



# PLANNING & DEVELOPMENT SERVICES

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## MEMORANDUM

**To:** Board of County Commissioners  
**From:** Kirk Johnson, Senior Planner/Team Leader  
**Date:** October 14, 2008  
**Re:** Supplemental Report, 2008 Comprehensive Plan Amendments (CPAs) Docket Recommendations

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### **Part A: Introduction**

By the last business day of July of each year, any citizen, group or agency may submit an application to amend comprehensive plan policies or the Comprehensive Plan/Zoning Map designation of property.<sup>1</sup> The Department received four timely applications to amend the Comprehensive Plan/Zoning Map in this year's Comprehensive Plan Amendment cycle. No applications were submitted proposing policy amendments. In addition, several County-initiated comprehensive plan text amendments are proposed relating to the master planned resort designation and development regulations. The Department transmitted an initial docketing memo to you dated September 15, 2008. This supplemental memorandum includes a more detailed discussion of the docketing process and of the factors supporting the Department's docketing recommendations.

#### **1. Docketing Process**

Following the annual comprehensive plan amendment (CPA) application deadline, the Department evaluates the amendment proposals against the docketing criteria found in SCC 14.08.030(3) (discussed below). The Department then forwards its recommendations to the BCC as to which of the CPA requests should be "docketed" (listed to receive further consideration through public, agency and environmental review, hearings, and possible adoption by the BCC) and which should not.

SCC 14.08.030(4) requires the Board to schedule and hold a public hearing to allow applicants and the general public to comment on the Department's recommendations. Subsequently, the BCC will establish the docket of annual amendments. If the BCC determines that one or more of the CPA requests should not be docketed in the current CPA cycle, that request will be excluded from the docket.<sup>2</sup> A positive docketing recommendation from the Department, or a decision by the BCC to

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<sup>1</sup> See SCC 14.08.020(2)

<sup>2</sup> A portion of the application fees may be refunded to the appropriate applicants with the BCC's approval. Up to 80% of the application fee may be refunded per SCC 14.08.030(4)(b) and Resolution R20040311, or as amended.

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place a proposal on the docket, does not guarantee ultimate approval of that proposal. It simply means it will undergo full consideration as described in SCC 14.08.

## **2. Docketing Criteria**

Pursuant to SCC 14.08.030(3), the Department considers the following criteria when making its docket recommendations to the Board:

- (a) The proposed amendment, in light of all proposed amendments being considered for inclusion in the year's docket, can be reasonably reviewed within the staffing and operational budget allocated to the Department by the Board;
- (b) A proposed amendment, to be adopted, would not require additional amendments to the comprehensive plan or development regulations not addressed in the petitioner's application, and is consistent with other goals, objectives and policies adopted by the Board;
- (c) A proposed amendment raises policy, land use, or scheduling issues that would more appropriately be addressed as part of an ongoing or planned work program, or as part of a regular review cycle; or
- (d) Some legal or procedural flaw of the proposal would prevent its legal implementation.

The Department also assesses whether the proposed amendment conforms to the submittal requirements of SCC 14.08, Legislative Actions, and other applicable provisions of Skagit County Code.<sup>3</sup>

## **3. Annual CPA Docket Review Process**

Once the Board establishes the annual docket, applicants whose proposals are included on the docket are required to submit an Environmental Checklist and the Department conducts environmental review of the entire docket under the State Environmental Policy Act (SEPA) per SCC 14.08.040.

Following (or sometimes concurrent with) environmental review, the docket is released for public review and comment leading to a public hearing or hearings before the Skagit County Planning Commission. The Planning Commission deliberates on the various proposals, and based on the record before it makes recommendations to the Board for approval or denial.

The various amendment proposals that comprise the annual docket are either approved or denied through final action by the Board in the form of an ordinance. If the request for a combined comprehensive plan amendment/rezone is denied, this constitutes a legislative decision not to amend the comprehensive plan, and a rezone cannot occur without the change in land use designation under the comprehensive plan, i.e. the comprehensive plan amendment is a prerequisite to rezoning property. Conversely, if the Board were to approve a request for a comprehensive plan amendment,

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<sup>3</sup> Each application must consist of a completed Comprehensive Plan/Rezone amendment form that answers not only the questions within the application itself, but that also addresses the substantive requirements of SCC 14.08.020 and of the designation and zone being requested.

the rezone would also be approved to ensure that both the land use designation and the zoning are consistent.

## **Part B: Docket Recommendations for Citizen-Initiated Map Amendment Requests**

Below is a summary and recommendation for each of the four citizen-initiated Comprehensive Plan/Zoning Map amendment requests followed by a description of the county-initiated proposal. The Board may request additional clarifying information prior to any study sessions, hearings and action.

### **1. Equity Lifestyle Properties PL08-0408 (See Map No. 1)**

On July 10, 2008, MH TTC Inc. submitted a request (PL#08-0408) for master planned resort (MPR) designation for 18 contiguous parcels comprising approximately 271 acres near Interstate 5 and Bow Hill Road currently designated as Rural Reserve. The property currently operates as a 1000 Trails campground and recreational vehicle park pursuant to Shoreline Management Substantial Development Permit No. 5-77 dated June 16, 1978.

An identical CPA amendment proposal was submitted by the Applicant as part of the 2005 GMA Update of the comprehensive plan. (At that time, the Applicant submitted under the name of Equity Lifestyle Properties, which will be used interchangeably in this document with the name 1000 Trails). Because the Department and Planning Commission found several deficiencies with the proposal, the amendment was not formally docketed or ultimately adopted as part of the 2005 GMA Update. The Applicant appealed to the Western Washington Growth Management Hearings Board (Hearings Board) and to Superior Court. The Hearings Board dismissed the petition for lack of jurisdiction. There has been no action to date on the Superior Court appeal.<sup>4</sup>

#### **A. Summary of Proposal**

The existing 1000 Trails campground currently offers the following features and amenities: “271 seasonal residential units/spaces already exist on-site, as do a number of community amenities (i.e. a community center, swimming pool complex, retail outlet, tennis courts, horseshoe pits, hiking trails, a special events lodge accommodating wedding parties and other large groups, a baseball field, etc.”<sup>5</sup>

The proposed expansion is summarized by the applicants as follows: “Equity Lifestyle Properties anticipates development of up to six hundred (600) additional seasonal residential units of various types and styles designed to attract a variety of patrons, from active living senior citizens to families with children. Seasonal residential units will include a blend of manufactured housing units,

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<sup>4</sup> In its decision dismissing the Equity Lifestyle/Thousand Trails appeal, the Hearings Board held that the County’s decision whether to designate a Master Plan Resort is discretionary, both under the Growth Management Act (GMA) and the County’s comprehensive plan policies and development regulations. Because the County has no duty to amend its comprehensive plan without a mandate to do so, the Hearings Board dismissed the case. Again, the County is faced with a choice as to whether to docket and fully consider this proposal in light of the contents of the proposal, the location of the proposed redesignation, and other factors including staff resources and County priorities.

<sup>5</sup> Letter from Scott Brown, Equity Lifestyle Properties, to Guy McNally, Skagit County Planning and Development Services, December 2, 2005, at 1.

accommodations for recreational vehicles up to full size, Class “A” motor coaches, and temporary guest accommodations.”<sup>6</sup>

The applicant anticipates future amenities developed as part of the MPR to include “such things as additional tennis courts, an indoor swimming pool and community center, a variety of craft rooms for use during period of inclement weather, a larger concert hall for variety shows, concerts and special events, a billiards room, fitness center and health club. Outdoor recreation, including hiking, remains a principal site amenity.”<sup>7</sup>

### **B. Docket Recommendation**

For the reasons explained below, the Department recommends against including the Equity Lifestyle Properties/1000 Trails proposal as part of the 2008 CPA docket. Based on a review of the proposal and the relevant statutory and code provisions, the Department concludes that:

- 1) The location is not a setting of significant natural amenities. The Department views this as a “legal or procedural flaw of the proposal [that] would prevent its legal implementation,” contrary to the docketing criteria at SCC 14.08.030(3)(d). The Department does not believe that the proposal can overcome this fundamental flaw.
- 2) The proposal is not “consistent with other goals, objectives and policies adopted by the Board [of County Commissioners]” through the Skagit County Comprehensive Plan, contrary to the docketing criteria at SCC 14.08.030(b).
- 3) The proposal does not constitute a master resort plan with sufficient detail for the County to assess impacts and apply mitigations as required by the comprehensive plan, SCC 14.20.080, and RCW 36.70A.362.

In the Department’s view, item 3 also presents a legal or procedural flaw under SCC 14.08.030(3)(d), and a failure to conform to the submittal requirements of SCC 14.08, Legislative Actions, and other applicable provisions of Skagit County Code. This flaw is perhaps correctable with additional time and energy on the part of the Applicant, but that effort would not be productive given the legal or procedural flaw identified under number 1 above.

### **1. The Equity Lifestyles Proposed MPR Is Not In a Location of Significant Natural Amenities**

#### **a. Overview of Master Planned Resort Requirements Under the GMA**

The GMA contains two specific provisions allowing recreation and tourism or resort-type activities outside of urban growth areas (UGAs). One is small scale recreation and tourism areas or uses as allowed under RCW 36.70A.070(5)(d)(ii); the other is master planned resorts, authorized under RCW 36.70A.360 (new master planned resorts) or .362 (existing resorts as MPRs).

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<sup>6</sup> Id. at 2.

<sup>7</sup> Id. at 5

As the name implies, the small scale recreation and tourism areas/uses are required to be small. As implemented by the County's Small Scale Recreation and Tourism (SRT) designation (CP Rural Element policies 3C-4.1 through 3C-4.5) and zone (SCC 14.16.130), these have strict limitations on overall number of lodging units and overall developed acreage.

While master planned resorts can be considerably larger than SRT designated resorts, they must meet specific and rigorous requirements under GMA. RCW 36.70A.360 guides the designation of new master planned resorts. RCW 36.70A.362 applies similar requirements to the designation of existing resorts as master planned resorts:

An existing resort means a resort in existence on July 1, 1990, and developed, in whole or in part, as a significantly self-contained and integrated development that includes short-term visitor accommodations associated with a range of indoor and outdoor recreational facilities within the property boundaries in a setting of significant natural amenities. An existing resort may include other permanent residential uses, conference facilities, and commercial activities supporting the resort, but only if these other uses are integrated into and consistent with the on-site recreational nature of the resort.

Key to the GMA provisions regarding both new and existing master planned resorts is that they be located in a "setting of significant natural amenities." The Department concludes that the setting of the Equity Lifestyle Properties proposed MPR is not one of significant natural amenities as envisioned under the Growth Management Act, the comprehensive or development regulations. The Department reviewed Growth Management Hearings Board decisions evaluating the phrase "setting of significant natural amenities," other planning resource guides, as well as the plain meaning of the phrase in reaching its conclusion.

**b. Setting of Significant Natural Amenities**

The Growth Management Hearings Boards have provided useful guidance in evaluating whether a setting is one of significant natural amenities. The amenities an applicant relies upon in demonstrating a "setting of significant natural amenities" must be natural (i.e. not human created), and must be primarily (if not exclusively) located at the resort site itself. In *Friends of Agriculture v. Grant County*, the Eastern Washington Growth Management Hearings Board (EWGMHB) found that the significant amenities that form the basis of a master planned resort designation must be natural, not man-made:

One thing is clear, though, the statute differentiates between 'natural amenities' and 'developed on-site indoor or outdoor recreational facilities.' The significant natural amenities must be 'formed through nature's actions.'<sup>8</sup>

In the same decision, the Eastern Board cited and agreed with a Western Board ruling that the proposed MPR location itself must provide enough natural amenities on site that it is the primary

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<sup>8</sup> *Friends of Agriculture v. Grant County*, EWGMHB, Case No. 05-1-0010, Final Decision and Order, March 14, 2006, at 17.

draw for its visitors: “In *Butler v. Lewis County*, WWGMHB Case No. 99-2-0027c FDO (June 30, 2000), the Western Board rejected an argument that certain ‘natural amenities’ that could be found at a distance from the proposal fulfilled the requirements of the statute.”<sup>9</sup>

In *Butler*, the Western Board held that a proposal that relied largely on off-site amenities (with the promise of a future golf course on site) was insufficient to meet the “setting of significant natural amenities” test. The Board wrote:

...there is absolutely no showing in this record that the I-5/Hwy 505 location is ‘a setting of significant natural amenities,’ with any kind of focus on destination resort facilities. Fishing the Cowlitz and having an opportunity to go to Mount St. Helens some 40 miles away, with an anticipated golf course, simply does not and cannot comply with the Act.<sup>10</sup>

In determining whether a setting contains *significant* natural amenities, it is useful to look at the settings of master planned resorts that already exist, as well as considering the plain meaning of the term significant. The Municipal Research and Services Center of Washington (MRSC), which provides technical assistance to local governments, has published a report titled “Master Planned Resorts Washington Style.”<sup>11</sup> The report lists several existing resorts in Washington State that this Department believes exemplify the type of “setting of significant natural amenities” and varied recreational opportunities envisioned by the MPR provisions in GMA.

Examples include ski and mountain sports-oriented Crystal Mountain, with lodging, restaurants and other services, in the shadow of Mt. Rainer...Port Ludlow, in its Hood Canal setting, offers boating and other activities and a variety of services and accommodations. The new Skamania Lodge offers retreat-type conference facilities, lodging, restaurant, golf, horseback riding, and other activities...overlook[ing] the Columbia River Gorge National Scenic Area. Sun Mountain Resort in Okanogan County, WA has become a destination resort for cross country skiing and includes lodging, restaurants, and supporting commercial services. Developers of major resort areas such as Aspen and Breckenridge have shown an interest in Washington’s potential.”<sup>12</sup>

All of these resort settings are notable for their natural amenities.

In looking at the generally understood meanings of the term significant, the Department does not find that the natural amenities identified by the Applicant rise to the level of significant for purposes of designating a master planned resort under the GMA. Common definitions of “significant” use synonyms such as “momentous,” “important,” “noteworthy,” “of consequence,” “great,” or “large.”<sup>13</sup> A “significant” thing (such as the Skagit River, or a saltwater island) surpasses what would normally be expected compared to a similar but more common thing (such as a creek). Together, the

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<sup>9</sup> *Id.* at 16.

<sup>10</sup> *Butler v. Lewis County*, WWGMHB Case No. 99-2-0027c, FDO, June 30, 2000.

<sup>11</sup> MRSC, May 2003, Report No. 57.

<sup>12</sup> *Id.* at 2. The report notes that many of these resorts were established prior to the GMA requirements and represent “varied levels of planning and self-containment.” Port Ludlow may be the only one actually designated as a master planned resort by the county in which it is located.

<sup>13</sup> Sources include Merriam Webster Dictionary, American Heritage Dictionary, Dictionary.com, and Roget’s Thesaurus.

phrase “significant natural amenities” suggests a place of great or unusual beauty or grandeur – one that would stand out in relation to features commonly found in Skagit County, such as forests and creeks. The Department understands the GMA to require that the setting be something beyond what is commonplace throughout a jurisdiction.

The MRSC report also states:

...MPR’s are more than just overnight lodging for visitors or a single recreation use. They are carefully planned and integrated developments, centered on special recreational opportunities and natural settings....Visitors are drawn for extended stays because of the high quality and varied recreational opportunity and the area’s natural splendor.<sup>14</sup>

**c. The Location of the Equity Lifestyles Proposal Is Not a Setting of Significant Natural Amenities**

In support of its application, Equity Lifestyle has attempted to demonstrate that the proposed location of its master planned resort is a “setting of significant natural amenities.” It has provided the following narrative description of the property’s natural and recreational features:

Mature forest cover dominates the site, through which Friday Creek meanders along the Eastern boundary. This site remains one of great natural beauty, providing outdoor recreational enthusiasts from outside Skagit county easy access from Interstate 5. The site is an attractive weekend gateway destination for Seattle residents, affords exceptional views of the Cascade Mountain Range and offers hiking, camping and fishing opportunities for resort guests. Guest lodge accommodations afford weary travelers and opportunity for swim, play tennis, play a variety of table and board games, and relax in a rural environment.

At Equity Lifestyle Properties, our desire is to expand the existing resort to provide additional guest accommodations and recreational amenities as referenced in our application, while preserving a large part of the site for outdoor recreational use. Recently completed survey services suggest that the open-space area to be preserved during the expansion will exceed one hundred acres. Within this open space area we will expand the network of hiking trails, enhance pedestrian exposure to areas along Friday Creek (via trail improvements), and create an interpretive center that will educate our guests about the importance of Friday Creek as a habitat for salmon and other species of fish.<sup>15</sup>

Continuing on, the Applicant wrote:

Natural Amenities also appear to include those urban uses that have developed in the vicinity of our resort, including the Skagit Valley Casino and Skagit Valley Raceway. There are indoor and outdoor events operating in various areas of Skagit County at routine intervals during the year, including the Bald Eagle Festival (February), the

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<sup>14</sup> MRSC Report, at 1.

<sup>15</sup> Scott Brown letter, at 2.

Grapes and Plates Event in LaConner (March), the Skagit County Tulip Festival (April), the Highland Festival (July), the Shakespeare Festival (Summer), and the Festival of Family Farms and Harvest Festival (October).<sup>16</sup>

The Applicant also submitted during the County's 2005 GMA Update an "evaluation of the natural amenities associated with the Mount Vernon 1000 Trails site" written by a fisheries biologist.<sup>17</sup>

Although there is natural beauty to be enjoyed on site, the Department does not find that the natural amenities on or adjacent to the subject property rise to a level of significance beyond that of many other natural areas in Skagit County within view of the Cascades. In fact much of Skagit County is blessed with forested lands, views of the Cascades, and streams that hold salmon. These are desirable but not particularly unique characteristics in the Skagit County landscape. They are features that one would expect to find at many of the developed and destination campgrounds found in Skagit County and permitted as special uses in several of its zones.

In addition, in making its case for a setting of significant natural amenities, the Applicant relies heavily on man-made features and activities adjacent to the site and in other parts of Skagit County, specifically including the tribally-owned Skagit Valley Casino Resort and associated hotel and commercial development, and the Skagit Speedway.<sup>18</sup> This reliance ignores the previously-cited finding of the Eastern Washington Growth Management Hearings Board, in *Friends of Agriculture v. Grant County*, that "The significant natural amenities must be 'formed through nature's actions.'"

Elsewhere, the Applicant cites these same man-made features as a reason for approving MPR as a form of urban designation, because the location (including its adjacency to Interstate 5) has diminished the rural and natural character of the site: "Commercial development continues in the vicinity of the site (i.e. casino resort, hotel and convenience store expansion/development). The site should no longer be considered rural in character."<sup>19</sup> This statement undercuts the assertion that the setting is one of significant natural amenities. And it further emphasizes the Department's concern that development that has occurred prior to the adoption of the GMA-based comprehensive plan (the Skagit Speedway), or that has occurred outside of the County's land use regulatory authority (the Skagit Valley Casino), as well as the presence of Interstate 5, threatens to fundamentally alter the character of this rural portion of Skagit County. Adding an urban-scale master planned resort on top of these existing developments would exacerbate this concern about loss of rural character.

The Applicant also relies largely on off-site natural and man-made attractions. But RCW 36.70A.362 is unambiguous in requiring that an MPR must be a "significantly self-contained and integrated development." In terms of locating a destination resort likely to draw visitors from diverse areas to a largely self-contained and integrated MPR with significant on-site attractions – the proposal would not appear to be consistent with a reasonable reading of the statute.

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<sup>16</sup> Id at 2.

<sup>17</sup> Letter from Gregory P. Johnston, Senior Fisheries Biologist, The Watershed Company, to Scott Brown, Equity Lifestyle Properties, April 14, 2006.

<sup>18</sup> "Statistics show, for example, that the Skagit Valley Raceway [sic] can seat a greater number of guests during race events than can be accommodated on site in the RV/camping area. Our present site benefits a membership cooperative that cannot accommodate overflow demands from the Raceway. Our expanded resort will, however, offer additional accommodations for these patrons." Scott Brown letter, at 2.

<sup>19</sup> Applicant response to question #4, Comprehensive Plan Amendment application form, July 9, 2008.

Finally, regarding the evaluation by the Applicant's fisheries biologist, GMA requires that the resort be located "in a setting of significant natural amenities"; not that there is a particular natural amenity on site. The assessment submitted by The Watershed Company is primarily a technical assessment by a fisheries biologist that Friday Creek is a productive salmon stream that could create accessible opportunities for resort guests to view spawning salmon. While this is a desirable campground feature, it does not establish that the site as a whole is located in a setting of significant natural amenities worthy of designation as a master planned resort under GMA.

For the multiple reasons cited above, the Applicant has not met this fundamental MPR requirement. While there are desirable natural features on the property, they are features commonly found in rural parts of Skagit County. They are not noteworthy or extraordinary features amounting to a "setting of significant natural amenities."

## **2. The Equity Lifestyles Proposal Does Not Include An Adequate Resort Master Plan**

### **a. Resort Master Plan Requirements**

Skagit County Code (SCC) 14.20.080 requires preparation of a "resort master plan" as part of any application for a comprehensive plan amendment to the MPR land use designation. The requirements of the resort master plan are designed to ensure that any particular proposal satisfies the GMA statutory requirements as well as the comprehensive plan's MPR designation criteria and the development regulations in Skagit County Code Chapter 14.20.

A resort master plan describes how a resort will be developed, or further developed, once designated as a master planned resort under the comprehensive plan, and how the potential impacts of the expansion or renovation of a designated master planned resort will be mitigated. To be approved, a resort master plan must be consistent with the overarching goals and policies of the comprehensive plan, and in particular, the specific requirements for approval in Skagit County Code. Simply meeting the submittal requirements for a resort master plan does not ensure ultimate approval of a master planned resort. Separate criteria for approval of the MPR designation are found at SCC 14.20.160. Even if the criteria in both SCC 14.20.080 and SCC 14.20.160 are met, it is within the Board's legislative discretion whether to approve the MPR designation. ("An application for a Comprehensive Plan Land Use Map amendment...may be approved... if it meets all of the criteria below." SCC 14.20.160).

RCW 36.70A.360 and .362 require that a resort master plan proposal provides adequate detail to allow the County to ensure that it meets the GMA requirements as implemented by its own policies and code. Under RCW 36.70A.362, "An existing resort may be authorized by a county only if....

- (4) The county finds that the resort plan is consistent with the development regulations established for critical areas; and
- (5) On-site and off-site infrastructure impacts are fully considered and mitigated."

The Growth Managements Hearings Boards have recognized the fundamental role of resort master plans in the process of reviewing master planned resort proposals. In *Kenyon v. Pierce County*

(*Kenyon II*), the Central Puget Sound Growth Management Hearings Board (CPSGMHB) emphasized the importance of the resort master plan in a proposal to designate Crystal Mountain Ski Area as an existing MPR:

RCW 36.70A.362....does require that the findings for consistency with the county's development regulations established for critical areas and that full consideration and mitigation of both on-site and off-site infrastructure impacts have been completed prior to making the designation [as MPR]. These completed findings and mitigations must be based on a master development plan that sets forth the details regarding future development of an existing resort. Because the findings and mitigation must be completed prior to the designation, the Master Development Plan cannot be a fluid and/or an incomplete document. It must be reviewed and approved by the legislative body in its final form – the same form used to complete the critical area findings in on-site and off-site infrastructure impacts...It ensures all future development is in accord with the county development regulations, county-wide planning policies and the county's comprehensive plan....After the Master Development Plan is completed, reviewed, and formally adopted by the County legislative body, the criteria in Subsections 1 through 5 of RCW 36.70A.362 can be met and the county legislative body can designate an existing resort as MPR.<sup>20</sup>

A resort master plan must be a complete and thorough document spelling out in detailed terms how the resort will develop over time and in so doing will satisfy the statutory MPR requirements and the County's development regulations for master planned resorts and critical areas.

**b. *Equity Lifestyles' Resort Master Plan is Insufficient Under the GMA or Skagit County Code***

The application materials submitted in support of Equity Lifestyles' 2008 CPA application consist of the following:

1. Comprehensive Plan/Zoning Map Amendment form, including maps of the property and vicinity, and letters to Skagit Planning Development Services dated March 16, 2006 and December 2, 2005.
2. Assessor's parcel data printouts for each of the 18 parcels.
3. A completed Environmental Checklist. (Not required until and unless proposal is placed on annual docket. SCC 14.08.040.)
4. A "Master Planned Resort Concept" map and a "Phased Development" concept map, both dated March 15, 2006.

The application materials refer to documents submitted as part of the Applicant's CPA proposal that was considered during the 2005 GMA Update. The Department does not believe it is its role to determine what specific portions of these archived materials are intended to respond to specific application submittal or substantive requirements delineated in Skagit County Code Chapters 14.08

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<sup>20</sup> *Kenyon v. Pierce County (Kenyon II)*, CPSGMHB Case No. 01-3-000, FDO, August 27, 2007, at 15.

and 14.20. The Department nonetheless refers to some of the earlier submitted materials in its assessment.

The Department does not view the collection of materials submitted by the Applicant as a complete or adequate resort master plan. In addition to a general lack of detail and specificity, the Department finds the application materials specifically lacking in six key areas.

1. *SCC 14.20.080(1): A description of the setting and natural amenities that the MPR is being situated to use and enjoy, and the particular natural and recreational features that will attract people to the area and resort.*

Analysis: See analysis regarding “setting of significant natural amenities” beginning on page 4 above.

2. *SCC 14.20.080(4): A land use map or maps that depict the completed MPR development, showing the full extent and ultimate development of the resort and its facilities and services, including residential and non-residential development types and location.*

Analysis: The conceptual site plan map indicates only in very general terms the number and type of planned accommodation units and the amount of development (either residential or non-residential) within each of the three proposed expansion areas. There is no scale on the map and locations are shown only as general “bubbles” on the landscape. The application only includes vague estimates and predictions of development intensities, but does visually display this information in any level of detail (such as proposed sizes, locations, and layout of actual structures).

This does not meet the requirements of SCC 14.20.080(4) for a land use map “showing the full extent and ultimate development of the resort and its facilities and services...” Nor is the limited conceptual site plan consistent with an adequate resort master plan per RCW 36.70A.362, i.e. it is “fluid and incomplete” and therefore insufficient under the GMA.<sup>21</sup>

With the limited information provided, the County is unable to assess the quality and character of the proposed development, its impacts on critical areas, the demand for services it will create and how that demand will be met, and its impacts on the surrounding rural area.

The Applicant has not met this requirement.

3. *SCC 14.20.080(7): A description of the environmentally sensitive areas of the project and the measures that will be employed for their protection. For an MPR subject to the jurisdiction of the Shoreline Management Act, a description and supportive material or maps indicating either: (a) Consistency with the current adopted Shoreline Master Program (SMP); or (b) Proposed changes to the shoreline use designation(s) or other policies and regulations pursuant to the Shoreline Master Program necessary to achieve consistency between the proposed MPR and the SMP.*

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<sup>21</sup> *Id.* at 15.

Analysis: The materials, including environmental checklist, provide only very basic information on environmentally sensitive areas located on the project site and the measures that will be employed for their protection. (The one exception is the assessment from The Watershed Company of the fisheries resources in Friday Creek.)

The Department's Critical Areas staff has reviewed the materials provided by the Applicant, as well as County critical areas maps and other resources, and has offered the following observations:

- Friday Creek is a Type I water and runs through the property.
- Friday Creek also shows as a priority habitat (for fish) in the area.
- Friday Creek is a "closed stream" (low flow).
- Department maps and aerial photos show wetlands and buffer areas on the site.
- Some of the site contains areas with 15-30% slopes.

The conceptual drawings provided by the Applicant show trails crossing Friday Creek. If those are proposed crossings, they would require review under the County's Shoreline Management Master Program and RCW 90.58.

In order to determine consistency with SCC 14.24 Critical Areas Ordinance, additional information of sufficient detail for the proposed development would be needed. Based on this initial review, it appears that a site assessment would be required to address wetlands, fish and wildlife habitat conservation areas, geologically hazardous areas and aquifer recharge areas.

The need for a shoreline designation change would be dependent on their design and impact to the shoreline area. The level of detail at this time makes it difficult to evaluate.

The Applicant has not met this requirement to provide a sufficiently detailed "description of the environmentally sensitive areas of the project and the measures that will be employed for their protection." The project's consistency with the County's critical areas regulations cannot be determined based on the information provided to date.

4. *SCC 14.20.080(8): A description of how the MPR relates to surrounding properties, and how its design and arrangement minimize adverse impacts and promote compatibility among land uses within the development and adjacent to the development.*

Analysis: The proposal lies within the limits of the Alger Community Plan boundary. The proposal to designate the subject site as an MPR has been considered by the Alger Subarea Plan Citizen's Advisory Committee and the Skagit County Planning Commission (as part of its review of the Alger Community Plan; as well as its review of the same MPR proposal as part of the 2005 GMA Update). Both bodies have recommended against approval of the MPR proposal on the basis that its scale and intensity are inconsistent with the rural character of the subarea. The Subarea Plan notes that the area's rural character, while intact, is already under pressure from such existing uses as the Skagit Valley Casino and the Skagit Speedway. While this subarea plan has not yet been approved by the Board of County Commissioners, the recommendations from this community process will likely be accorded substantial weight.

5. *SCC 14.20.080(9): A demonstration that sufficient facilities and services necessary, appropriate, or desirable for the support of the development will be available, financially feasible, and can satisfy the concurrency requirements of the Comprehensive Plan.*

Analysis: The application materials describe as many as 600 new residential units at full development. Under SCC 14.20.030(2), up to 45 percent of those may be full-time residential units. The materials state generally that these will be short-term and seasonal guests but they provide no specific information on expected durations of stay or policies or regulations to ensure that the development does not become a full-time residential community. Because townhouses/condominiums are shown on the concept map, it appears that some of the units may be owned by resort guests either individually or under a timeshare arrangement. The materials provide no information discussing the details of such ownership arrangements.

Using the County's average rural household size of 2.5 residents per household (in the absence of any specific information provided by the Applicant), these 600 new residential units could house as many as 1,500 residents or guests at full build-out and occupancy. This is in addition to the 271 existing recreational vehicle slips presently on site, which could boost the number higher than 2,000. This is many times larger than 2008 estimated populations of the towns of Lyman (445), Hamilton (325), Concrete (845), and LaConner (885).

Given the potential magnitude of such an increase, the application materials include very limited information on how the resort would provide services for this population, including water, sewer, stormwater, police, fire, and ambulance, and transportation. Overall, the Department does not find the level of detail adequate for reviewing a proposed urban development that, at even less than full build-out and occupancy, could hold many more people than live in any of Skagit County's five incorporated towns. As the Central Puget Sound Hearings Board has written, "Because the findings and mitigation must be completed prior to the designation, the Master Development Plan cannot be a fluid and/or an incomplete document."<sup>22</sup> The Applicant's plan is an incomplete document particularly as it relates to demonstrating and ensuring that on-site and off-site infrastructure impacts will be fully considered and mitigated.

The Applicant has not met the requirement.

6. *SCC 14.20.080(13): A description of the intended phasing or incremental development of the project, if any. The initial application for an MPR shall provide sufficient detail for the phases such that the full intended scope and intensity of the development can be evaluated. This shall also discuss how the project will function at interim stages prior to completion of all phases of the project, and how the MPR may operate successfully and meet its environmental protection, concurrency, and other commitments should development cease before all phases are completed.*

Analysis: The application states that "Phased expansions will most likely take the form of 50 to 100 residential units per phase, pending establishment of a marketing program that will

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<sup>22</sup> *Kenyon v. Pierce County (Kenyon II)*, at 15.

confirm growth in visitor participation from year-to-year.”<sup>23</sup> The application includes a “Phased Development” diagram or map showing very generally which areas of the resort property will be developed during which phase. However, neither of these examples constitutes a phasing plan indicating how the resort will function or stand alone as a master planned resort during each phase of development. The materials do not provide the level of detail needed by the County to perform the above-required evaluation.

The Applicant has not met this requirement.

### **C. Conclusion**

Based on the foregoing analysis, the Department concludes the proposal, as submitted, does not meet the docketing criteria within SCC 14.08.030(3) and recommends that the Board not docket the proposal for consideration as part of the 2008 Comprehensive Plan Amendment cycle.

## **2. William A. Stiles Jr. - PL08-0455 (See Map No. 2)**

This proposal seeks to redesignate/rezone approximately 6.2 acres near Cook Road and I-5 from Rural Reserve (RRv) to Rural Freeway Service (RFS) The proposal is similar to one that was submitted as part of the 2005 GMA Update process, considered, and denied through Ord. No. 20070009. However, the proposal has been modified significantly in that an approximately 10 acre parcel (P36900) immediately north of the Stiles property has been removed from the request. Also, the Applicant has supplied significantly more documentation regarding 1) the subject parcel’s relationship to the RFS-designated properties immediately to the south, and 2) historic utility commitments and installations related to the subject property.

### **A. Summary of Proposal**

The proposal considered as part of the 2005 GMA update sought redesignation of two parcels totaling approximately 16.5 acres to RFS. As noted above, this included the Stiles property (P36885; approximately 6.5 acres) and the Koops property (P36900; approximately 10 acres). The amendment relied largely on an argument that limited areas of more intensive rural development (LAMIRDs), such as the County’s RFS designation, may include certain undeveloped lands provided those LAMIRD areas are designated based on “logical outer boundaries.” According to the Applicants, the logical outer boundaries in this instance included Interstate-5 to the west, Old Highway 99 to the east, and the Burlington Northern Railroad tracks to the north.

The Department and the Planning Commission concluded that the inclusion of 16.5 acres of undeveloped land dangerously stretched the allowance of “limited infill” within logical outer boundaries. Absent additional information about the presence of elements of the built environment on the property before June 1, 1990, the Planning Commission concluded the proposal was not compliant with the RFS designation criteria and GMA’s LAMIRD requirements (RCW 36.70A.070(5)(d)(i) and (iv)). The Board of County Commissioners adopted the Planning

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<sup>23</sup> Scott Brown letter p. 5.

Commissioner's recommendation (denying the redesignation request) through Ord. No. 20070009 which adopted the 2005 GMA Update.

In the current proposal, the Applicant has removed the Koops property from the proposal, and submitted substantially more documentation on the historic status of the Stiles property. The western portion of the Stiles property was part of commercial Short Plat No. 22-82, filed in 1982. The majority of the land within this short plat (other than the Stiles property) was designated RFS by the County in 2000 and now houses a hotel, two restaurants, and a gas station. The County determined in its 2000 Comprehensive Plan update and in subsequent compliance actions before the Western Washington Growth Management Hearings Board (Western Board) that sufficient elements of the "built environment" – primarily in the form of pre-1990 paid sewer service commitments – had been established for these RFS properties to satisfy the RFS and GMA LAMIRD criteria.

With this application, the Applicant has presented documentation seeking to show that his property had established similar sewer service commitments for commercial use from the Samish Water District No. 12 before June 1, 1990. When the western portion of the Stiles property was conveyed from Regency Investment Corporation (of which Mr. Stiles was a part owner) to Mr. Stiles, he retained a commercial easement and agreement for utilities, including sanitary sewer, to service his property. This was through a deed dated May 23, 1990. The Applicant states that sewer and other utilities have been installed within the 60 foot easement for ingress, egress, and utilities to the Stiles property that runs through the property currently designated RFS. "The easement is intended for future infrastructure improvements for the Stiles property, is intended for specific commercial uses, and was executed prior to July 1, 1990."<sup>24</sup>

The Applicant also seeks correction of a situation of "split zoning" where a portion of his property is included in the RFS zone while the remainder is designated/zoned Rural Reserve. The Applicant asserts that the County has incorrectly mapped the parcel boundary between his parcel (P36885) and the parcel to the south (P36908), by as much as 100 feet (see Applicant's Exhibit H). The Applicant states this is a significant error in mapping and significantly understates the degree of split zoning, which the Applicant seeks to have corrected.

### **B. Analysis**

Substantial new information has been provided in this application that was not available to the Department and Planning Commission in the past, relating both to the history and utility status of the property as well as the potential mapping error affect the subject parcel. This information raises new questions that have not received adequate attention in past reviews of this amendment proposal. For these reasons, the Department recommends that this revised and substantially better-documented proposal be docketed for further review. The Department does not find the proposal to be in conflict with any of the docketing criteria in SCC 14.08.030(3).

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<sup>24</sup> Stiles Comprehensive Plan/Zoning Map Amendment application, response to question 3.

**C. Docket Recommendation**

The Department recommends including this proposal in the 2008 docket of comprehensive plan amendments.

**3. Richard S. Stockinger - PL08-0460 (See Map No. 3)**

This proposal seeks to shift approximately 4.3 acres of existing Rural Village Residential (RVR) zoning within the Lake Cavanaugh Rural Village to two areas in closer proximity to the lake, currently in Secondary Forest-NRL (SF-NRL), effectively swapping the zoning of the two locations, with no net loss or gain in the size of either district on the subject property.

**A. Summary**

The proposal affects part of the same parcel of property as an amendment proposal that was submitted as part of the 2005 GMA Update process, considered, and denied through Ord. No. 20070009. That proposal sought to re-designate approximately seven acres of this 30-acre parcel currently in Secondary Forest-NRL (SF-NRL) to Rural Village Residential (RVR). The seven acres in question are along North Shore Drive. The Department and Planning Commission recommended against the proposal, on the basis that it would remove the land from Natural Resource Land designation, would expand the Rural Village boundaries in violation of the comprehensive plan's and GMA's LAMIRD criteria, and would allow more intense development on land with a grade as steep as 80 percent that could be subject to geologic hazards.

The 2008 proposal has been significantly amended and downsized. It no longer seeks to redesignate the entire seven-acre strip of land along North Shore Drive to Rural Village Residential (RVR). Instead, it proposes to essentially swap the RVR designation from approximately 4.31 acres set behind 18 platted lots, to two locations along North Shore Drive.

- a. Approximately 1.81 acres of the RVR designation would be swapped with the same amount of SF-NRL acreage along North Shore Drive, adjacent to parcel no. 66424. Parcel 66424 holds the Applicants' cabin. The Applicants state the designation of this property as RVR would allow them build a driveway up to their home, and would result in an overall parcel size of 2.5 acres, consistent with the RVR designation and zone.
- b. Approximately 2.5 acres of RVR designation/zoning would be swapped and placed adjacent to Parcel 66418. According to the Applicants, "There is sufficient land at this location suitable for a view home site. This would also be consistent with development around the lake and with no loss of secondary forestry land. It makes sense for the forestry zoned land to be away from residential development near the lake shore. This re-allocation of zoning would place the residential portion appropriately along North [S]hore Drive, and the majority of the parcel zoned Secondary [F]orestry would then be behind the residential property."<sup>25</sup>

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<sup>25</sup> Stockinger Comprehensive Plan/Zoning Map Amendment Form, narrative response to Question #1, at 1.

**B. Analysis**

As a result of this proposal, 4.31 acres of RVR designation would be swapped with the same acreage of SF-NRL designation, resulting in no net loss or gain of either designation. Residential development would be encouraged along the lake shore consistent with the pattern around most of the rest of the lake, while an equivalent amount of Secondary Forest-NRL designation would be placed behind the homes on the lake shore.

Because the revised proposal would result in no net change to the area's RVR and SF-NRL designations, it is a more viable proposal worth additional consideration. The Department does not find the proposal to be in conflict with any of the docketing criteria in SCC 14.08.030(3).

**C. Docket Recommendation**

The Department recommends including this proposal in the 2008 docket of comprehensive plan amendments.

**4. Andre Pomeroy - PL08-0462 (See Map No. 4)**

**A. Summary**

The proposal seeks to add Mineral Resource Overlay (MRO) zoning to an 80-acre parcel (P46094), currently zoned Industrial Forest-NRL (IF-NRL), Southeast of Marblemount, near the Cascade River Park development.

**B. Analysis**

The Applicant wishes to re-open an existing rock quarry "for use in artistic sculpture and for sale of materials to others for sculpture, architectural, landscape, and paving applications." The Department's geologist confirmed by geologic map review and site visit the presence of meta-diorite and other rock sources having "aesthetic qualities including shape, texture and color" suitable for decorative/landscape purposes, and commercial quality serpentine and soap stone suitable for carving or sculpture. Commercially significant quantities of meta-diorite and other minerals warrant consideration for designation as Mineral Resource Overlay. The Department does not find the proposal to be in conflict with any of the docketing criteria in SCC 14.08.030(3).

**C. Docket Recommendation:**

The Department recommends adding this proposal to the 2008 docket of comprehensive plan amendments.

**Part C: County-Initiated Policy Amendments**

The Department requests that the Board of County Commissioners add to the 2008 docket certain County-initiated amendments to the comprehensive plan's master planned resort (MPR) policies and

associated development regulations found at SCC 14.20, Master Planned Resorts. The purpose of these amendments would be to

1. Clarify the intent of MPRs
2. Further clarify/define “Significant Natural Amenities”
3. Reduce/limit the number of allowed full-time residential units to 20% of total resort-related accommodations
4. Clarify that resort development must not overwhelm the setting of significant natural amenities (proportionality between size and setting)
5. Clarify/add siting criteria
6. Clarify SEPA process and timeline
7. Clarify that approval is subject to meeting requirements, and if requirements are not met, approval shall not be granted

If the Board agrees to docket these proposals, then the Department will develop them for further review by the Board prior to release for public and agency review and comment.

**Part D: “Roll-Overs” from 2007 to 2008 Docket**

Finally, the Department recommends that certain proposals that are currently part of the 2007 Comprehensive Plan Amendment docket be transferred to the 2008 docket, and that one proposal from the 2007 docket be removed from that docket and addressed through the BCC’s prioritization of the “Trailing Issues” list of long-term planning items adopted as part of Ordinance No. 20070009. These changes are recommended due to staffing constraints, the complexity of the proposed amendments, and the desire to allow the BCC to take final action on the 2007 docket before the end of the current calendar year.

Name of Proposal	Description	Department Docket Recommendation
Privately owned OSRSI	Review privately held properties throughout the county currently zoned OSRSI for possible redesignation from ‘public’ zoning to more appropriate designation.	Transfer to 2008 docket.
Guemes Island Subarea Plan	Review of Subarea plan submitted by Guemes Island Planning Advisory Committee.	Transfer to 2008 docket.
Small-lot Secondary/Industrial Forest perimeter properties	Review properties along the fringe of the Secondary Forest/Industrial Forest border that could be afforded relief with minor changes in the application of the Secondary Forest ¼ mile band around the Industrial Forest designation.	Remove from 2007 docket; address as Trailing Issue (not as part of 2008 docket).