



Skagit County Planning & Development Services

DALE PERNULA, AICP *Director*

JACK MOORE, CBCO *Building Official*

Memorandum

To: Board of County Commissioners
From: Dale Pernula, AICP, Director
Date: December 2, 2014
Re: Annual Comprehensive Plan Amendments 2014 Docket

Background

The Growth Management Act provides that “each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation”¹ and allows Skagit County to annually accept petitions for amendments or revisions to Skagit County’s Comprehensive Plan. Skagit County implements this requirement through Skagit County Code (SCC) Chapter 14.08, which describes the process for legislative actions. The Board of County Commissioners (Board) takes action on legislative matters, after receiving a recommendation from the Skagit County Planning Commission. In addition, periodic comprehensive plan updates are required under state law. The next update is to be completed by June 30, 2016.²

Process Summary

Briefly, SCC Chapter 14.08 provides that:

- Petitions for amendments are accepted until the last business day of July of each year.
- The Department analyzes the petitions against the docketing criteria in SCC 14.08.030 and issues a recommendation to the Board.
- The Board holds a public hearing to allow applicants and the public to comment on the recommendation.
- The Board decides which petitions to include in the docket at a subsequent meeting.
- The petitions included in the docket move forward for SEPA analysis, legal review, and subsequent review by the public, Planning Commission, and the Board through the process described in SCC 14.08.080-090.

The Board’s decision to include a proposed amendment in the docket is procedural and does not constitute a decision as to whether the amendment will ultimately be approved. Similarly, a decision by the Board to exclude a petition terminates that petition without prejudice to the applicant or the proposal. The applicant may request a refund of the unused portion of any application fees, and may request the same or similar amendment be considered as part of a future amendment or review cycle.³

¹ RCW 36.70A.130(1)(a).

² RCW 36.70A.130(2)(a).

³ SCC 14.08.030(4)(a) and (b).

2014 Petitions

Skagit County received the following timely petitions to amend the Comprehensive Plan:

- NC-1 City of Sedro Woolley, urban growth area boundary comprehensive plan map amendment proposal (PL13-0299) (Continuance); and
- NC-2 Wilfred Voigt, redesignate an approximate 12 acre parcel from Rural Reserve (RRv) to Small-Scale Recreation and Tourism (SRT), or as an alternative, Small-Scale Business (SSB) (PL12-0268) (New)

The Department is also proposing a county-initiated comprehensive plan program, policy and code amendment:

- C-1 Proposal to amend the Skagit County Comprehensive Plan to incorporate Transfer of Development Rights (TDR) program goals, objectives and policies; and, establish Skagit County Code implementing measures (New)

SCC Chapter 14.08.030 requires the Department to make a recommendation to the Board as to which petitions should be included in the docket. The Department must consider each of the following factors (“the docketing criteria”) in making its recommendation:

- (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;
- (d) Some legal or procedural flaw of the proposal would prevent its legal implementation;
- (e) The proposal lacks sufficient information and/or adequate detail to review and assess whether or not the proposal meets the applicable Comprehensive Plan designation criteria.⁴

NC-1 City of Sedro Woolley, urban growth area boundary comprehensive plan map amendment proposal (PL13-0299) (Continuance)

The City of Sedro Woolley submitted a petition to modify its urban growth area in 2013. On May 19, 2014, the Board of County Commissioners docketed the petition under Resolution No. R20140139.

In response, Department staff met with City of Sedro Woolley staff and later requested that the City provide additional information, more specifically, “capital facility and functional plans [to address] buildable lands inventory and analysis,” and that Skagit County Code Chapter 14.08 urban growth area modification criteria be addressed.⁵ The City of Sedro Woolley responded by providing additional information and analysis.⁶ In response, the Department indicated that “the City’s additional information and analysis better addressed the issues of modifying an urban growth area,” and that “a logical direction for Sedro Woolley’s urban growth is to the north of the current City limits, away from the farmland and floodplain, and where

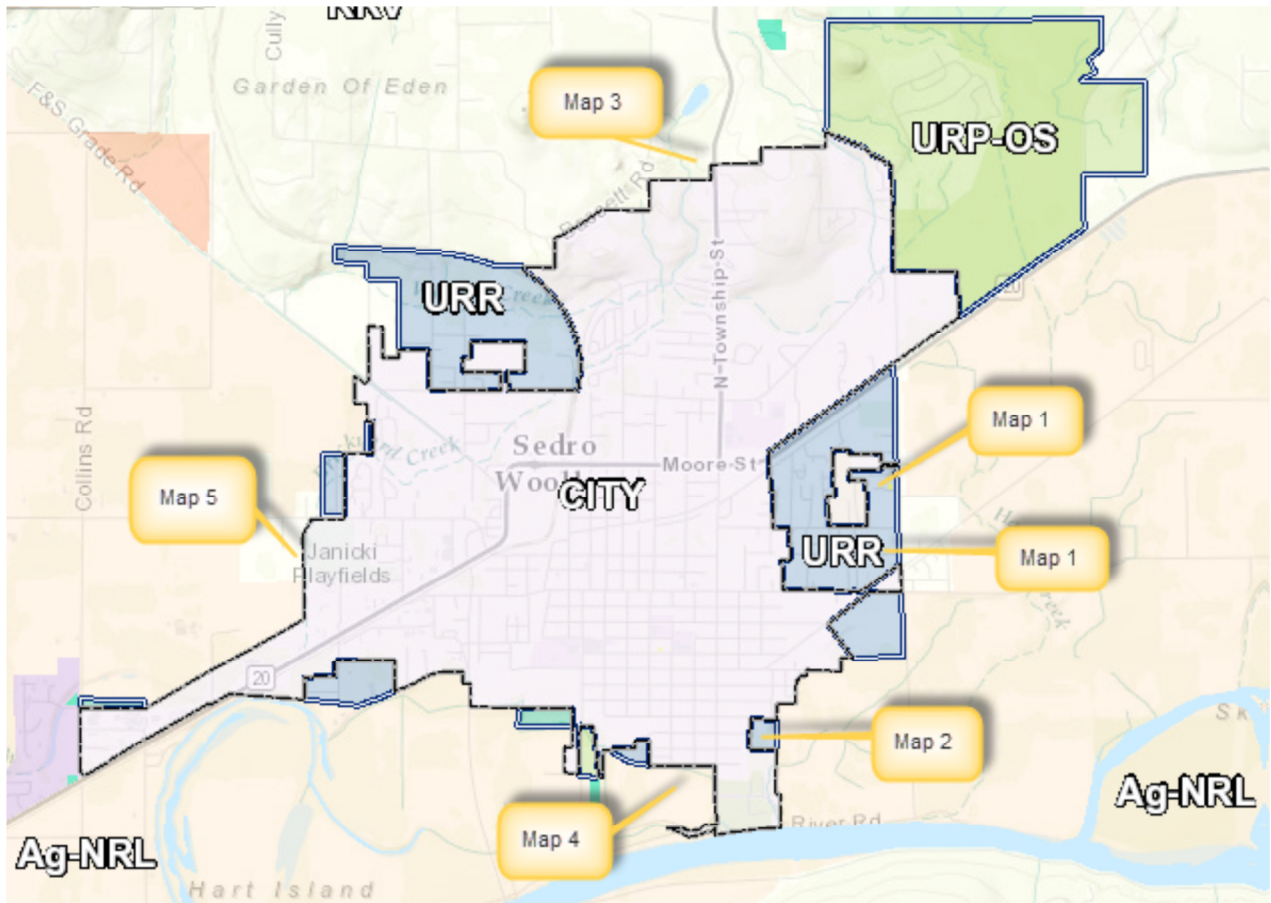
⁴ SCC 14.08.030(3)(e)(i) provides that “A determination that the proposal contains sufficient information and adequate detail for the purpose of docketing does not preclude the Department from requesting additional information at any time necessary later in the process.”

⁵ Letter dated June 17, 2014

⁶ Letter dated September 17, 2014

urban services, utilities and infrastructure can be provided in a cost-effective manner.”⁷ However, the City’s petition creates growth management policy questions/issues by modifying its urban growth boundary to remove lands already characterized by urban growth (eastside), and by including farmland and floodplain areas (west and to the south). In addition, absent a comprehensive “buildable lands inventory and analysis” consistent with state laws, and local comprehensive plan policies and codes there is currently insufficient information to assess the petition.

For reference, the City of Sedro Woolley proposes to modify its urban growth area boundary in the general areas as illustrated below.



Vicinity Map. Proposed areas for urban growth area boundary modifications

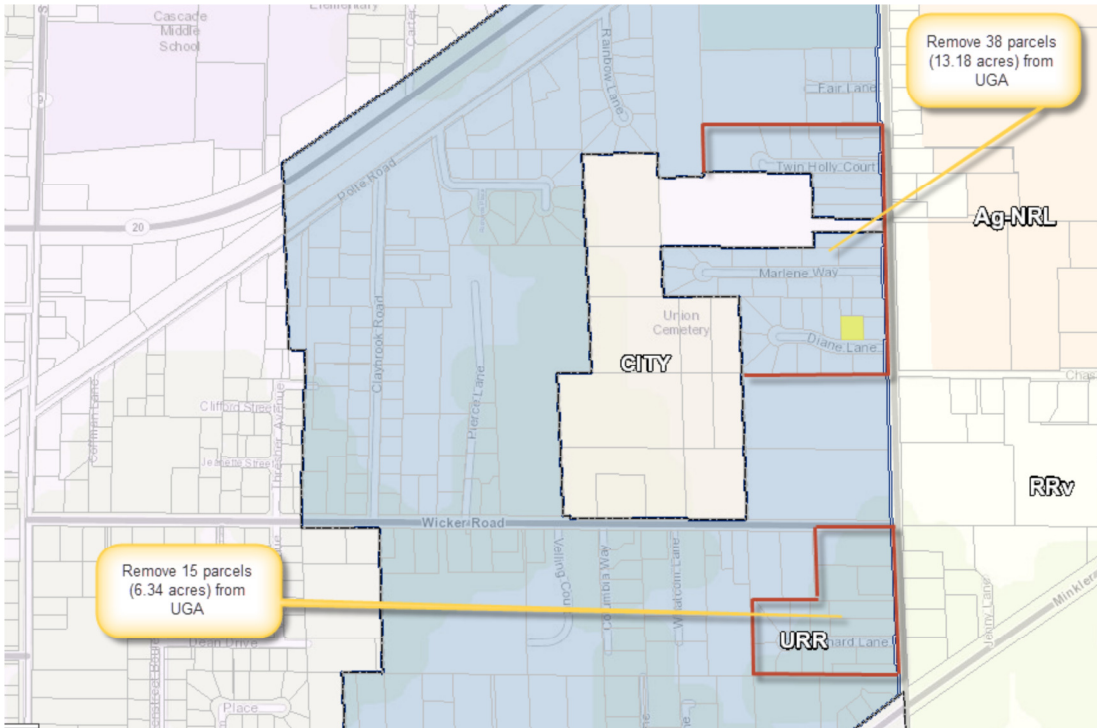
The Department’s analysis and docketing recommendations from its previous memorandum ⁸ are incorporated and/or modified herein for easy reference.

Map 1, Map 2 and Map 3

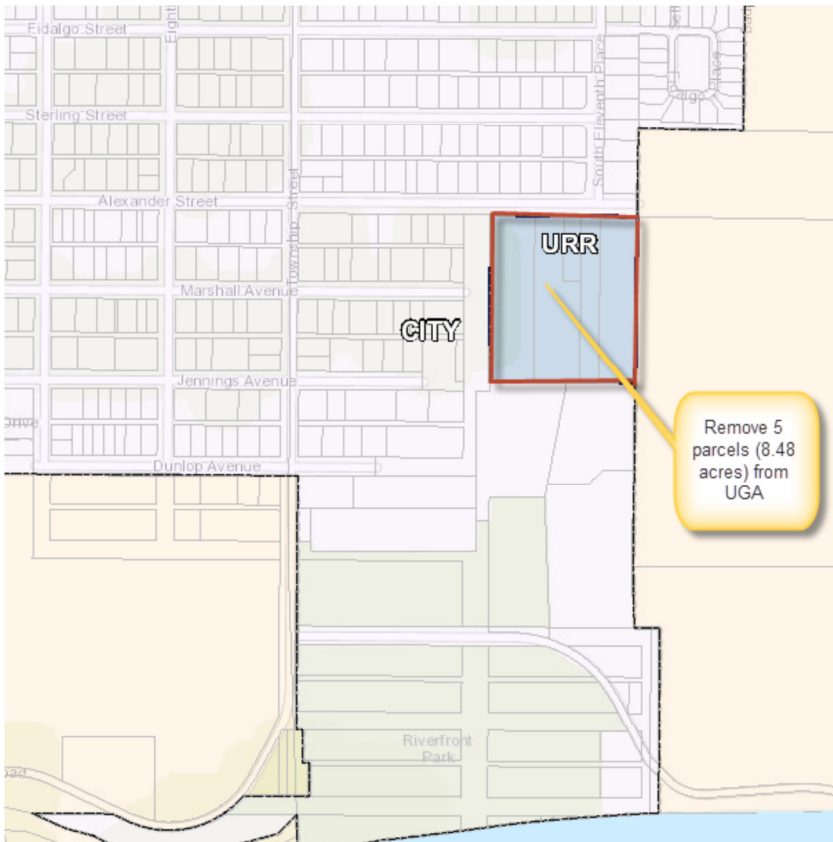
This part of the petition would modify the UGA to REMOVE approximately 28 acres (Map 1 and Map 2) east and southwest of the city limits from the UGA and ADD 27.73 acres north of the current city limits (Map 3) to the UGA.

⁷ Letter dated October 1, 2014

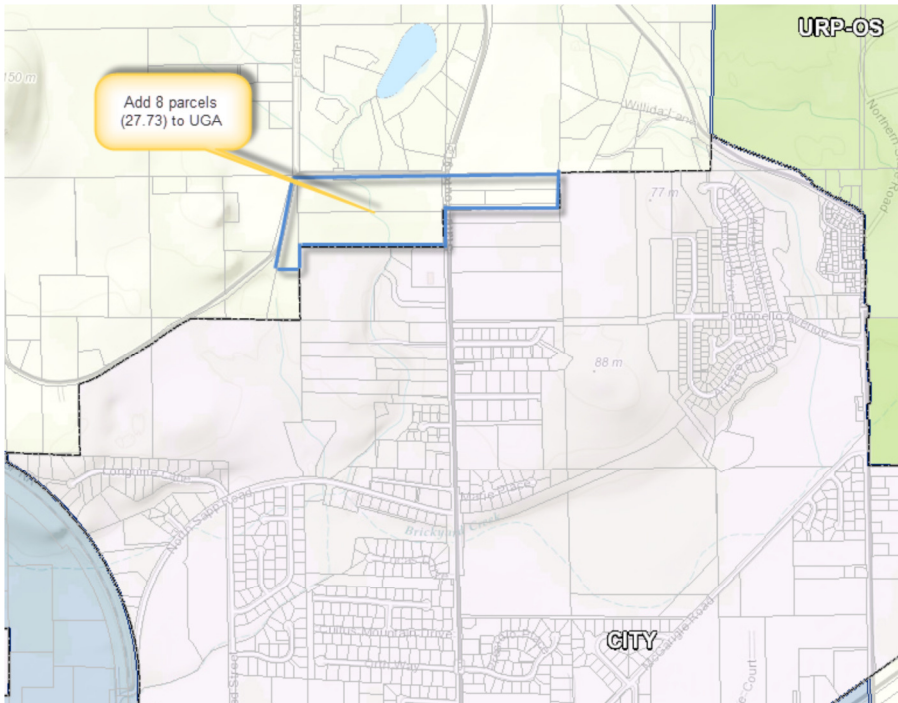
⁸ Annual Comprehensive Plan Amendments 2013 Docket memorandum dated April 10, 2014



Map 1. Proposed areas (19.52 acres) to be REMOVED from urban growth area



Map 2. Proposed area (8.48 acres) to be REMOVED from urban growth area



Map 3. Proposed area (27.73 acres) to be ADDED to urban growth area

The Department has analyzed this part of the petition against the docketing criteria as follows:

- (a) The Department believes it can reasonably review the petition with current resources.
- (b) The Department does not believe this petition would require additional amendments to the Comprehensive Plan or development regulations.
- (c) The proposal is appropriate to be addressed by the annual amendment process.
- (d) The Department is not aware at this time of a legal or procedural flaw in the proposal.
- (e) At this time, the proposal does not contain sufficient information. UGA modifications are subject to the requirements of SCC 14.08.020(5)(b), which requires documentation that the City needs additional residential capacity to meet its current population allocation under CPP 1.1. The petition can be docketed, but the Department will require additional information from the applicant later in processing.

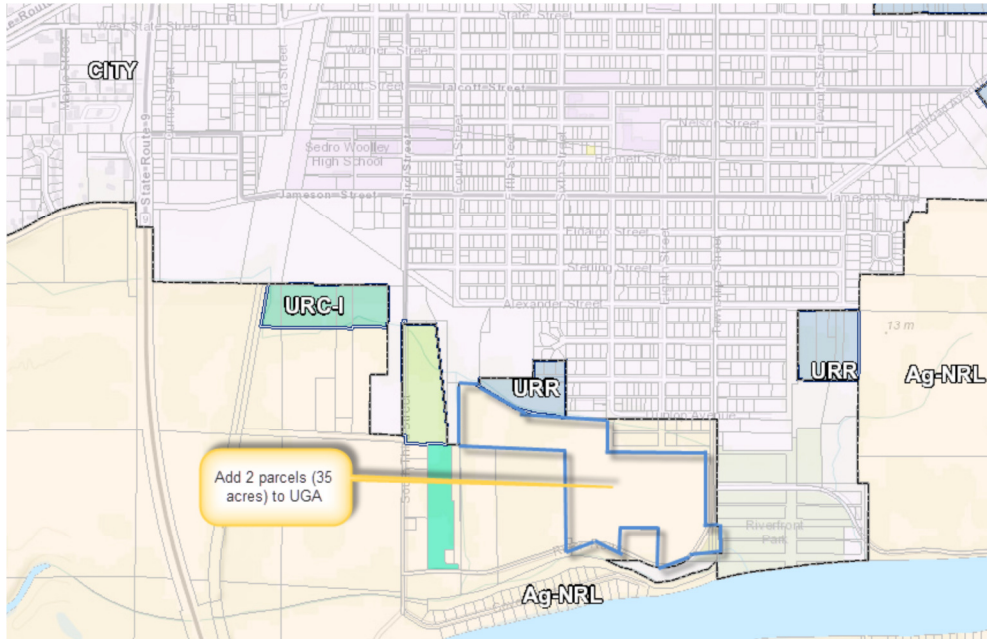
This proposal seeks to add and remove a like amount of residential acreage. Sedro Woolley asserts that the area proposed to be added is much more suitable for urban residential development than the area proposed to be removed, which is mostly developed at lower-than-urban densities and without urban services such as sewer. The Department believes that land that is already characterized as urban should remain in the urban growth area consistent with the requirements of the Growth Management Act.⁹ Should Sedro Woolley still desire to remove Map 1 and Map 2 properties from its urban growth area then the City can precede with that as part of the 2016 Comprehensive Plan update process.

The Department recommends the Board **include** Map 3 properties of the petition in the 2014 docket and **not docket** Map 1 and Map 2 properties of the petition.

⁹ RCW 36.70A.110(3)

Map 4

This part of the petition would add 34.3 acres owned by the City of Sedro-Woolley and currently zoned Ag-NRL into the City's UGA as Open Space zoning. It would also add a parcel, owned by Skagit County, and two small pieces of unopened right-of-way on Township Street, which together total approximately .6 acres. Sedro Woolley would like to use these parcels to locate a citywide drainage facility.



Map 4. Proposed area (35 acres) to be ADDED to urban growth area

The Department has analyzed this part of the petition against the docketing criteria as follows:

- (a) Due to the issues described below in (d) and (e), the Department may not be able to process this petition.
- (b) This petition may require additional code amendments.
- (c) This petition probably does not raise additional issues more appropriate for the periodic update.
- (d) The petition poses legal problems to its adoption. Map 4 properties are zoned Ag-NRL. SCC 14.08.020(5)(b)(x) provides that a UGA expansion may not include "areas that are designated as natural resource lands (agricultural, forest, or rural resource)" except in certain circumstances, e.g. the jurisdiction has a TDR program in place and an agreement with the property owner to allow continuation of the natural resource activity. Sedro Woolley does not have a TDR program. De-designation of prime agricultural land is generally not supportable under GMA. At the City's request, Skagit County once before added the subject property (and additional agricultural land to the west) to the City's UGA (Ordinance 16550, June 1, 1997, adopting the Comprehensive Plan). However, the Western Washington Growth Management Hearings Board found the UGA boundary non-compliant and required the County to remove the land from the UGA because of lack of showing of need and because the land met the designation criteria for Ag-NRL (Final Decision and Order, Case No. 97-02-0060c, January 23, 1998). There does not appear to be any significant change in circumstances since that time.
- (e) At this time, the Department believes the proposal contains sufficient information for the purpose of docketing. UGA modifications are subject to the requirements of SCC 14.08.020(5)(b), which may require additional information from the applicant later in processing. The County may also require additional information about the City's proposed drainage project in order to adequately address the City's needs while preserving agricultural land.

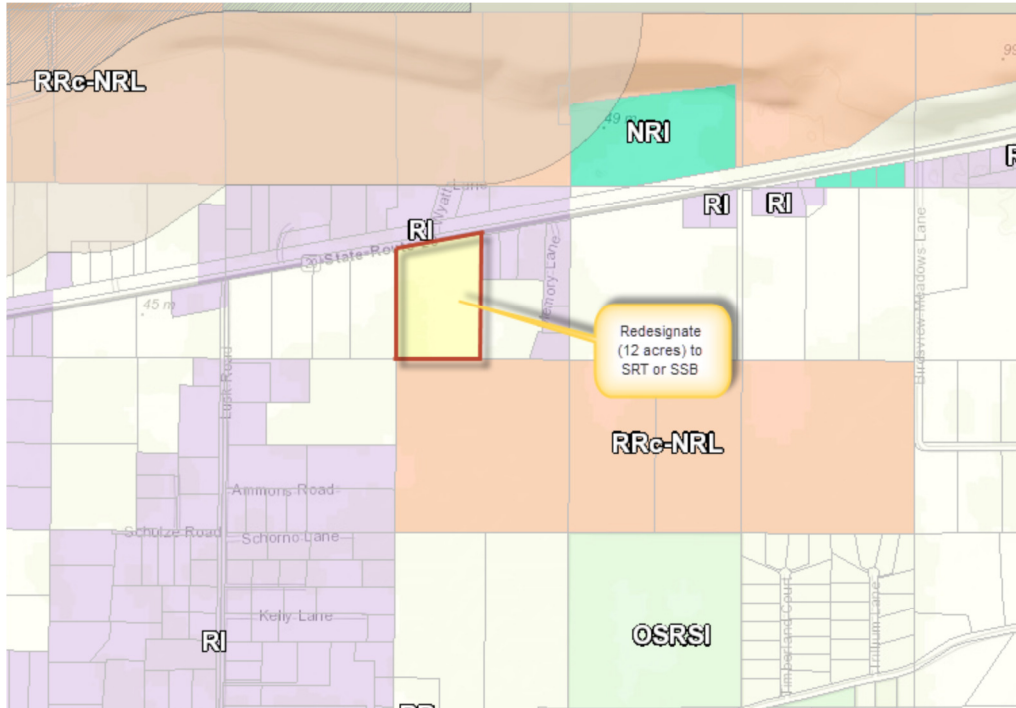
It may be possible to accomplish Sedro Woolley’s goals without adding all of the agricultural land to the City’s UGA. For example, a portion of the parcel apparently is not, and has not been used for agricultural activities, and it might be possible to add that to the City’s UGA without the rest of the acreage.

The Department recommends the Board **include** only the property shown within the blue outline below as part of the petition in the 2014 docket; and, the property shown within the red area below **not be docketed**.



NC-2 Wilfred Voigt, redesignate an approximate 12 acre parcel from Rural Reserve (RRv) to Small-Scale Recreation and Tourism (SRT), or as an alternative, Small-Scale Business (SSB) (PL12-0268) (New)

The subject parcel is generally described as located along the south side and adjacent to SR 20, approximately 4 miles east of the Town of Hamilton, and north of Raser State Park. The Birdsvie Brewery business is located on the subject parcel.



The Department has analyzed the petition against the docketing criteria as follows:

- (a) The Department believes it can reasonably review the petition with current resources.
- (b) The Department does not believe this petition would require additional amendments to the Comprehensive Plan or development regulations.
- (c) The petition may be addressed through the annual amendment process; or, in a more comprehensive process it could be addressed through the countywide 2016 update process.
- (d) The Department is not aware at this time of a legal or procedural flaw in the proposal.
- (e) At this time, the proposal does contain sufficient information.

This petition seeks to address an existing rural commercial business (Birdsvie Brewery) by making it a conforming use under Skagit County Code 14.16. Birdsvie Brewing Company is a small family owned and operated brewery. The business is currently operating as a non-conforming use. It was permitted as a brewery/tasting room in 2005 and has grown to more closely resemble a brew pub. Because the business is a non-conforming use it cannot expand.

The Department recommends the Board **include** this petition in the 2014 docket.

C-1. Proposal to Draft Transfer of Development Rights (TDR)/Density Credit Policies and Code

Consistent with Resolution #R20140298, Skagit County proposes to draft a Transfer of Development Rights and Density Credit program, policies, and code to implement such as prescribed in the above referenced resolution.

A transfer of development rights (or TDR) program is a market-based mechanism that encourages the voluntary transfer of growth from places where a community would like to see less development, referred to as sending areas, to places where a community would like to see more development, referred to as receiving areas. Sending areas might include farmland, forestland, or wildlife habitat. Receiving areas typically include cities or rural lands that have the infrastructure and services to meet the needs of increased growth. Landowners in sending areas may voluntarily sell the development potential of their land while retaining ownership and continuing to use the land for other purposes such as forestry or agriculture. By purchasing development rights, developers gain access to additional development opportunities in designated receiving areas than would otherwise be allowed. A density credit program is a variation on transfer of development rights that also encourages voluntary conservation of natural resource lands in designated sending areas while providing incentives for development in designated receiving areas. For additional information, see the Skagit County TDR project website (www.skagitcounty.net/tdr).

The Department has analyzed the petition against the docketing criteria as follows:

- (a) The Board has indicated that this matter is a priority, and the Department can process this proposal with available resources.
- (b) The proposal will consist of proposed amendments to the Comprehensive Plan and development regulations intended to implement a TDR and density credit program, consistent with Resolution R20140298.
- (c) Development of TDR and density credit policies and code is a part of the Department's current work program as approved by the Board of County Commissioners.
- (d) The Department is not aware at this time of a legal or procedural flaw in the proposal.
- (e) This criterion relating to "assess[ing] whether or not the proposal meets the applicable Comprehensive Plan designation criteria" appears to be directed specifically at Comprehensive Plan map amendments, not policy amendments.

The Department recommends the Board **include** this proposal in the 2014 docket.

How to Comment

The public may submit written comments via email to pdscomments@co.skagit.wa.us (preferred) or via US mail. All paper comments must be submitted on 8½" x 11" paper to the address below:

Skagit County Planning & Development Services
re: Public Comments on CPA 2014 Docket
1800 Continental Place
Mount Vernon, WA 98273

All comments must be received by Wednesday, December 17, 2014, at 4:30 p.m. and include (1) your full name, (2) your mailing address, and (3) the name of the proposal or project you are commenting on. Comments not meeting these requirements will not be considered.

You may also comment in person at the public hearing Monday, December 15, 2014, at 9:30 a.m. at the Commissioners Hearing Room, 1800 Continental Place, Mount Vernon. Public hearing testimony is usually limited to three minutes, so written comments are preferred.

For More Information

Please visit the project website at www.skagitcounty.net/planning (click on "Comprehensive Plan Amendments 2014 Docket").