHB hasn't kicked it back to us?

(#3382) Darren Nienaber: There are some regulations. They are regulations governing cluster subdivision. The rezone criteria which refers to the Comp Plan policies and so that would affect how you do rezones. There's also authority elsewhere for protection of open space. Our RCW's and Title 16 has processes for protecting open space.

(#3430) Diane Edgin: Anymore comments on open space?

(#3435) John Diehl: I really take issue with the idea of using the clustering as a regulatory measure that's going to succeed in protecting open space. Yes, it protects open space but it doesn't protect corridors necessarily. The fact of the matter is that nobody has to cluster and they can't under our present regulations be obliged to cluster. There's nothing in any of the private lands that are rural that prevents subdivision into units so small that once they're developed with individual house or barns that we'll have any meaningful open space so if we're really going to have regulations at some point to implement whatever corridor is established they're going to have to be other than these illusions that Darren is grasping for because those are not sufficient over the long haul to protect the corridor. I would hope he would concede that point and I will concede that they're better than nothing but they're not going to do the job.

(#3512) Steve Clayton: But they're a place to start?

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(#3515) John Diehl: There are lots of places to start and one of the things that is bothersome here is that the county wants to focus so narrowly on a few questions and it's been doing this for seven years without attention to the implications of those questions and that's why they always seem surprised when the GMHB bumps it back to them one more time because they haven't looked at the larger issues. If they want more time we'll give them more time. I think I speak for the petitioners here; if they need more than 180 days we'll give them 360 days, we'll give them 540 as long as we see progress.

(#3570) Bob Fink: And the county is invalid all that time.

(#3572) John Diehl: The county has gotten into this fix of its own doing and it's not necessarily going to get out of the fix if it keeps coming up with half baked solutions. I think if its conceded that we need not just designation of open space but that we need protection of open space.

(#3710) Steve Clayton: So somewhere down the line a cohesive set of regulations for open space buffers and a cohesive plan for doing RAC's and Hamlets I believe is what he's asking for.

(#0110) Diane Edgin: Next item. 'Has Mason County demonstrated that its restrictions on rezones in criterion I effectively reduce sprawl'?

(#0250) John Diehl: I included something in the written comments particularly with reference to the undefined special circumstances under which the half mile restriction may be reduced. For all this language there's nothing here that addresses the most significant criteria from the standpoint of the GMA for rural rezones and that is if they're going to be commercial in character they must be compatible with the rural character of the area and second that they must serve the needs of the rural community or the rural population as distinct from serving a wider population that includes the urban population. I don't see those criteria employed in these criteria and yet they're absolutely key to compliance with the ACT.

(#0310) Darren Nienaber: Diehl had said that there was no explicit criteria that do not mandate that businesses be required to principally serve the existing and future rural population as well as being consistent with rural character.

(#0334) Bob Fink: There are Comp Plan policies that direct that. Rezones are legislative actions that the state considers the Comp Plan policies in taking such actions. Any action taken by the county of that nature is appealable to the GMHB so any future action of the county is petitionable and if it's not properly done and done consistently with the ACT is appealable to the GMHB. Because of the set criteria in the GMA and because the policies and many of the goals of the ACT are incorporated into the Comp Plan and because of the specific policies regarding good preservation of rural character, protecting critical areas, etc., that are scattered throughout the Comp Plan I find it hard to believe that those issue aren't addressed in the Plan.

(#0380) Darren Nienaber: It's the county's position that principally designed does not mean that you mandate that every individual business is serving only rural residents or projected rural residents. Principally designed in the county's opinion has been that we're designing an overall regulatory scheme which will have the impact that these businesses will primarily serve current and projected rural residents. The way we do that is by limiting building size, by providing for buffer yards, by limiting floor to area ratios. We did send out to you a number of codes from other counties and cities to give you an indication of what kind of development occurs in cities and what kind of development typically occurs within our neighboring counties and you can see that almost every other county provides for a much wider range of uses and I believe Mason County is providing for. But also building sizes also tend to be equivalent or larger in other counties so I think that in terms of our restrictions of the physical development of the land we're more restrictive on the average.

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(#0566) Theresa Kirkpatrick: I want to be sure that this new language addresses the big sales lots; the RV lots and the car lots and the boat lots.

(#0582) Darren Nienaber: On page 13 on the November 2002 changes for rural lands the definition of Retail was changed to include that language.

(#0595) Theresa Kirkpatrick: On page 12 it says "There shall not be a numerical limit on the number of rezones per year based on faulty designation". So does that mean that someone can just keep coming back to the HE or the BOCC and rezone again?

(#0612) Darren Nienaber: That's not under the remand but the intent of that was the original mapping was a map error.

(#0630) Theresa Kirkpatrick: On page 12 it says "no more than 5 rural residential properties shall be rezoned rural industrial, rural tourist or rural commercial per calendar year'. Does that just open it up for people wanting to rezone residential properties to other. So we'll set the zoning and then a citizen could come forward and have it changed on an individual basis?

(#0645) Diane Edgin: What they're talking about there is in those activity centers and the hamlets if there is somebody there that's already within those defined borders that's residential and they want to change it to some kind of commercial this is where they step forward with this process.

(#0660) Theresa Kirkpatrick: So our efforts will be for naught is what I'm feeling. It gets back to speaking to some of the testimony we've heard of variances; put it in place then ... The question before me is has the county demonstrated that its restriction on rezones effectively reduce sprawl'? If I see that we put all of this stuff in place to reduce sprawl and then ...

(#0700) Steve Clayton: To our variance process, if we granted every variance in the county is it essentially going to be a problem but if the variance process is done right and they justifiably earn them it's the same thing in rezones. There should be provisions and process.

(#0745) Diane Edgin: Now we go into the Resource Ordinance issues. 'Has Mason County adopted a dike monitoring procedure'?

(#0766) Theresa Kirkpatrick: I saw no provision that I saw that provides for owner notification of inspection and I think that would be a good thing to put in. Some people have locked gates and it would be a waste of county time to go out and some people would be pretty hesitant to have county personnel on their property.

(#0788) Diane Edgin: Having lived in the Midwest with dikes usually what happens is that communities and the farmers themselves form dike committees and they are legally responsible for the monitoring of the dikes in their community.

(#0825) Theresa Kirkpatrick: On page 24 under 5.4-5 #2 it discusses historically occurring levies, dikes, and other water flow modification structures. How long back would 'historically occurring' be?

(#0852) Allan Borden: It's not defined in the ordinance.

(#0858) Theresa Kirkpatrick: Does it need to be?

(#0860) Darren Nienaber: That's clarifying language for existing legally established dikes. It means they're pre-existing. That was not subject to the remand.

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(#0895) Steve Clayton: Bob, what would be your input on having a public notice or a notice mailed to a landowner when his dike is going to be inspected given that there are some people that are not too enthused about that?

(#0902) Theresa Kirkpatrick: It's been a problem in the past.

(#0904) Bob Fink: I think other than emergency situations it would be reasonable to send out a notice.

(#0906) Steve Clayton: Is that something we should have in here?

(#0910) Bob Fink: I think that's a reasonable request.

(#0915) Theresa Kirkpatrick: It says that inspections will be done between 8:00 and 4:00 unless there is an emergency so if we could add that in.

(#0930) Steve Clayton: Then you have to figure out who to send the notice to.

(#0933) Bob Fink: It would probably be the property owner by registered mail.

(#0980) John Diehl: I did make some comments on dikes in written form. I think it's clear that the county under the provisions has the authority to make inspections and this makes it more clear. The question is what assurance do they have that these inspections will actually occur? That's been a problem for me and a problem for the GMHB. There's still a lot of political pressure for the inspections to occur and when the Corp of Engineers attempted an inspection the landowners denied access and the county didn't help out the Corp at all in getting access. I don't know that so much of this is just granting permission to the Public Works Director to do it but whether we really have any assurance that it's going to get done. The only assurance I see in it is that it says 'the dikes shall be monitored for safety purposes' but what happens if they don't do it? Do we fire the Public Works Director? Is that the sanction? And this Public Works Director is also supposed to produce a biannual report. The RO calls for an annual report evaluating its effectiveness. That was adopted in 1993 and I don't think we've seen an annual report yet. If you're really serious about monitoring you'd have some sort of permitting process and require that those people who have dikes get permits and they pay for those permits.

(#1075) Diane Edgin: That's a valid point. When I lived in the area of really big dikes and the monitoring system and if you had a dike that was not inspected you had a huge liability issue.

(#1080) John Diehl: You raise a very good point. The county has lost a significant sum of money to landowners in the Skok Valley who sued the county as well as other nearby landowners who had dikes and whose dikes they felt were backing water onto their land. This was settled before it went to trial but it resulted in some people having to spend some money. I don't know that the county actually lost money on it but they were in jeopardy of losing money. I believe in the end the landowners and their insurance companies actually paid the bill. There's a real financial liability issue.

(#1135) Bob Fink: It's been our contention that the dikes are not safe and that's why we adopted regulations prior to this that required a setback for construction of those dikes presuming that those dikes would fail.

(#1150) Diane Edgin: I think this monitoring gives some people peace of mind because if repairs were made timely it will take care of most flooding. But the Skok River has a mind of its own.

(#1160) Bob Fink: It depends on whether you're talking about dikes or bank armoring. The dikes at 100-year flood do not protect the valley from flooding in a base flood. We did require structures which were built

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to be elevated because of the presumption that those dikes are not effective. This is a big difference between what people think about dikes, such as those along the Mississippi.

(#1192) John Diehl: I'd like to pass out for you to look at a page from the Skokomish River Comprehensive Flood Hazard Management Plan. We don't have anyone here from the valley tonight but they know all about this. The planning advisory committee for that group in October of 1995 adopted a policy and I suggested in the information I sent you that you might want to make reference to it. It says among other things that dikes shall be constructed to meet soil conservation service class two standards for compaction, etc. You might take a look at the details of it. The point is that yes, the dikes are unsafe, and that's what the first set of monitoring would reveal and then the question is where do you go from here? We knew that already as Bob was suggesting. Are we going to implement the policy that was adopted in 1995? It would seem high time that we do so and that means telling landowners to either upgrade your dikes and in other instances your dikes is causing problems for your neighbors and get rid of it. You do not have a permit and we're not going to issue a permit. I think you can do that. This isn't something that's grandfathered in the way a house is. This presents a hazard to other parties in flood conditions. So let's do what we should have done years ago and start implementing something that was the product of a lot of public input and a lot of local planning.

(#1305) Bob Fink: I would like to point out that the program of regulating the Skokomish Floodway is part of that same Comprehensive Plan. The GMHB invalidated that program so that program has been invalidated. That doesn't mean the county has developed another Comprehensive Flood Hazard Management Plan at this point but it cannot implement that plan due to the orders of the GMHB.

(#1326) Theresa Kirkpatrick: That's been invalidated?

(#1328) Bob Fink: Not the plan specifically but the regulations the county adopted were specifically following the recommendations of that plan and they were invalidated by the GMHB and so the county cannot implement that plan.

(#1336) John Diehl: That's a half truth if I ever heard one. The point is that yes, the county did implement a fragment of that plan and that fragment was invalidated related to new construction in the floodway and the floodplain. The GMHB has never objected to any aspect to what's in the plan with respect to dike monitoring and enforcement. That's apples and oranges.

(#1364) Steve Clayton: As I read the monitoring program we're just inspecting dikes that if they failed would have problems with structures and live and limb. Are there other parts of the dikes that would essentially flood the valley that people would be concerned about that wouldn't damage a structure or be a safety hazard that we need to inspect?

(#1400) Darren Nienaber: I don't have personal knowledge of every dikes that's in the Skok and what kind of dike might be associated with which kind of safety issue.

(#1415) Theresa Kirkpatrick: Do we know that the Director of Public Works has the engineering expertise to conduct these inspections?

(#1420) Darren Nienaber: It would be him or his designee.

(#1436) Steve Clayton: I've written notes to review some of the public comments on this.

(#1448) Diane Edgin: Next up is 'Has Mason County designated the FFA in the Skokomish River Valley as designated floodway under county code'?

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(#1502) John Diehl: You could clarify that it's designated for purposes of Title 86 section 16; there's a reference to designated floodways in there.

(#1515) Steve Clayton: If Mr. Diehl wasn't concerned about the designation then I'm not concerned.

(#1520) John Diehl: You might ask to see the map.

(#1535) Allan Borden: Probably the map that FEMA issued in 1998 for the Skokomish Valley would be a good one. It shows the floodway.

(#1580) John Diehl: We're trying to map the 100-year floodplain of the Skok River as determined by FEMA. The way that people have been talking about it in terms of various maps I think leads to some confusion.

(#1624) Allan Borden: FEMA issues floodway maps that are basically the same as FIRM maps.

(#1655) John Diehl: We're supposed to have more than the floodway; the floodway is supposed to be the area that carries the bulk of the floodwaters but it is less than the 100-year floodplain and the county itself has defined the FFA's. The GMHB order was that in FFA's you will preclude new construction and that those FFA's are the floodplain not just the floodway.

(#1690) Bob Fink: I would suggest that perhaps better language would refer to the map such as this exhibit. This exhibit is actually a cumulation of FEMA maps which some day we may digitize but for the moment this is what we have. It shows the Skokomish Valley floodplain from its mouth down to the end of Vance Creek. This is the map that was adopted by the county to go with the interim ordinance it adopted to prohibit new construction in the valley until we adopt a more permanent ordinance pursuant to the order of the GMHB. We could adopt this map. Under the order of the GMHB it would designate it as a floodway and an avulsion risk zone and floodplain.

(#1810) John Diehl: This map makes the nice distinction of some areas which are flood fringes that are not part of the floodway. But so far as meeting the mandate of the order is involved the floodway is incidental. The order is to designate a floodway but the order is also to preclude new construction in FFA's, meaning the 100-year floodplain. So the new construction ordinance applies to that map. The designated floodway might well be this map here, agreed?

(#1842) Bob Fink: No quite. Contrary to your statement earlier there was a designated floodway for the Skokomish Valley. It was adopted in 1988. There was a floodway designated in 1988 by FEMA maps and that is a floodway that was removed by the county when it adopted these new regulations in 1997 so there was a floodway previously. It was with the agreement of the State Department of Ecology and the FEMA agency that that floodway was removed and replaced with a set of regulations that the GMHB invalidated.

(#1880) John Diehl: I seem to recall that when the RO was adopted in 1993 was that one of the issues we had with that was that there was not a designated floodway and that an exception was made under the Flood Damage Prevention Ordinance for the Skokomish River Valley.

(#1905) Bob Fink: As far as I remember there was nothing ever like that in the original adoption of the RO.

(#1924) Steve Clayton: These maps aren't identical.

(#1926) John Diehl: And they're not intended to serve the same purpose. Again, this map that is supposed to be of the 100-year floodplain relates to the mandate to preclude new construction in FFA's. The case of a floodway leaves some discretion to a hydrologist's call. There's some expertise behind this map here so this would be a sensible floodway to designate. Certainly there's no expertise on the county staff to take

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issue with something that FEMA has put together.

(#1965) Bob Fink: FEMA didn't put this together. The county consultants put this together. FEMA put together a map that was different than this and this plan actually includes two different approaches to a floodway. One floodway is a single floodway that includes the main channel and some other lands that they calculate to meet the definition of a floodway. The other floodway approach actually allowed for a split in the floodway so it wasn't a single channel but could be a split channel and would recognize the existence of high ground in the center of the valley just south of the river which is some of the highest land in the valley. That was an option that was considered when this plan was developed as an alternative to the floodway that FEMA designated in 1988. Rather than going with either of these floodway designations the Comprehensive Flood Hazard Management Plan went to the density floodplain approach which controlled the total amount of development and the total amount of filling that could take place and meet the standard that FEMA has established for control of impacts to the floodplain. If you filled it fully so it was no longer flooded that would raise the elevation of the floodwaters no more than one foot. The design developed in the Comprehensive Flood Hazard Management Plan would have only provided for one half foot in flood plain elevation if it were fully executed as allowed. That was the approach taken as an alternative to the classical floodway designation.

(#2062) Diane Edgin: So we have a designated floodway somewhere in this mapping system.

(#2066) Bob Fink: The order of the GMHB as we understand it is to designate the entire FFA which is the 100-year floodplain as floodway. That's the recommendation that we're making and that's what the proposal is. We're not saying that what the GMHB ordered was correct; matter of fact quite the contrary but this is what the GMHB ordered.

(#2158) John Diehl: I think there was a looseness in the language of the GMHB order. I don't think the GMHB was using the technical definition of floodway when they required the county to designate a floodway to preclude new construction and to designate that as the FFA. I don't know that it's a point worth arguing. If the county wants to go ahead and designate the whole floodplain as a floodway that's not far wrong and there is this further consideration that we've had a lot of testimony before the GMHB relating to the avulsion risk in the Skok Valley. No one knows for certain when another avulsion will occur or where but we know that it will occur and we know that the entire valley is vulnerable. Though it was certainly with that background in mind that the GMHB ruled that you need to be looking at the FFA, the floodplain, and they may have used a misnomer from a technical standpoint in speaking of it as a floodway.

(#2234) Bill Dewey: Next question is 'Has Mason County precluded new construction in the Skokomish River Valley FFA's?'

(#2250) Steve Clayton: So what I'm getting is that we're being real strict and drawing real large floodway and Mr. Diehl is under the impression that somewhere down the line with better BAS we should be able to draw that in.

(#2258) Bob Fink: As a practical matter because the restrictions are going to be more intensive than would normally apply in a floodway throughout the FFA if we follow the other portion of the order that the GMHB ordered that there should be no construction in the floodplain then it's really irrelevant what we call the floodway unless you assume that the GMHB was loosely spoken about that as well. That's our recommendation. We're trying to come into compliance; we're trying to follow what the GMHB said and we have to assume that they knew what they were saying. I think to assume anything else is dangerous. We have challenged several portions of this order in Superior Court so it's not that we agree with it or at least with all of it.

(#2314) Steve Clayton: So in the future is there any chance of bringing it back in if it's more liberal than

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needs be?

(#2323) Bob Fink: We've gotten flack for saying that we're going to fix problems by making changes in the future when we're in compliance so I'd hate to say that if there are things that should be corrected in the ordinance that we can address later. We are expecting a decision from the court at some point and if we are indeed in compliance with the GMA if there's some issue that we need to visit whether it be cleaning up our land uses in some portion of the rural area or deciding what portion of Hoodspout should be in commercial or industrial or some other issue that we haven't been able to deal with in full detail. Planning is an ongoing process.

(#2376) Theresa Kirkpatrick: There are provisions in here for non-residential development?

(#2380) Bob Fink: No. No new construction. If you wanted to recommend revising the language for the reasonable use exception so that it wouldn't apply to the Skokomish Valley.

(#2432) John Diehl: A reasonable use exception is legally supposed to occur within the framework of where the alternative is a taking and you're not supposed to apply where there's a health hazard. You can try to say we'll allow reasonable use exceptions for non-residences or for barns or whatever but it might make more sense to just say that we're going to allow barns. Why put it in the category of only allowing a barn if it would represent a taking otherwise? Why not say we'll allow barns. I've already offered that with the concurrence with the other petitioners. I'm sure they had in mind primarily residential construction. I think they also had in mind commercial construction or other buildings that would be regularly subject to human occupancy. In terms of sheds, storage tanks, or facilities; Mr. Hunter was complaining two weeks ago that he thought someone couldn't put up a manure storage facility. I do think there's room to clarify that language.

(#2600) Diane Edgin: Wouldn't the phraseology that agricultural buildings could be allowed?

(#2610) John Diehl: I'd add to that that someone might try to count migrant farm workers quarters as part of an agricultural buildings but barns, sheds and livestock facilities would be okay.

(#2634) Bill Dewey: Wouldn't it be better to just say that it shouldn't be subject to human habitation?

(#2644) John Diehl: Maybe Diane's phrase would be fine also.

(#2686) Steve Clayton: Currently under reasonable use in 4.4-3 it says they can do any they want except residential development. Does that need to be cleaned up because do we want a retail establishment or commercial establishment in a floodplain? Are you surprised there's a reasonable use section in there?

(#2725) Darren Nienaber: It applies to the Skok. That's an easy fix.

(#2727) Bob Fink: We weren't surprised it was in there but I thought it had been amended because of the order.

(#2734) Steve Clayton: Amended to what would be your recommendation?

(#2740) Darren Nienaber: From the county's standpoint, the county has kind of lived under extreme fear of the GMHB. In the last GMHB order they talked about the ICIA expansion of 10% and I didn't remember other party briefing so I think in times past we've become close so this time we've taken a hard line so there would be no doubt that we comply with the GMHB order.

(#2780) Bob Fink: That's our recommendation and the reason for it is as Darren said to come into

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compliance with the GMHB orders and not just try to play the margins and try to guess what the GMHB might mean or might not mean and how far can we go out here on this limb. To extent that we can avoid doing that we intend to do as ordered by the GMHB.

(#2824) Steve Clayton: So you're saying it should be stricter than what is written? What's written is you can't get a reasonable use exception for a residential development but what you're saying is that you want it stricter than that; you don't want any development.

(#2838) Bob Fink: The provision for the reasonable use exception could be modified to not allow construction in the Skokomish Valley which is what the GMHB ordered. What I'm talking about in saying strict is in the sense of what the GMHB ordered in that there should be no new construction in the Skokomish Valley. They didn't say with the exception of a reasonable use provision as provided elsewhere.

(#2868) Darren Nienaber: We could have highlighted the reasonable use exception as being a problem.

(#2880) Steve Clayton: So do we need to change this or is it acceptable as it is?

(#2885) Darren Nienaber: I think a modified recommendation from the planning department would be something like you could incorporate it within a reasonable use exception and a variance provision or you could have it separately but you could say something like 'a reasonable use exception shall not apply to the Skokomish FFA'. You'd have the same wording for a variance. That's one way to do it.

(#2918) Bob Fink: That's what I tried to suggest.

(#2922) John Diehl: If you were to take it literally, Darren, you would say that the GMHB order didn't pertain only to the Skok FFA, it says the FFA.

(#2930) Darren Nienaber: It says in the FFA and the earlier references have all been to the Skok. Originally when I read the order I had that view and then having looked at and seeing 'the FFA' it could only be read in reference to the Skokomish Valley and there's pretty no reference in the record anywhere else.

(#2960) John Diehl: One of the Finding of Fact is that the county has failed to preclude new construction in FFA's on page 15 of the order. If you look at page 2 it also says FFA's. I think it would make sense to preclude new residential construction ...

(#3020) Darren Nienaber: I can't see any court upholding that where you prohibition all development in every 100-year floodplain across that state. Here you've got a specific history and the evidence is towards the avulsion risks in the Skokomish River Valley. There's never been a discussion of the GMHB of anywhere else.

(#3050) John Diehl: I agree with you but I was making this point in saying that the county was unnecessarily cautious. If we ask ourselves do we need to avoid allowing barns in the Skok River Valley ask yourself what court is going to disallow them? What petitioner is going to even raise the issue of whether barns are allowed. If we're really looking for what is within the realm of a realistic risk let's be sensible on both points. Let's not try to preclude new construction in all FFA's but only in floodways outside of the Skok Valley and let us also be reasonable and say that we will allow non-residential structures within the Skok Valley FFA.

(#3114) Bill Dewey: Is the proposed language change that's in the RO now on bottom of page 20 and top of 21 where it says that the special flood risk zone is an avulsion risk area and is hereby designated as a floodway and that new development is prohibited in this designated floodway effectively saying no new

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construction in the FFA? Does floodway capture the FFA and have you met the GMHB order?

(#3160) Bob Fink: No construction in the floodplain ... you'd have to revise this if you were to designate the entire FFA as a floodway as directed by the GMHB. If you don't allow, as they ordered, no new construction in the floodplain then it really doesn't matter what portion of it is floodway.

(#3200) Bill Dewey: I'm concerned on terms; I'm hearing floodway and floodplain and FFA and I'm not an expert in this area and I'm confused.

(#3212) Bob Fink: The FFA's are areas and the term comes from the GMA and they are a critical area and areas that are subject to frequent flooding. In most cases those are the 100-year floodplain. The 100-year floodplain is a creation of the federal government based on their engineering in different basins and within the floodplain area there is a concept that they have which is the floodway. The floodway is the part of the valley that you have to preserve or not fill. If you filled everything else, which is called the flood fringe, so it no longer flooded then the elevations of the 100-year flood would be raised no more than a foot. That's consistent with the requirement to develop a structure a foot above base flood elevation. What that does is it protects structures that have been elevated in the past from the effects of future development. If you develop the rest of the valley and fill the areas that are allowed to be filled then the structures you built prior will still not be flooded. The floodway is that channel that you don't develop or fill so that it conveys the necessary floodwater that you won't raise the flood level more than a specified amount.

(#3330) Steve Clayton: So what you're saying is that in one part no development in the floodway which can be an area that moves but we're saying in the floodplain we can build a commercial operation through a reasonable use exception.

(#3355) Bob Fink: I think the conception is that when you establish the floodway on a regulatory basis then you've protected that floodway from activities that could keep it from conveying floodwaters and result in flood rising. As a national policy in the area outside that floodway can be developed and can be filled and the impacts of that are built into the system.

(#3390) Steve Clayton: So we haven't defined where a floodway is but we're going to put regulations in on it?

(#3392) Bob Fink: The floodway we're defining the entire floodplain as the floodway. We're defining it essentially as an avulsion risk area.

(#3422) Diane Edgin: It's twenty minutes to eleven and we have two more things to hash out. Do we want to try to do it? We haven't finished our answer on the last one yet?

(#3438) Theresa Kirkpatrick: When is the deadline and what are the consequences if we miss it of getting this back to the GMHB?

(#3448) Darren Nienaber: You could probably continue this until December 16th.

(#3458) Bob Fink: It would probably fit within our schedule if you wanted to continue this to you next regular meeting on the 16th. I'm glad we were able to get through as much of this as we have and I hope that as we've gotten through it the questions in your mind have been settled.

(#3480) Diane Edgin: I have a question for you to look up and that's the question that Holly Manke White brought out about this interim regulations. I'd like to see if you could find out some further information on that.

(#3502) Darren Nienaber: I'll just tell you that it's not going to fly.

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(#3510) Bill Dewey: Could we also get a copy of Mr. Diehl's letter to the BOCC on development in the ag lands? You said that he sent in a letter to the BOCC.

(#3522) Darren Nienaber: They've received it and we can put it in the record.

(#3528) Bill Dewey: We'd like that letter sent to us.

(#3546) Diane Edgin: If you want agricultural designation you've got to get them the tools to do it or you're going to drive them out of business.

(#3555) Theresa Kirkpatrick: As we've seen there are so many inconsistencies and is our purpose here to just get anything off to the GMHB? I would like to get clear with this body if we really want to go through things and fine tooth them or if we just want to stick with the list we were given this evening?

(#3592) Diane Edgin: I personally think that if we started rehashing things we would not get through the next meeting. I think we need to pick up where we leave off tonight.

(#3602) John Diehl: You may want to come back with specific proposals. I don't see any objection on the part of the GMHB and I'm as confident as I could be that if the petitioners and the respondent were to agree that you need more time that the GMHB would consent to that. So if you need more time beyond the middle of February and if the county is in agreement the petitioners are in agreement. The petitioners would object only if we felt that the county was stalling and not making progress. The sky is not going to fall if you don't get it done at the next meeting.

(#3715) Diane Edgin: How about the Dawes? Do you have any problem with going over the 180 days?

(#3720) Warren Dawes: No, we're happy to see you take up these additional questions and deal with them.

(#3775) Darren Nienaber: The parking ordinance will be continued and you will have pretty much the whole night to work on this. One recommendation we would have is if you keep the public hearing open until next time other people might show up and you could go on forever. You may want to ask if there's anything else from the public.

(#0128) Diane Edgin: Okay, is there anything else out there?

(#0130) Steve Clayton: I'd like to keep it open because the professionals are sitting over there. These people are the pros in my opinion.

(#0140) Diane Edgin: Would it be fair to limit it to extraneous conversation of just the two issues we have left?

(#0145) Darren Nienaber: It's up to you but I was just hoping to keep things focused and on track.

(#0147) Bill Dewey: I think it's our goal to finish up those last two issues. However, after reviewing this material that was presented to us tonight I'd like to bring those back up. I would also like to ask Mr. Diehl about his group. You have produced a terrific amount of information for us and I find it very useful but I would find it more useful if there's actually specific recommendations for language changes like we see in the staff reports instead of the philosophical discussion of what the change should be.

(#0178) John Diehl: I will point out that I did give you some very specific language in the two letters that

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came to you today.

(#0198) Diane Edgin: I think too, John, these last minute letters are killers when it comes to time and trying to deal with the information.

(#0206) Steve Clayton: On that note if the petitioners were to e-mail to Mr. Fink and Mr. Fink were to distribute it via e-mail then we would get it in our hands instantaneously.

(#0220) Darren Nienaber: One thing I would ask is don't respond to anybody otherwise it may be a public meeting.

(#0224) Bob Fink: In other words, it's just a means of providing to you part of the public record.

(#0238) Darren Nienaber: You can receive the information but I wouldn't respond to each other.

(#0242) Steve Clayton: I was under the impression previously as long as we didn't work as a quorum we could do that.

(#0250) Darren Nienaber: I would avoid that when it came to any permits that you may have in the future.

(#0252) Steve Clayton: But for zoning issues ...

(#0255) Bob Fink: There is the legal question of the sequential e-mailing back and forth between different parties that make up a quorum. If you talk to three or four other members then that could be a quorum. If you talk to three other members and you have a back and forth discussion by e-mail that is a meeting.

(#0270) Marilyn Johnston: But my understanding is all we're asking is that you just e-mail us; we read it but there's no exchange of any sort of communication.

(#0280) Darren Nienaber: You can have an exchange if it's less than a quorum.

(#0285) Diane Edgin: If you asked me a certain question and I said that it's in such and such document I would be fine to tell you that. But if you ask me something more in depth or what I thought about something I would tell you that I will save that for the meeting.

(#0298) Steve Clayton: It would be more along the lines of dissemination of information. If I get information that I feel is appropriate I can either send it to Bob and he can distribute it to the entire group or I could distribute it to less than a quorum and then it should not be redistributed from there but if I have some key members I wanted to talk to on it I could do that.

(#0310) Darren Nienaber: We just don't want Mason County to be the first one to get into trouble over this.

(#0314) Constance Ibsen: I want to ask a question about this process. Even tonight I brought enough xeroxed copies for all the planning members and I wasn't going to talk to them because I want them to get them in plenty of time because I have them in plenty of time for something that might come up. Is it ever possible for me to mail a packet to Bob and then to all the committee members when I get the information?

(#0334) Staff: You would send it to the county or staff first and we would then distribute it to the commission.

(#0350) Constance Ibsen: I want to know the process of what happens tomorrow? It was advertised as a hearing tomorrow.

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(#0360) Darren Nienaber: We will take testimony and continue it until December 30th.

(#0362) Steve Clayton: I make a motion to continue this meeting until December 16th.

(#0370) Theresa Kirkpatrick: I second the motion.

(#0375) Diane Edgin: We have a motion and a second. All in favor? Motion passed.

(#0400) Marilyn Johnston: I will not be at the next meeting.

(#0430) Theresa Kirkpatrick: I move that we excuse Mrs. Johnston from the next meeting.

(#0435) Steve Clayton: I second the motion.

(#0437) Diane Edgin: We have a motion and a second. All in favor? Motion passed.

Meeting adjourned.