

**SEPA MEETING
ON
BRINNON SUBAREA PLAN
AND
ASSOCIATED UDC AMENDMENTS**

**January 22, 2002
at
Whitney Point Shellfish Laboratory
Brinnon, Wa.**

Al Scalf, SEPA Responsible Official, called the meeting to order at 12:05 p.m.

DCD staff present were Al Scalf, Josh Peters, and Cheryl Halvorson, secretary.

There were about twenty members of the public present. Those who signed the guest list were Chuck Finnilla, Olivia Alfano, Diane Derrick, Walt Parks, Peter Siefert, Debbie Siefert, Loni Beringer, Ted Labbe, Port Gamble S'Klallam Tribe, Joy Baisch, Linda Oen, Stacey Thompson, Jeff Davis and Jim Fraser, WDFW, Bud Schindler, George Sickel, Kirie Pedersen, Mark Rose, Linda Tudor, Phil Stevens, and Tom McNerney.

Al Scalf stated that the purpose of the meeting was the review of the Brinnon Subarea Plan and specifically the environmental impacts of that plan. He reviewed where the draft plan was in the review and approval process.

Al Scalf explained that SEPA provides the opportunity for public meetings at any time during the process. He explained that he had been concerned about the tone of the SEPA comment letters received and decided that a public meeting was warranted in order to have an informal discussion about the environmental impacts. He wanted to avoid discussions about specific zoning proposals and GMA requirements and focus instead on environmental issues.

Al Scalf reviewed the agenda: Introductions, Staff Report, Question and Answers from the public, and Questions from Staff about certain comments received.

Everyone introduced themselves. Most were citizens except the representatives from WDFW and Port Gamble S'Klallam Tribe.

Al Scalf provided some general background on SEPA relating to the Brinnon plan. It began with the EIS adopted with the county Comp Plan in 1998. He reviewed the GMA planning that had occurred prior to that. It included developing the Existing Conditions report for SEPA in the mid-1990's. He explained that the Existing Conditions led into a Draft Environmental Impact Statement [DEIS] which developed various alternatives and analyzed the environmental impacts of those alternatives. The DEIS developed a preferred alternative, which at that time was the community plans. Therefore, a lot of the community plans were already reviewed in the mid-1990's as one of the alternatives. Then the Final EIS for the Comp Plan was developed and adopted from that process. He explained that the Comp Plan kind of synthesized the community plan work, using the aspects that complied with the GMA, in the full knowledge that the county would eventually go back to the communities and re-engage in a bottoms up process for the dreams and aspirations of the communities. Mr. Scalf stated that the Existing Conditions talked about both the natural and built environment constraints.

Al Scalf explained the two paths of SEPA: project specific and programmatic or non-project. He explained that programmatic EIS work was general in nature; it did not deal in specifics; it dealt with general concepts. He stated that the county recognized during the 1990's that it would adopt a Comp Plan and development regulations (the Unified Development Code). He explained that the Comp Plan provided general guidance and theory. The development regulations actually implement the policies of the Comp Plan; they were the "teeth" of the Comp Plan. He provided an example of how a policy might be implemented in the UDC.

Josh Peters, as an aside, explained that besides the project or non-project SEPA actions, there was another sub-category called a "planned action". He explained that would be something at a non-project stage but, for example, the county could undertake environmental review of a specific area such that future environmental review would not be necessary. That was not the case in this non-project action. He explained that if any project proposal came in under the Brinnon plan, it would be subject to the UDC and SEPA review at the project level. Mr. Peters stated that the initial review the county had just completed was a non-project review. Mr. Peters stated that the county made a threshold determination on December 10, 2001, with a two week comment period followed by a two week appeal period. That threshold determination was a Determination of Non-Significance [DNS] and Adoption of Existing Environmental Documents.

Al Scalf reviewed a flowchart depicting the steps the county follows in a SEPA review and determination. He explained the key words that must be analyzed: whether the impacts were significant or non-significant, or adverse or moderate, and whether they could be mitigated. He explained that comments received were evaluated, which was currently in process. He stated that prior to adoption of the plan by the BOCC, the county could decide to retain, modify, or withdraw the DNS.

Josh Peters explained the term "DNS". He explained that in 1971 when the SEPA was adopted by the state, there was not as much authority for local jurisdictions to protect the environment. After passage of GMA, local jurisdictions had a responsibility to protect critical areas. He stated that there were some aspects of SEPA that were somewhat cumbersome to GMA. He reported that DoE was proposing new SEPA rules for non-project reviews.

Josh Peters said that by issuing a DNS for the Brinnon plan, the county was not saying that the plan was non-significant in terms of environmental impact. Rather, what it was saying was that the plan in combination with the likely results based on project applications that would be forthcoming, that in light of our current development regulations, the environmental impacts were likely to be non-significant. He stated that the determination was a DNS and adoption of existing environmental documents. In other words, the environmental review that occurred during the Comp Plan process was useful in the fact that it reviewed the alternatives that would be considered in the Brinnon plan. He provided the example that before the Comp Plan, there was more commercial land zoned in Brinnon than the current Brinnon draft plan proposed. Therefore, the Brinnon plan was under that umbrella of review that occurred for the Comp Plan.

Al Scalf stated that before adoption of the Comp Plan, there were over 1000 acres of commercial and industrial land zoned in the county. The Comp Plan actually downzoned to less than 400 acres of commercial and industrial land. Mr. Scalf explained that the Existing Conditions report and alternatives (Preferred, Focused, Dispersed, Moderate, and No Action) indicates the effect on each planning goal under GMA. The one in question today is environment. He explained that each alternative, except the No Action alternative, showed a

positive effect on the environment. He noted that the EIS for the Comp Plan said it was programmatic in nature, it provided a broad framework for comparing complex planning proposals at a more general level than would be expected for a specific development project, and it would also be the framework for future environmental review of later actions such as community plans, development regulations, and projects. In each of those subsequent phases, the county would determine the nature and extent of further review necessary based on this framework. Mr. Scalf stated that the RCW talked about the flexibility of the EIS in a non-project proposal versus project and that it was generally less detailed than a project review would be. He explained that conceptually in the plan a zone was designated. A project within that zone would have environmental review at that level also. He said that the environmental review was not complete at this point. He explained that the DNS was very clear that the existing regulations under the UDC were quite constraining for environmental issues already. Therefore, we could say that we did not need to further mitigate any proposals because our critical area, stormwater, performance and development standards already provided guidance as to the impacts of the proposals.

Josh Peters reviewed the handout materials that were available.

Al Scalf opened the meeting to general discussion and questions from the audience.

Ted Labbe asked about the status of the Brinnon plan. Josh Peters summarized the actions on the draft plan, noting that a January 16 draft was now available on the county web site. He said the Planning Commission would be reviewing their report and recommendation and findings on February 6 before forwarding them to the BOCC. Mr. Peters reported that there was a SEPA appeal currently underway. He stated that it was staff's position that the SEPA appeal should be completed before the BOCC takes action on the plan. Al Scalf explained how staff reviewed all of the comment letters on the plan and recommended changes to the Planning Commission, which in turn reviewed the changes, along with members of the planning group, and arrived at the recommended plan being forwarded to the BOCC. Mr. Peters stated that there had essentially been official action to recommend changes addressing concerns raised by the tribes.

Al Scalf stated that under SEPA a meeting could be held at any time to talk about environmental issues. He stated that the county was considering issuing an addendum, which could be issued at any time. He thought there may be additional information that would be useful to the public. It might include other threshold determinations on projects throughout the Brinnon planning area. If there was information available that would help the public at large, the county could include that.

Ted Labbe commented that the draft plan was based on feedback received prior to the SEPA determination and SEPA comments. He asked if the latest draft plan attempted to address the comments received during the SEPA review. Al Scalf replied that, as a planner and the SEPA Responsible Official, we were always concerned about environmental issues, from the very beginning of the proposal. He said that the comment letters indicated a concern about salmon recovery and ESA listing and said "Yes" they were considered.

Mark Rose stated that staff talked about critical areas or threshold determinations to attach. He asked if staff was pro-actively looking at those and then attach them. He asked if staff had considered the SEPA comments and then pro-actively followed up. Al Scalf replied that staff had queried the county data base for projects that had received SEPA review in the Brinnon area.

He provided some examples. He stated that staff was considering attaching the entire list, or portions of the list that included projects in areas of concern, so that the public would know how the county would typically review a proposal. Mr. Rose asked who would decide if the list or portions thereof would be attached. Mr. Scalf replied that staff would go through the list and decide whether to attach the entire list or just example projects. It would be to provide examples of the types of projects and the mitigations that were required of those projects.

Josh Peters stated that this was a creative idea to provide some evidence of the discussion about project versus non-project review. The SEPA conditions on past projects were still valid for future projects. Concerning the question about critical areas, he said there were critical area maps available at DCD. He noted that they were only advisory but they may generate a site review. He pointed out that some information was not released to the public, such as bald eagle nest sites.

Mark Rose stated that the county would not actually look at critical areas or salmon recovery, as examples, and pro-actively explain them in an addendum. As an example, he asked if staff would highlight the critical areas in an addendum and explain that potential development within them might have adverse impacts in certain respects. Josh Peters replied that in typical non-project actions, it was not typical to do something like an addendum; it was a creative idea staff had. He pointed out that it was stated that all of the environmentally sensitive areas provisions of the UDC would apply to any development proposal regardless of the Brinnon Subarea Plan. Al Scalf stated that staff would not go through any hypotheticals; we would only state the factual presence of a critical area. Mr. Scalf stated that the point of an addendum would be to show that there were environmental issues already on the books that were governing land use proposals.

Ted Labbe asked, if there were some environmental concerns that were sort of one scale bigger than a site level review, such as multiple parcels in a particular area that the county was convinced might be difficult to ameliorate on a project level review, if staff would consider attaching an addendum to the DNS to deal with that. In other words, something that went beyond what the county currently had on the books. Al Scalf replied that if there was a proposal to develop the mouth of the Dosewallips River, which was clearly unbuildable, as an example, the county would withdraw the threshold and issue a DS [Determination of Significance]. Mr. Labbe provided the example of a development proposed that had impacts that went beyond what was addressed in the UDC and there was a willingness on the part of the community and the developer to consider off-site in-kind mitigation opportunities. He asked if there was a precedent for that sort of thing to happen in the county and through an addendum to the DNS. He also wondered whether it would then be a Mitigated DNS. Josh Peters replied that a DNS was saying that the rules in place were sufficient enough to protect against any likely significant environmental impacts. A MDNS was saying that the rules did not go far enough so you were assessing extra mitigations that went beyond the existing rules. A DS was saying that you must do an EIS to analyze every potential impact in order to reach a place where the impact was no longer significant. Mr. Peters thought what Mr. Labbe was describing was a MDNS. He thought in essence it would be a joint venture with a developer to identify potential areas for mitigation. He thought that was appropriate and had precedent in the county. Mr. Peters stated that the reason it was impossible to do that at this point, referring to the Black Point area and a conceptual MPR, was because there was not a developer there with whom the county could do that kind of thing because there was not an application before the county. Mr. Peters stated that until there was an actual application, the

county could not work on it. Mr. Scalf stated that his comment would go back to the Existing Conditions report, again programmatic and non-project, which talked about soils, for example, in general terms, including mitigating measures. Mr. Scalf stated that, for example, we could conceptually see a MPR at Black Point. However, we did not know specifically what may come in at a project level. He said that at this point we could say that the county believed the UDC had enough protections to address it, therefore a DNS was sufficient. At the point of an actual project proposal, we started over again with another SEPA determination. That was more at the point where the nexus occurred between the cure and the harm. It was really the difference between non-project and project. Mr. Labbe stated that there were mitigations that could ameliorate the impacts that had been talked about in the letters.

Jeff Davis stated that was also where he was trying to go with his SEPA comment letter. Mr. Davis recognized that the Comp Plan EIS addressed MPRs, etc. One of his concerns was that it was done pre-listing [of salmon], however. Mr. Davis said that where they were coming from related to GMA was, it was fine to DNS the plan and move it forward, but they wanted to take a step back and consider it and understand what the potential impacts were. Granted, they did not know project specific detail. But, to take a look at what potential impacts you could have with an MPR at Black Point or commercial development in the floodplain. He advocated working together up front to address the environmental issues and make the development environmentally sensitive. He said he had tried to advocate in his letter for a DS and do an SEIS to consider the issues and move forward together to allow what people wanted and still protect fish and wildlife resources at the same time. Mr. Davis said he knew other jurisdictions were doing that now, citing the example of Kitsap County which now basically DS'd all of their subarea plans.

Al Scalf responded that would be a programmatic, non-project EIS. Jeff Davis agreed. Mr. Scalf referred to the Comp Plan Transportation Element and the segment of Highway 101 and Black Point Road. It provided an ADT [average daily traffic] and a level of service. He said that without a project, he could not say how it would impact that. He could not say that the impact on the intersection would be adverse. Jeff Davis responded that he was not asking staff to predict into the future that there would be a certain number of cars travelling the road. He thought the county could get there and that other jurisdictions were getting there. He recognized that it was "fuzzy" numbers but said it would at least provide some idea of what sort of impacts there might be so we could make sound decisions.

Al Scalf reported on the SEIS addressing the county urban growth areas [the Special Study]. He noted that Task II, regional economic trends, concluded that the county was deficit 280 acres of commercial and industrial land at the assumed employee per acre figure. The BOCC designated a Provisional UGA in the Tri Area and assigned a certain amount of that allotment to that UGA. Residual acres could be allocated to the other commercial and industrial zones in the county. He noted that was a programmatic, non-project specific SEIS. Mr. Scalf stated that the same issues kept coming up: stormwater, clearing and grading, performance standards, etc. They were all covered in the UDC. Mr. Scalf said that it was not a question of continuing to review alternatives. He pointed out that the county had spent four years and \$400,000 on the Special Study and it still begged the same questions: Where is it? and How big is it? and What are the impacts? He stated that his point was that those questions would be picked up at the project level.

Jeff Davis said that his point was that by the time you got to a project specific proposal we were way down the road and fish and wildlife resources were

again pushed to the side because early on we did not analyze all the potential impacts. Al Scalf provided the example of the Mats Mats Quarry proposed expansion. He explained that a DS was issued and SEPA authority could be used to deny the proposal if it could not be mitigated. He pointed out that some things could not be mitigated and could be denied based on the SEPA authority.

Mark Rose said the DEIS/FEIS did not address a potential MPR, stating that a MPR proposal was a rather recent one. He said that none of the alternatives analyzed in the DEIS/FEIS allowed for the type of development that was proposed in the Brinnon Subarea Plan. Mr. Rose asked if the plan was adopted as an amendment to the Comp Plan, if it would mean that those uses specified in the subarea plan would then be allowed. Al Scalf replied that a re-drawn RVC would become a new map and a new zone. He said that a MPR was still conceptual, so adoption of the subarea plan would not put a MPR in place. Josh Peters explained that upon adoption of a Brinnon Subarea Plan there were certain things that would immediately take effect. One was a re-drawn RVC zone. Another was the Small Scale Recreation and Tourist [SRT] zone at WaWa Point. Mr. Peters explained that a MPR was a conceptual recommendation by the Brinnon subarea group basically saying that, among the other things they recommended, they could conceive of a MPR at that place. The intent of the plan was to say that if the county received a MPR application, the county should not only look at the UDC and Comp Plan but also look at the Brinnon Subarea Plan. In essence it was extra parameters for the county to consider.

Al Scalf said that a re-drawn RVC would go into effect upon adoption by the BOCC. It would be eligible for the uses contained in UDC Section 3 under RVC's.

Josh Peters referred to Mark Rose's question about the MPR. Mr. Peters said that nothing would change. He pointed out that the proponent could apply for a MPR at Black Point right now regardless of the subarea plan. Once a Brinnon plan was adopted, the only thing that would change was, if a MPR application came in, the county would also look at the Brinnon Subarea Plan in reference to that application. He pointed out that a developer could apply for a golf course at Black Point regardless of the MPR provisions or the subarea plan.

George Sickel asked whether a developer could develop Black Point in residential uses right now. Al Scalf replied "Yes". Mr. Sickel said that the question was how much analysis you should do on each one of the options. He said that we had talked about three, but there were maybe a dozen more that could be posed. Josh Peters stated that the SEPA rules said that you did not have to look at every single possibility, because it was impossible, but you should consider environmental impacts. Mr. Scalf said that you had to look at as much as you knew. That was his reason for bringing up the Existing Conditions report.

Ted Labbe said that what he was trying to suggest in his letter was that there could be mitigation opportunities that could not be achieved at the site level review stage. In other words, using elk as an example, under the UDC environmentally sensitive overlay there were riparian protections of 150 feet for Type 1 streams (the Dosewallips). He said that we knew that elk in the area were really constrained in terms of where they could winter. Some of it was natural but some was because of development. He was suggesting doing something bigger than the kind of offsite mitigations we usually did. One example was to look at conservation easements in the floodplain for elk movement and allow development to proceed outside of that area where it would be appropriate and would not impact the elk. He was suggesting mitigation at the scale of the subarea rather than at the project level. He did not think you could achieve that level of conservation planning at the project review level. He thought that the beauty of the subarea planning process was to work together to figure

out where a community could grow comfortably without impacting the resources that everyone was concerned about. Mr. Labbe agreed that there were opportunities at the site level review, but also thought we were missing out on bigger opportunities at the subarea level. Mr. Labbe said he had not had time to comment on the elk issue specifically, noting that his tribe had a very strong interest in the elk herd. He said that the elk herds on this side of the Olympics were really limited in their wintering range. He thought those were the kinds of things you had an opportunity to talk about in a subarea planning process and were the kinds of things that could be discussed in an EIS.

Al Scalf summarized that on a project level it would be very difficult to get the mitigations because the mitigations could only apply to that project site. He noted that the county was taking a broader perspective in terms of salmon recovery in looking at watershed recovery, trying to do acquisitions, improved mapping, etc. Concerning the elk, his recommendation related to the conservation futures tax or conservation easements and the Land Trust. Mr. Scalf expressed his disappointment with the WDFW EIS on elk management. He thought it was very limited in terms of what was going on with the exact things Mr. Labbe was describing. It did not discuss why the Olympic elk herd was experiencing a 50% reduction. He pointed out that it was a programmatic EIS that just described where the elk lived, mapped them, and basically said "Good luck". While he was disappointed in it, it was EIS work. While he did not have an answer for Mr. Labbe's question, Mr. Scalf said he could see the theory behind the suggestion and did not necessarily disagree with it.

George Sickel suggested that in the next year people who were interested and had a passion come together to take the Brinnon plan to the next level. He said that the idea was that it was a living document and would change over time. He thought the ideas being proposed could be an addition to the Brinnon Subarea Plan. He thought that was a way to move forward, as opposed to stopping everything and analyzing more.

Tom McNerney said that there was something in the Brinnon plan about the community and WDFW getting together periodically. Josh Peters responded that the provisions related to shellfish issues. Mr. McNerney suggested that wildlife issues could be added. Jeff Davis said there was a component in the plan for watershed planning. Mr. Peters said that from a staff perspective, ideally, the two things would be combined, the subarea plan and watershed planning.

Josh Peters said he was not sure how the county could go about implementing some of the suggestions raised (conservation easements, etc.). He commented that, from a staff perspective, it may be great to be able to draw wildlife corridors and be able to make it happen. On the other hand, people had private property rights. It could be difficult to make those connections. He asked Mr. Labbe from whom he would exact those kinds of requirements. Ted Labbe responded that he heard from people a lot asking about what sort of conservation easement opportunities existed. Yet there was a real lack of forums or authorities for those people to contact. He thought the Land Trust was a tool for assistance to land owners. Mr. Labbe said there was not a "market" for people to buy and sell development rights. He thought that would be an ideal institution to set up and enable under a subarea plan. Mr. Labbe said you cannot ask the Land Trust to set that up because it was not within their authority. He said it was clearly within the county's authority under GMA, citing King County as an example of a county that had experimented with it. He said it was up to the county to make that a priority. Al Scalf said it was a very popular planning technique and was in the Comp Plan. Mr. Peters commented that setting up such a program and administering it would take a lot of effort and staff time. He thought it was a

policy decision for the BOCC to direct staff to work on it. He thought it would be more appropriate to create such a program on a county-wide basis. Mr. Labbe suggested that it could even be a multi-county program in order to have more resources. Mr. Scalf commented that the county had talked to NMFS about strategies for watershed recovery and planned actions at one meeting. Then they did not have time to deal with Jefferson County because they were being lobbied heavily by King and Pierce Counties. Mr. Scalf stated that the county could use the tribe's influence on that issue.

Joy Baisch asked for clarification of Mr. Labbe's comments about elk containment. Ted Labbe said that elk had used these areas for hundreds of years. Now with development in the valley bottoms, the elk got into peoples' gardens, etc. and caused damage. He said that the way the law was structured, when an individual made a claim to the state, the elk always were the ones to lose. It was always a matter of moving the elk out of their usual eating areas, which were largely the valley bottoms along the rivers. That put them into areas where they were more susceptible to traffic and the ensuing accidents. Mr. Labbe said that from talking to people who knew more about elk, the eastern Olympic elk herds were on the decline as much from habitat loss than anything. Mr. Labbe said he had brought two documents on the elk issue and asked to provide them for the record.

Joy Baisch commented that she had personal experience with the elk issue and had worked with WDFW and the tribes. She asserted that the elk herd on the Dosewallips was increasing, not declining. Ms. Baisch agreed that there were elk interactions with people. She noted that the elk no longer migrated like they used to, stating that they stopped migrating in the late 1980's. Jeff Davis and Ms. Baisch discussed elk habitat issues and possible reasons for the elk no longer following their migration patterns. Ms. Baisch stated that the upper Dosewallips valley had remained pretty static for 100 years and, in fact, there was less population now than there was 100 years ago because the logging camps were gone.

Jeff Davis said the elk was just one example of WDFW's concerns. Another issue was that cougar populations were increasing and with more development in their habitat came potential interactions with people.

Kirie Pedersen asked if the county was exempt from the Shoreline Management Act [SMA]. Al Scalf replied in the negative, adding that the Shoreline Master Program [SMP] was Chapter 5 of the UDC. Ms. Pedersen asked how the SEPA determination related to what the SMA and SEPA referred to as piece-mealing or phasing of a development proposal. Ms. Pedersen said the county was proposing that each project be considered project by project. She asked how that was not phasing or piece-mealing of an evaluation rather than examining the cumulative effects of a project or projects. Mr. Scalf replied that the FEIS described phased review which was one of the components of SEPA and was allowed. Concerning piece-mealing, he said there was a court case related to Pleasant Harbor that could be added. Mr. Scalf said we were to review cumulative impacts under SEPA. Ms. Pedersen commented that this proposal did meet the requirements of the WAC for appropriate phasing. Mr. Scalf replied in the affirmative, adding that it was part of the adoption of the existing environmental documents.

Mark Rose asked if the DEIS/FEIS were required under GMA for the Comp Plan. Al Scalf replied that they were required under SEPA. Mr. Rose asked who approved the DEIS/FEIS. Mr. Scalf replied that he did as SEPA Responsible Official. He provided the history of the DEIS/FEIS development. Mr. Rose commented that no outside agency approved the document. Mr. Rose asked if the EIS alternatives addressed the proposals of the subarea plan. Mr. Scalf replied that it did,

adding that the preferred alternative was the one that appropriately fit. Mr. Rose asked if that included 278 acres of mixed use zoning in Brinnon. Mr. Scalf replied that the EIS was programmatic and did not get into that level of detail. Mr. Scalf stated that was why he had brought along the Existing Conditions report. Mr. Rose said he just wanted to ask if what was proposed in the Brinnon plan was part of the alternatives analyzed and approved in the EIS. Mr. Scalf responded that the appendix of the FEIS listed all of the documents that were reviewed and one of those was the Existing Conditions report. That described the alternatives and how the community planning alternative turned into the preferred alternative. He said that it did not get into the fine detail of five acres here, and ten there, and twenty somewhere else. Mr. Rose asked if the subarea plan was in compliance with the EIS. Mr. Scalf replied "Yes". Mr. Scalf said it typically referred to existing zoned areas using maps. In Brinnon those were Black Point, Brinnon flats, and WaWa Point. However, it did not include acres or analysis of those acres.

Josh Peters said that the 1994 zoning did not include the 17-acre light industrial piece north of the Dosewallips Road. Another small piece on the east side of Highway 101 was not included either. Those pieces were talked about in the notice and how the DNS applied to them. In answer to Mark Rose's question, Mr. Peters said that WaWa Point was in there in the sense that there was commercial zoning there and it was larger than the proposed SRT overlay. He pointed out that the SRT overlay would have less uses than a commercial district. He noted that the EIS analyzed the larger commercial zone. Mark Rose asked if the justification in the Comp Plan for shrinking that zone down to 4.2 acres, which was that development between WaWa and the cove would be inappropriate sprawl, would be overridden. Mr. Peters said the argument was spelled out in the Brinnon Subarea Plan. Mr. Peters said the Comp Plan said a full range of commercial development would be inappropriate sprawl. However, the small scale tourist and recreational use would not apply.

Walt Parks referred to an article in the Leader about Black Point and the marina. One of the problems with the property was the lack of zoning. He asked what the zoning issue was, whether it was the proposed MPR. He also asked if there was any liability for the county for discussing a MPR when there was not adequate zoning. Al Scalf replied that it was within the police powers of the BOCC to make zoning decisions. He stated that they could have zoned over twice the amount of acres they had designated in the Comp Plan and still been within the EIS. He could not answer the question about liability. He thought it would depend upon whether the county had assured the individual of something or engaged in a contract. Mr. Scalf said that zoning could be given and it could be taken away.

Ted Labbe commented that WDFW raised the shoreline issues, stating that it was an issue for the tribes as well. He asked when the county adopted its SMP. Josh Peters replied that it was 1989 with subsequent amendments. Mr. Labbe commented that he had helped with the drafting of the revised SMP that was currently under review by the county. He stated that we knew a lot more about shorelines now than we did in 1989. Also there were changed conditions, such as the salmon listing. Mr. Labbe stated that the two stocks listed for Hood Canal were among the most dependent upon estuarine shorelines. He thought that was another reason to underscore the need for more thorough review at this stage because we were in very much changed conditions from 1989 or even 1995. Mr. Labbe said there was a lot of new science available to the county when the SMP is updated. He pointed out that there were a lot of shorelines in the Brinnon area that would come under the SMP. Mr. Labbe said it was the tribe's perspective that currently there were impacts that could not be mitigated for under the current SMP. He said the tribe, in its comments on the UDC, raised

some of the issues around marine shorelines. The county's perspective was that they would not address that in the UDC; they would address it in the updated SMP. That was a big concern of the tribes, particularly relating to development at Black Point. His point was that we were dealing with a very dated SMP.

Al Scalf agreed, adding that we had a draft SMP ready for public review. It had been delayed by the litigation occurring at the state level regarding the rule making. Once that was cleared, if the BOCC provided that direction to staff, the county could proceed with the review and adoption of the SMP. Mr. Scalf said that to his knowledge the Brinnon Subarea Plan did not amend the SMP in any way. Josh Peters reported that DoE had indicated it would be another year or two before a new shoreline rule came out.

Jeff Davis, Ted Labbe and staff discussed the county developing an interim SMP. Josh Peters said we could amend the SMP under the old rule. However, when the new rule came out, we would have to modify it again.

Kirie Pedersen had a question about the SMA with regard to Hood Canal, which was a shoreline of statewide significance. She said some of the language in that said that the benefits to the many must override the benefits to the few and that everything possible should be done to protect that shoreline. Yet, much of what was proposed for this small planning district seemed to be almost in direct contradiction to that. She wondered whether the county was exposing itself to lawsuits by landowners and other entities who would be impacted by some of the proposals. Al Scalf responded that the county would continue to exercise the SMP for its intended purposes. He cited those purposes. Mr. Scalf offered the opinion that the small lots had more cumulative potential for impacts than some of the other proposals. He pointed out that there were property rights under GMA to consider as well. Also, there were endangered species issues to consider. Mr. Scalf said each must be weighed and he thought county staff was right in the middle of it. He thought it was good policy and also thought the county was upholding the purpose and intent of the SMP. Josh Peters corrected that shorelines of statewide significance was a separate designation from shorelines of the state which applied to all marine shorelines and Type 1 waters. Mr. Peters pointed that the 1989 SMP, outdated as it may be, was in compliance with the SMA. Whether it was in compliance with the ESA or some other law was another question.

Ted Labbe commented that Type 1 streams were also included in the designation. Josh Peters clarified that they were shorelines of the state, not shoreline of statewide significance. Mr. Labbe pointed out that the marine shoreline of Hood Canal was listed as a shoreline of statewide significance.

Kirie Pedersen asked how the subarea plan would be enforced or whether it would be left to the neighbors. Jeff Davis replied that WDFW enforced bald eagle violations. They also enforced the hydraulic code. Josh Peters noted that was a criminal code, whereas the county had a civil code. Al Scalf said the county was taking enforcement action on the most grievous cases. Mr. Scalf acknowledged that the county did not have an enforcement officer, but did the best it could using its inspectors and staff when they were in the field. Mr. Peters said the county had joint enforcement with the state on shoreline development.

Al Scalf briefly discussed a meeting with NMFS. He stated that this county needed money for enforcement and monitoring. We also needed money for actual stock rebuilding. He said that enforcement and monitoring were required by the ESA as well as by local government.

Al Scalf moved the meeting on to questions staff had about the SEPA comment letters received. First, he explained how the DEIS/FEIS were developed, noting that he did not want Mark Rose to get the wrong impression that he had written the documents.

Al Scalf referred to the letter from the Point No Point Treaty Council. One comment had to do with stream typing and some streams being mis-typed. He noted that the DNR in cooperation with WDFW, DoE, and the tribes were responsible for stream typing. Mr. Scalf asked if Mr. Labbe had identified those concerns to either the DNR or WDFW. Ted Labbe explained the work to date, noting that it was a formal process under which the DNR would ultimately make the change in stream type. Mr. Labbe said that there was no formal process for stream typing at the county level. He said the comments in the letter were merely to do a cursory reconnaissance of those areas. He said it was fairly typical of a lot of areas, stating that there was a lot of error. Besides mis-typing there were streams that were completely missing from the maps or streams that were routed incorrectly across properties. Mr. Labbe said that underscored the need to do field review of stream typing. Mr. Scalf stated that the county recognized it was an issue. Mr. Scalf said that the UDC said that if an agency put the county on notice that there may be a typed stream, the county must bend to that experience. Therefore, the county would hold up a building permit until the stream typing was complete. Mr. Scalf raised an example in Kala Point to show the strength of the UDC. Mr. Scalf said the county had the same kinds of concerns with channel migration zones.

Al Scalf asked for clarification of the tribal comment about kettle holes. Ted Labbe said there were some serious landslide hazard concerns around those because of the slopes which bordered the kettle holes. Mr. Labbe said it was not clear to him how someone could site a golf course [at Black Point] and mitigate for impacts to those. He stated that they were habitat for amphibians, which he acknowledged were not listed. Mr. Labbe said he did not know which landslide hazard maps the county was currently using. He said there were new maps from the DNR, stating that the slopes bordering the kettle holes were high to medium risk. Mr. Labbe said the DNR maps were a newly available source of data. He said they were areas that would not have been mapped under the Coastal Zone Atlas because they were inland. Josh Peters said it was something the county would look into during the 2002 Comp Plan review and UDC update.

Al Scalf said that one of the questions he and Mr. Peters had discussed in terms of salmon recovery was the amount of existing environmental documents. He noted that there were a lot of listings of available SEPA documents. He did not advocate including all of those documents. Mr. Scalf said he was assuming that everyone knew that the agencies, the tribes, and the counties were all doing work and it was a cumulative role and we did not need to list all of the documents. He wondered whether that assumption was false. Mr. Scalf said that if the public wanted all that information, the county could attach a reference list or refer to the appropriate web sites.

Al Scalf asked about the tribe's projects for the Dosewallips and Duckabush and whether there was any specific project that the county or the subarea planning group should be knowledgeable about. Ted Labbe stated that, while he did not see the pertinence to the SEPA determination, he could provide information. Mr. Labbe said the tribe harvested shellfish and the Duckabush was one of the most productive areas right now. Mr. Labbe said that a specific project he was currently working on was a habitat analysis for salmon for the Dosewallips. However, there was no report yet. Mr. Labbe said that in his comments he tried to point out the need for flow information both from the standpoint of fisheries studies but also for the Brinnon community to know flood risk. He stated that

there was a process that agencies or communities could go through to engage the USGS and other government agencies to assist with those sorts of things. Mr. Labbe said the tribe would be very interested in partnering with the community to reactivate the gage in the river. Josh Peters stated that the Brinnon plan did include some narrative about the flow gage in the river as well as some discussion about a comprehensive floodplain management strategy. There was also language in the plan about watershed planning.

Al Scalf asked for clarification about the tribe's reference to the archaeological sites and asked if they were mapped. Ted Labbe replied that they were but the level of mapping was not appropriate for site level review. Mr. Labbe said there was very little money for funding of inventories of cultural sites. So what happened was a tribe would get into a reaction mode when a development uncovered a site. Typically the site would be closed to further development until they did a full excavation and retrieval of artifacts. He said that those kinds of responses were covered by the UDC. However, he thought there was a need for that to happen early in a project. Mr. Labbe said that subsequent to the comment letter he had learned that there were cultural sites on Black Point that had not been fully inventoried and their precise locations were unknown at this time. Mr. Labbe said that, again, it was an opportunity for cooperative work. He thought it was similar to the stream typing. If you could do such work up front before development, it made everything much easier. Mr. Labbe said that, while the UDC did address archaeological or historically significant sites, he thought it could be stronger. Mr. Labbe suggested that a cultural sites overlay map or list could strengthen the UDC similar to the critical areas maps. He noted that it was available from the state.

Al Scalf referred to the WDFW comment about salmon listing under ESA subsequent to the county EIS. Mr. Scalf asked if there was any particular action item WDFW was asking for. Jeff Davis replied that what the comment was pushing for was a Supplemental EIS. He noted that the plan talked about wells that were tapped into shallow aquifers that went dry in the summer. Mr. Davis said that the concern was that, if a golf course was built, whether its well would tap a really deep aquifer that would not impact summer low flows in the Dosewallips and the Duckabush, not just for fish but for those other private wells that were already there. With the recent flooding and subsequent emergency repairs, Mr. Davis said they were trying to build in appropriate mitigations with those emergency repairs. As far as any particular actions, it was difficult for him to say because county staff were the professionals when it came to knowing this plan and the process that was involved. Mr. Davis said, that being said, there may not have been a need for this meeting if the agencies and tribes had been involved up front in the planning process.

Concerning water withdrawal for a golf course, Al Scalf said that the proponent would be responsible for the special reports when they came in for their conditional use permit. Jeff Davis said that went back to his original comment, noting that he made the same comment to all jurisdictions. He questioned why we would do zoning and then have people think they were going to get a golf course when in fact the county would require an EIS, which may show that they could not have a golf course. Mr. Davis said that if we could not at least conceptualize the impacts, he questioned whether we should be zoning it. Josh Peters pointed out that we were not zoning a golf course. Mr. Davis said that the same comment could apply to a commercial zone in a floodplain. Mr. Scalf said he had a couple of issues. One was who should be paying for that work, the county or the project proponent. That was not addressed in SEPA. Mr. Scalf said that there was a report on existing aquifers in East Jefferson County. In terms of water, we typically had to prove potable water for a building permit. Mr. Scalf then related a recent Hearings Board case where the Board said that the county had to

designate, regulate, and protect salt water intrusion areas. He said that typically the county would say that was the jurisdiction of DoE and DoH who issued the water rights and withdrawal. As a result of the Hearings Board decision, the county would now engage in a review of salt water intrusion. Mr. Scalf said that the county was not sure where the county's role was if DoE and DoH were giving water rights and withdrawals. In terms of the environmental impacts, he asked if Mr. Davis was suggesting that the county do the hydrology to see if it would accommodate a golf course before it was zoned. Jeff Davis said that apparently the county had the documents that provided the pertinent information. He said that it did not appear to him that staff looked at those documents to see if there was sufficient water for a golf course. Mr. Davis said that he did not want the county or a project proponent to have to drill test wells to figure out what was happening. What he was asking was that the county look at conceptually what the plan was proposing and come to a comfort level on the environmental impacts before it was moved forward for approval by the BOCC. Mr. Scalf said that one reason he wanted a public meeting was that Mr. Davis probably did not know we had a Coordinated Water System Plan or what was listed in the bibliography of the EIS. Such documents were in the EIS and incorporated by reference.

Ted Labbe said that the Hearings Board appeal decision was very pertinent to the development issue at Black Point because it was very nearly surrounded by salt water. He did not know that we really had gotten the "story" on the water issue. The questions were whether the water would come from groundwater onsite or whether it would be piped in from other sources. He thought we should know that before the county put together a document recommending a golf course for the site. Mr. Labbe acknowledged that the community could ask for whatever they wanted. His issue was with the county making a recommendation in a document for something that was inconsistent with the Comp Plan. It was not clear where that golf course water would come from.

Jeff Davis said that the issue was not just the golf course. He thought there were some ideas as to what would go into that proposed zoned area. He thought the county could look at impervious surface levels. Mr. Davis said that the near shore environment was fairly unstable in that particular area even according to the plan. So you could look at typical erosional rates for Hood Canal. He thought you would probably find that the current shoreline program was inadequate in terms of protecting a house. Mr. Davis wanted to get away from people coming to WDFW requesting a bulkhead because the land eroded back to their house. Then WDFW had to send them to NMFS, who would deny the bulkhead because it was in salmon habitat. Mr. Davis said his point was to look at it before it was zoned and impacted everyone's workload and the people's pocket book.

Josh Peters asked if it would be DoE's jurisdiction to give a water right for a golf course or if it would be under their exemption level. Al Scalf replied that he was not sure, but added that a hydro-geologic report was warranted. Mr. Peters said that Mr. Davis indicated that if we knew these things we should analyze them, but Mr. Peters said we did not know because there was no application. He acknowledged that there had been a pre-application, but it had been withdrawn.

Jeff Davis referred to the way Kitsap County was doing their planning using various alternatives of conceptual thinking about what kinds of things might come in and the impacts of those conceptual alternatives. Josh Peters responded that, referring to the Black Point issue in particular, the county included in the threshold determination that it was a conceptual idea called out by the subarea plan that would be used in conjunction with any future application which

could be made. Mr. Peters said the county had made the decision not to do an EIS on the Black Point area because we did not know what kind of applications the county might get; it did not have to be a golf course. He pointed out that it could be anything, including a MPR now, regardless of the subarea plan. The question was how we could imagine every option and questioned why the county should pay for an EIS when the developer should do it. Mr. Davis said that, getting away from the Black Point issue, he was concerned about expanding the commercial development in the floodplain or along the shoreline area.

An audience member asked about Right Smart Cove, saying that it had a Natural designation under the SMP. Josh Peters said that residential development was not allowed in that designation. He said that any development under the SRT zone would be reviewed under the SMP. Mark Rose said that the subarea plan contained recommendations for types of businesses in the SRT zone. He suggested the county could review the impacts of those uses. Mr. Peters said that any of those uses would be reviewed under the conditions of the SMP as well as the other applicable regulations.

Debbie Siefert asked Jeff Davis about activities at Right Smart Cove that the community would have to watch out for. Jeff Davis said there was an existing boat launch, but it sounded like it was in a fairly degraded condition. He indicated that some of the listed uses were fairly "soft touch" on the land. He said that stormwater issues were a big concern for WDFW. Josh Peters pointed out that improvement to a boat launch would require a hydraulic permit from WDFW and possibly from the Army Corp of Engineers. Mr. Peters said that the county welcomed cross jurisdictional reviews of projects.

Kirie Pedersen asked about the water issue relating to Black Point. She said that she had researched wells at Black Point with DoE and asked them particularly about a golf course withdrawing well water since the claim had been made that there were unlimited quantities of groundwater. She reported that DoE's response was that they would be deeply concerned about increased development in that area because of known water shortages. She said she had provided that information to the county and thought those were the kinds of questions that should be addressed up front. Josh Peters said that DCD had the information Ms. Pedersen provided. Al Scalf said that, until the Hearings Board decision, DCD was not involved in water allocation. That was the jurisdiction of the DoH and DoE.

Josh Peters said that water allocation and salt water intrusion was a good example of the need for cross jurisdictional cooperation. He provided the example of an aquifer that crossed political boundaries. He questioned how this county could tell another county that it could not allow a property owner in that county to dig a well because it may affect an aquifer in this county that was experiencing salt water intrusion.

Ted Labbe asked if the recent Hearings Board ruling suggested that the county needed to regulate water withdrawal or if it said the county needed to consider impacts to critical aquifer recharge areas. Josh Peters replied that they said the county needed to figure it out, but added that there were only so many things the county could do. Al Scalf explained that the Hearings Board ruled under the last portion of Planning Goal 10, Environment, which was water availability. He said the Hearings Board ruled that the county shall analyze, designate and protect areas of salt water intrusion. Mr. Peters said that, because of the RCW exemption for wells of less than 5,000 gallons per day, the county could not really get into that. Mr. Scalf said the county was filing a motion to reconsider to ask for clarification of the exemption and water right issues.

Chuck Finnilla said that the issue the planning group looked at concerning a golf course was considering it as a commercial recreational facility. He pointed out that anyone could essentially put in a private golf course on their land. The second thing they considered was to look at the area and determine where the historic economic viability had been. For nearly three decades, Black Point had been a fairly intense commercial recreation facility. The question for the planning group was whether that area should continue to be a viable recreational facility, whether it continued as an RV park or golf course or hotel or whatever. The answer in the plan was "Yes". He said that when it came down to site specific detail, they would have been foolish to purchase the property without doing an examination of environmental issues. They had done all of those studies. Mr. Finnilla said that when they were ready to make an application, those studies would be made available. He stated that it was the DoH who came to them and asked if they would consider extending their water capability outside of their current jurisdictional boundary because there were areas surrounding their property that had water problems. He pointed out that there were some county code regulation difficulties with doing that.

Olivia Alfano referred to the golf course and the quality of the water in Hood Canal. She said that a golf course would need intensive fertilization and herbicides in addition to water. She asked if there had been consideration given to the effect of those toxic elements on the Hood Canal water quality. Al Scalf replied that there were development standards that applied to golf courses and an application would be reviewed under them. Josh Peters replied that there was a section in the UDC about golf courses, including best management practices. He said that, because the Black Point area was so sensitive, the county would even consider extra BMPs to ensure protection of Hood Canal. Ms. Alfano asked if the county had the "teeth" to intervene if the conditions were not followed. Mr. Peters replied that the county could condition a permit, and if those conditions were being violated, the county could take enforcement action. Mr. Scalf noted that it had been pointed out that the county did not have staff to be able to assure 100% compliance with the conditions.

Kirie Pedersen asked if baseline studies had been done in order to be able to evaluate effects of the proposed development. Al Scalf replied that some of the information was available through the agencies and the tribes. He said the county was working on trying to improve the data base. The IDMS department was working on having one area where all that information was combined and available.

Mark Rose asked about the location of the information. Al Scalf replied that it was scattered among various county departments, state agencies, and the tribes. Mr. Rose asked if the information was considered during the review of the subarea plan. Mr. Scalf responded that water quality issues in general were discussed with Health Department staff.

Mark Rose wished to respond to the earlier question about who should fund the kind of SEPA review suggested. He suggested that the county probably could have done it within the current budget if the county had reached out to the agencies and tribes during the planning process. Mr. Rose said there were many times he had asked the county to do that. Al Scalf responded that the county reached out to them many times during the course of county business. He thought Mr. Rose's statement was a falsehood.

Jeff Davis stated that he was never invited to any meetings on the subarea plan. Mr. Davis said the county was very good about getting him involved in site reviews, but he had heard nothing about this subarea plan until about five days

before the SEPA comments were due. This comment led to a discussion about the mailing lists for the notices on plans and SEPA documents. Josh Peters pointed out that the county mailed the notices to the addresses provided by OCD and assumed that the information would be circulated to the proper reviewers. Mr. Peters agreed that the county could compile an additional list of stakeholders for such notices.

Joy Baisch stated that the county did the very best it could with the limited budget and staff it had. She said we were a small county with a small budget and we could not afford all the things that it may be nice to have. She said the agencies needed to be pro-active in making sure the county was notified about the proper channels and people to be notified. She did not think it right that the county and then the community should get "slapped" because it did not get to the right people. She said the advertising for the community planning effort was done in the usual manner. It was assumed that people with a vested interest would respond. She apologized if the agency and tribal representatives felt they were slighted, stating that was not the intent. Jeff Davis said he would look into the issue and try to rectify it.

Ted Labbe asked about the reasoning for the denial of his request to extend the SEPA comment period. Al Scalf explained that there had been an administrative complication to extending the comment period. It involved additional staff time to do another mailing, which was not available. He said it was not the county's intent to set the SEPA review up during the holidays; that was just where it happened to fall. He agreed that under SEPA it was possible to extend the comment period. Mr. Scalf explained that the Point No Point comment letter was accepted via the email transmission, even though the signed letter did not arrive until well after the close of the comment period. Josh Peters said that the comments received at this meeting would become part of the record as well. Mr. Peters pointed out that the threshold determination could be changed or withdrawn anytime before action was taken on the plan. Mr. Scalf said that the feedback and policy he heard from the BOCC was that DCD took too long in processing and they wanted everything tightened up and things to get done. Mr. Peters said staff was considering doing a Modified DNS to include some additional information and explanation. However, the county had received an appeal of the SEPA determination so staff decided we needed to deal with that.

Al Scalf expressed his appreciation to everyone who participated in the meeting. He closed the meeting at 2:50 p.m.