



Skagit County Planning & Development Services

DALE PERNULA, AICP *Director*

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Memorandum

TO: Board of County Commissioners
From: Dale Pernula, Director; Ryan Walters, Assistant Director; Kirk Johnson, Senior Planner
Date: November 10, 2016
Re: Annual Comprehensive Plan Amendments 2017 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 requires Skagit County to periodically accept petitions for amendments or revisions to our Comprehensive Plan policies, land use map, and development regulations. Skagit County implements this requirement through Skagit County Code Chapter (SCC) [14.08](#), which describes the process for annual amendments.

This year, the County received 15 public petitions and suggestions for Comprehensive Plan policy or map amendments or new development regulations. (One of those, from Skagitonians to Preserve Farmland, has since been withdrawn.) Another 18 have been proposed by the County. Those submittals are available for review at www.skagitcounty.net/2017CPA.

SCC 14.08.040(3) requires the Board of County Commissioners to hold a public hearing and written comment period as part of establishing the annual docket of comprehensive plan, land use/zoning map, and development regulation amendments.

The hearing for the 2017 docket is scheduled for Monday, December 5, from 10:00 am to 11:00 am in the Commissioners Hearing Room. Additional details of the public hearing and written comment period are contained in the [Notice of Availability](#) that was released with this memorandum.

Amendment Proposals

The proposals are organized and identified as described below, depending on whether they are policy, code or map amendments submitted by members of the public, or were initiated by the County:

- **P-#:** Proposal submitted by a member of the public for an amendment to Comprehensive Plan policies or development regulations.
- **PL15-####:** Proposal submitted by a member of the public or property owner for a map amendment.
- **C-#:** Proposal initiated by the County to amend the Comprehensive Plan policies, map, or development regulations.

¹ RCW 36.70A.130(1)(a).

The remainder of this memo describes the docketing criteria and process; briefly summarizes the amendment proposals; and includes the Department’s docketing recommendations as required by SCC 14.08.040(1). The memo contains links to the full applications submitted by members of the public and to maps for all map amendment proposals.

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 14.08.040(2) 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 14.08.050-090.

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. The Board may decide to docket all or only a portion of a proposed amendment, or to otherwise modify a proposal that it adds to the docket. 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.²

Docketing Criteria

SCC 14.08.040 requires the Department to make a recommendation to the Board as to which of the petitions the Department should be included in the docket. The Department must consider each of the following factors (“the docketing criteria”) in making its recommendation:

- (a) The petition complies with the filing requirements;
- (b) The petition, 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;
- (c) The proposed amendment, to be adopted, would not require additional amendments to the Comprehensive Plan or development regulations not addressed in the application, and is consistent with other goals, objectives and policies adopted by the Board;
- (d) The 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;

² SCC 14.08.040(3).

- (e) Some legal or procedural flaw in the petition would prevent its legal implementation; or
- (f) The petition lacks sufficient information or adequate detail to review and assess whether or not the proposal meets the applicable approval criteria.³

Public Petitions: Policy and Code

Skagit County received the following timely petitions and suggestions to amend the Comprehensive Plan policies, map, or development regulations. For each proposal, the Department has provided a summary of the proposal, analysis of the docketing criteria, and a recommendation. The full text of each petition is available on the 2017 Comprehensive Plan Amendment webpage at www.skagitcounty.net/2017CPA.

P-1. Friends of Skagit County (Bynum)

Summary

The proposal calls for amendments “to the section on Conservation and Reserve Development (CaRD)”—presumably meaning Comprehensive Plan policies *and* development regulations—to require the following:

1. CaRDs be allowed only in UGAs.
2. CaRDs have a cap that limits the scale of the development in relationship to the reserve land size.
3. CaRDs that exist currently in Skagit County have permanent easements on the reserved portion of the parcels which are NOT reserved for future development but provide permanent protection on that portion of the land.

History

The applicant submitted a similar amendment proposal in 2015. The Board decided not to make it a part of the 2016 Update but deferred it for consideration in this docket cycle. The applicant also resubmitted the amendment proposal this year.

Analysis

The Department agrees that the County’s CaRD policies and code should be reviewed at some point to ensure CaRDs are achieving the original intent of clustered development, minimization of development footprint, and preservation of open space. The Planning Commission has also made this recommendation in previous Comprehensive Plan updates. To date the Board has not acted on this recommendation by placing CaRD review on the Department’s annual work program.

The Department does not agree with some of the petitioner’s specific conclusions, such as the suggestion that CaRDs should only be allowed in UGAs, or that the open space in *existing* CaRDs should be placed in permanent easements, which is impossible to do.

³ SCC 14.08.040(2)(f) 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.”

A comprehensive review of the CaRD ordinance would go beyond the scope of what could be completed through the 2017 docket and would require additional resources beyond what the Department has requested through its 2017 budget proposal.

To help in evaluating this and other CaRD-related amendment proposals, the Board has asked how many CaRDs have been approved in recent years. The Department’s permit database shows the County has approved 58 CaRD land divisions in 2005 through 2015. Following are the approval numbers by year:

Year	Approved	Year	Approved	Year	Approved	Year	Approved
2005	9	2008	4	2011	2	2014	1
2006	20	2009	7	2012	4	2015	1
2007	6	2010	2	2013	3	2016	N/A

A total of 248 lots were created through those 58 CaRDs. An estimated 26 of those lots were open space lots, leaving 222 lots available for development.

Of the 58 approved CaRDs, 49 were in zones—specifically Rural Reserve and Rural Resource-NRL—that allow density bonuses. Nine were in zones such as Rural Intermediate and Ag-NRL that allow CaRDs, meaning clustered development on small lots, without density bonuses.

Of the CaRDs in zones that allow density bonuses, the Department does not know how many additional lots were created due to density bonuses, over and above the number of lots allowed by the base zoning. That would require a much more time-consuming review.

Recommendation

The Department recommends that the Board **exclude** the proposal from the 2017 docket, based on [docketing criteria](#) (b) and (d).

If the Board wants to move forward with a comprehensive review of the CaRD ordinance, it should identify the review as a high priority on the Department’s annual work program and make budgetary resources available accordingly.

P-2. Friends of Skagit County (Good)

Summary

The proposal seeks to create standing Citizen Committees to work with the Planning Commission on review and suggested changes to the Countywide Planning Policies, Comprehensive Plan, and codes.

History

The applicant submitted a similar amendment proposal in 2015. The Board chose not to docket it as part of the 2016 Update.

Analysis

Skagit County already has a Planning Commission to review proposed changes to the Comprehensive Plan and development regulations. The County also has an Agricultural Advisory Board and a Forest Advisory Board to make recommendations on natural resource land use policy issues. It is not clear what value a new citizen committee or committees would add. The Board has repeatedly turned down similar suggestions, most recently for the 2016 Update. The Department believes that working directly with the Planning Commission on the 2016 Update was a very successful experience.

Skagit County Code [14.08.070](#) already identifies specific instances that require appointment of a Citizen Advisory Committee—for example the initial development of subarea plans. And the Board already has authority to appoint a CAC for any particular project where it believes one would be useful.

Recommendation

The Department recommends the Board **exclude** this proposal from the docket based on [criterion \(d\)](#): given that the Board already has authority to appoint citizen committees, there is no need to spend scarce time and resources amending the code.

[P-3](#). Friends of Skagit County (Good)

Proposal history

The applicant submitted a similar amendment proposal in 2015. The Board chose not to docket it as part of the 2016 Update.

Summary

Amend the Comprehensive Plan to reflect the County’s policy of no loss of agricultural lands. Language must include ways to identify the amount of economic loss created by the loss of farmland, cumulative effects to the economy as well as the environmental functions lost.

Analysis

Skagit County does not have an adopted “no loss” or “no net loss” of agricultural lands policy; instead, the Comprehensive Plan includes numerous policies that say we should “minimize” the loss of agricultural lands. A “no loss” policy is impossible to achieve, as there are some events such as future widening of state or federal highways that will be unavoidable. Certain salmon habitat restoration projects generate credits that dike and drainage districts need to conduct necessary maintenance of the agricultural land drainage system.

The petitioner’s proposal does not contain any specific suggestions about how a no loss policy could be implemented other than implementing “ways to identify the amount of economic loss created by the loss of farmland, cumulative effects to the economy as well as the environment.” That is really a monitoring issue.

A “no net loss” policy may be possible but would require significant thought about how it could be achieved. The recent Bay Baby Produce experience illustrates strong disagreement even within the agricultural community over what constitutes loss of farmland: does it include agricultural structures on farm lands, or residences allowed as an accessory use to farming in the Ag-NRL zone?

An amendment to Countywide Planning Policy 1.1 adopted through the 2016 Update directs the County and the cities and towns to implement an annual, regional land use monitoring program. Impacts to agricultural lands will be one of the items monitored through this process.

Recommendation

The Department recommends the Board **exclude** this proposal from the 2017 docket based on several of the [docketing criteria](#), including (b) - (f).

Instead, the County should identify meaningful measures of agricultural land preservation or loss that are feasible to collect and publish annually as part of the regional land use monitoring program.

P-4. Friends of Skagit County (Stauffer)

Summary

Skagit County needs an accurate database of buildable lands in rural zones. A buildable rural lands inventory and assessment should address the entire County and give the County a better baseline and data for planning, permitting and code enforcement.

Analysis

As noted above, an amendment to Countywide Planning Policy 1.1 adopted through the 2016 Update directs the County and the cities and towns to implement an annual land use monitoring program. Skagit County will be responsible for monitoring development activity on rural lands, including the number of new residences per year, their geographic location in the County, etc. The Department believes this program will implement, to the extent feasible, the applicant's request. A full-fledged, parcel-by-parcel rural buildable lands analysis is not economically feasible. The Department issued a request for proposals for such an analysis in the early 2000s while addressing a GMA compliance issue related to lot aggregation; the bids exceeded \$1 million. For a much lower cost, the Skagit GIS Department is capable of developing rigorous estimates for specific land use questions, such as how many potential development lots exist in rural Skagit County, and how many of those are affected by restrictions on rural wells in the Skagit River basin.

Recommendation

The Department recommends the Board **exclude** the proposal from the docket. This is a proposed work program item rather than an amendment to the Comprehensive Plan or development regulations. The County will already begin implementing a land use monitoring and buildable lands analysis program in the coming year.

P-5. Guemes Island Planning Advisory Committee (Fox)

Summary

Amend SCC 14.24.380 (Critical Areas Ordinance, Seawater Intrusion Areas) to require, prior to drilling, a permit application and County approval for any new well to be drilled on Guemes Island.

Proposal history

This issue was raised in public comments by GIPAC during the 2016 Update but was outside the scope of what could be addressed in that process.

Analysis

The existing seawater intrusion code already requires County review prior to drilling a new well. SCC 14.24.380(2)(a) requires submission of a site plan, drilling plan, and fees prior to drilling any new well in a seawater intrusion area. The Department is currently working on evolving its water review applications form to implement this requirement. This code section does not specifically authorize the Department to approve or deny the ability to drill the well, however.

This proposal likely complies with each of the docketing recommendation criteria except (d): “The 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.”

Recommendation

See recommendation for P-6 below.

P-6. Guemes Island Planning Advisory Committee (Rooks)

Summary

Amend the Drinking Water Code (existing SCC 12.48.250) to encourage rainwater collection systems for potable water on Guemes Island.

Revise (lower) the definition of "adequate water supply" in existing SCC 12.48.030 from 350 gallons per day to 200 gallons per day or less for Guemes Island. (In its workshop with the Board of County Commissioners, the applicant proposed a significantly lower definition for adequate water supply, specifically 110 gallons per day for a two-person household).

Allow homeowners on Guemes Island the option of using a rainwater collection system designer or designing their own system, if for personal use.

History

These issues were raised by GIPAC during the 2016 Update but were outside the scope of what could be addressed in that process.

Analysis

Although SCC 12.48.250(1) provides that the “Skagit County Public Health Department discourages alternative sources” generally, SCC 14.24.380(3)(a) specifically provides that “alternative sources of water,” including rainwater catchment, are encouraged in areas of known seawater intrusion. The more specific and later-adopted provision encouraging rainwater catchment controls over the less specific, earlier-adopted provision. The Department agrees that the code provisions could be better clarified and harmonized, but strictly speaking do not require amendment to accomplish this proposal’s goal.

The applicant has made a strong case that rainwater collection systems are increasingly viable sources for supplying drinking water for residences on Guemes Island. Rainwater catchment systems could also benefit other parts of Skagit County facing physical or legal water supply shortages. The Department agrees that encouraging rainwater catchment is a worthwhile goal, and that applications for such systems would benefit from streamlining that can happen administratively.

The Department believes it would be useful to hire a consultant or contractor with extensive experience in design and permitting of rainwater catchment systems to develop a prototype system that would be available to landowners and eligible for expedited County review. The contractor could also recommend review and approval criteria for applicants proposing custom-designed systems rather than the County prototype.

These and other water-related issues would be best addressed through an update to the County's drinking water code (SCC 12.48). The Department proposes that the Board add this review and update as a priority item to the Department's 2017 work program.

Recommendation

The Department recommends that the Board **exclude** this proposal in the docket based on docketing criterion (d).

Instead, the proposal should be addressed through a Department work program item to streamline the permit requirements, and possibly update portions of the County health code regarding drinking water. P-5 proposing a County well-drilling permit before any well is drilled could also be included in this process.

P-7. Guemes Island Planning Advisory Committee (Fox)

Summary

Amend the Skagit County Code to require permanent protection of any open space designated through a CaRD subdivision on Guemes Island. Given that Guemes Island is not in an Urban Growth Area and that density limits are needed to protect its sole source aquifer, the island is not an appropriate location to reserve open space for future urban development.

History

The proposal was part of the GIPAC amendments the Board docketed for 2016 Update; however, the Department inadvertently omitted this item from 2016 Update proposal.

Analysis

For purposes of clarification: only one of the CaRD open space designations (Open Space-Urban Reserve) is intended to reserve land near a UGA for future urban development. Because Guemes Island is more than one-half mile from the Anacortes urban growth area, this open space option is not available. That said, most of the other CaRD open space designations also do not require permanent protection of open space through a conservation easement; instead, the open space is required to be preserved as long as the property's zoning remains the same.⁴ Only in the case that the County rezones the property to allow additional development potential could the open space be further developed.

A policy supporting permanent protection of CaRD open space has already been adopted as part of the Board-adopted Guemes Island Subarea Plan. Therefore, the Department believes the proposal should move forward for consideration through the 2017 docket.

⁴ The two CaRD open space designations that do require permanent protection through a conservation easement are Open Space – Protection Area (OS-PA) and Open Space Natural Resource Lands (OSNRL).

The Department's permits data base indicates the County approved one CaRD land division on Guemes Island between 2005 and 2015, creating 6 development lots in Rural Reserve. The open space lot is designated Open Space Rural Open (OS-RO).

Recommendation

The Department recommends that the Board **include** the proposal in the 2017 docket based on criterion (c); the proposal is consistent with and would implement the Board-adopted Guemes Island Subarea Plan.

P-8. Roger Mitchell

Summary

Water usage by humans, be it agricultural, forestry, commercial, or domestic, needs to have a highest priority section in our Comprehensive Plan and relevant derivative plans. The Comprehensive Plan must expressly state that, as a highest priority, the County will take all reasonable measures to protect and ensure equitable distribution of water resources for beneficial use by the citizens of Skagit County. In doing so, the County must rely on best available and true science and must preserve and protect the private property water rights of each of its citizens.

History

The applicant submitted a similar amendment proposal in 2015. The Board chose not to docket it as part of the 2016 Update. Policies on rural water use were updated consistent with state law through the 2016 Update.

Analysis

See analysis for P-9 below.

Recommendation

See recommendation for P-9 below.

P-9. Roger Mitchell

Summary

The Rural Element of the Comprehensive Plan will expressly state that access to water for Skagit County's rural property owners is a fundamental right that needs to be protected and preserved.

History

The applicant submitted a similar amendment proposal in 2015. The Board chose not to docket it as part of the 2016 Update. Policies on rural water use were updated consistent with state law through the 2016 Update.

Analysis

The allocation of water throughout the County and State is a function of the State Legislature and through delegated authority, the Department of Ecology. The County's proper role in water policy is

determining availability for issuance of building permits⁵ and protection of water resources through our critical areas requirements.⁶

Skagit County dealt with the general issue of water availability earlier this year when it made the following additions to the Comprehensive Plan through the 2016 Update, indicating its intent to find solutions to the rural water situation wherever possible:

“Skagit County should work with the state legislature, state agencies, landowners, tribes, and other affected parties to resolve the uncertainty over rural water availability and achieve a long-term solution that meets the needs of all affected parties consistent with state law.” (Rural Element, Policy 3A-2.1, p. 74)

“Skagit County will work closely with landowners, Ecology, and local water purveyors to seek solutions to the lack of available water due to the 2001 Rule. Options include mitigation, securing alternative water sources, and encouraging water purveyors such as Skagit PUD to extend piped water to affected rural areas. The County may also support legislative solutions to water availability issues created by the 2001 Rule.” (Utilities Element, p. 262)

Including the proposal’s language could be construed as contrary to the Prior Appropriation Doctrine and state water law, which state that senior water rights, including instream flows, have precedence over junior water rights. Amending the Comprehensive Plan policies on legal availability of water, particularly those that appear contrary to state law, could invite appeals and result in expensive litigation that has little prospect for improving the situation for Skagit County’s rural landowners.

Recommendation

The Department recommends that the Board **exclude** the proposal from the 2017 docket based on criterion (b), (c), (d), and (e):

- the proposal is inconsistent with the amendments made earlier this year to the comp plan;
- may require many additional amendments to the Comp Plan or development regulations to implement it;
- is legally dubious in terms of the County’s authority to effect change in this area; and
- would unnecessarily open the County to a challenge to the Growth Management Hearings Board.

P-10. Roger Mitchell

Summary

Each and every County planning project should require a good faith analysis that accurately describes the current and projected values for a list of required metrics.

⁵ RCW 19.27.097.

⁶ RCW 36.70A.070(5)(c)(iv).

History

The applicant submitted a similar amendment proposal in 2015. The Board chose not to docket it as part of the 2016 Update.

Analysis

Under existing Code, including SCC [14.08.080](#) (Legislative Actions), the County is already required to analyze the following when considering proposed plans, plan amendments or development regulations:

- Potential environmental and other impacts under the State Environmental Policy Act (SEPA).
- Comments and recommendations of any Citizen Advisory Committee or Technical Advisory Committee, County departments, affected agencies and special districts, and members of the public.
- The proposal's consistency with the requirements of the Growth Management Act, the Countywide Planning Policies, other applicable provisions of the Comprehensive Plan, County capital facility and functional plans, and other adopted County plans and regulations.
- The proposal's relationship to the public general health, safety, morals or welfare.

The County must analyze whether proposed Comprehensive Plan map changes are justified by changed conditions and are consistent or compatible with:

- The designation criteria for the proposed zone.
- Uses on neighboring properties.
- Population and employment forecasts and allocations, if the proposal seeks to modify an urban growth area.
- Natural resource land de-designation criteria, if the proposal seek to remove land from NRL designation.

The Department does not believe the proposed "good faith analysis" based on a list of required metrics would add meaningfully to the analysis that already occurs. It's unlikely one set of pre-determined metrics would be applicable to the wide range of policy, code and map amendments that might be considered by the County.

Because the Board of County Commissioners approves every County-initiated planning project *before* the Department begins work on it, the Board can identify up front whatever type of analysis it wants done for a particular project; no new authority in code is required.

Recommendation

The Department recommends the Board **exclude** this amendment from the 2017 docket. It is unnecessary given current Board authority and would consume limited time and resources needed for other priority issues, contrary to docketing [criterion](#) (b).

P-11. Roger Mitchell

Summary

A geohazards checklist, analogous to a SEPA checklist, should be required for every planning and permitting project proposal.

History

The applicant submitted a similar amendment proposal in 2015. The Board chose not to docket it as part of the 2016 Update.

Analysis

All planning projects are required to undergo SEPA review, which begins with the completion by the applicant of a [SEPA checklist](#). All development projects must fill out Section B, Environmental Elements, which includes a subsection titled “Earth,” that includes a number of questions about the development site, including:

- What is the steepest slope on the site (approximate percent slope)?
- Are there surface indications or history of unstable soils in the immediate vicinity? and,
- Could erosion occur as a result of clearing, construction, or use?

Further, if development is proposed in an area of known or suspected geologic hazard risk, the applicant must submit a geologic hazard site assessment prepared by a qualified professional per [14.24.420](#).⁷ Properties containing geologically hazardous conditions require a geologically hazardous area mitigation plan which describes how the project has been designed to avoid and minimize the potential geologic hazard risks (SCC [14.24.430](#)).

The mitigation plan must comply with strict development regulations depending on the type of risks present; it must be approved by the Department before permits will be issued; and it must be implemented by the applicant as a condition of the project’s approval.

It is unclear how this proposal differs from these existing requirements or how the proposed geohazards checklist would add substantively to the County’s already-rigorous review of geohazards risks.

Recommendation

The Department recommends the Board **exclude** this amendment from the 2017 docket, on the basis that the proposed checklist would simply duplicate materials already required of applicants, consuming limited time and resources needed for other priority issues, contrary to docketing [criterion](#) (b).

⁷ “A qualified professional for preparing geotechnical reports and geotechnical design recommendations must be a professional geologist or geotechnical engineer, licensed in the State of Washington.” (SCC 14.04, Definitions)

P-12. Roger Robinson

Summary

The applicant proposes that all Rural Reserve land on South Fidalgo Island should be rezoned to a new zone called South Fidalgo Rural Residential (SFRR). The SFRR zone would allow the same standard density as Rural Reserve (1 primary residence per 10 acres) but would exclude many commercial/non-residential uses allowed in Rural Reserve. The proposed SFRR zone would also preclude CaRD development.

History

The Board deferred this proposal from the 2015 docket to the present docket.

Analysis

The applicants submitted the proposal after being told by the Board of County Commissioners in the fall of 2015 that the County had no plans to reinstate and complete the South Fidalgo Subarea Plan. The applicants suggest that implementing the SFRR zone—by reducing the range of non-residential uses and precluding CaRDs—would address most of the concerns that led islanders to pursue a subarea plan in the first place, including loss of rural character, traffic congestion, and a stressed aquifer.

According to the Department's permit data base, the County approved two CaRD land divisions in Rural Reserve on Fidalgo Island between 2005 and 2015. Those CaRDs resulted in five development lots—three of them through density bonuses—and two open space lots.

Many policy arguments can be made both for and against the proposal; however, there is not a docketing criterion that would clearly preclude its consideration. The code amendment would be easy to draft. The main question is how well it would be received by Fidalgo Island residents and landowners and whether the Board wants to establish a separate zone for one specific part of the County.

Considering the proposal could be a relatively efficient way to achieve closure on the issue of rural development on Fidalgo Island, without the need to complete a subarea plan, which the Department strongly recommends against due to lack of staff and resources.

Recommendation

The Department recommends the Board **include** this amendment from the 2017 docket. If the Board finds that the new zone would be useful, but the prohibition on CaRDs would not, the Board could instruct the Department to write its docketing resolution to implement only part of the proposal.

P-13. Skagitonians to Preserve Farmland (Rozema)

Summary:

This application has been withdrawn.

Public Petitions - Map Amendments

[PL16-0352](#); [Map](#). Port of Skagit

Summary

The proposal would change the designation of two Port-owned properties, totaling 3.3 acres, from Aviation Related (AVR) to Bayview Ridge Light Industrial (BR-LI). The lots lack airport access which renders them unusable in the AVR zone.

Analysis

The subject lots are located on Port property adjacent to Skagit Regional Airport and within the Bayview Business Park. The proposed rezone seeks to allow the development of these lots for industrial purposes consistent with the surrounding zoning and most likely future uses. Since the original zoning was established, the lots have become separated from the airfield by protected critical areas (wetlands). Since the lots lack airfield access and are located adjacent to Higgins Airport Way and in the Bayview Business Park, the best and only viable future use of these lots is light industrial development.

At just 3.3 acres, the proposed change would have a negligible impact on the allocation of industrial land at Bayview Ridge between the AVR and BR-LI zones.

Recommendation

The Department recommends the Board **include** this proposal in the 2017 docket. It is a minor map amendment that can be handled with existing Department resources.

[PL15-0383](#); [Map](#); Skagit Partners LLC

Summary

Amend the Comprehensive Plan and Development Regulations to establish a process for consideration and approval of a new fully contained community, consistent with RCW 36.70A.350.

Amend the Countywide Planning Policies (CPPs) to increase the Skagit County 20-year population forecast by 8,500, place the additional population in reserve for a new fully contained community, and make the CPPs consistent with the Comprehensive Plan and Development Regulation amendments described above.

Amend the Comprehensive Plan and Zoning designation of approximately 1,244 acres on the west slope of Butler Hill, including the Avalon Golf Links, the majority of which is currently designated Rural Resource-NRL with a Mineral Resource Overlay (MRO), to allow for development of a new fully contained community as proposed by Skagit Partners.

History

A proposal similar to this one was first submitted in 2015. The Board chose not to docket it at that time, for consideration through the 2016 Comprehensive Plan Update, but instead deferred it for possible consideration through the 2017 docket.

Analysis

The Department stands by the analysis included in its October 15, 2017 docketing memo to the Board, which concluded:

Without a population allocation for a new urban growth area, further County action to consider this particular proposal would be inconsistent with the County's Comprehensive Plan UGA designation policies, the Framework Agreement, the Countywide planning Policies, and the Growth Management Act.

The GMASC voted not to provide such an allocation in September 2015. The GMA Steering Committee is scheduled to meet on December 14 to indicate whether it is willing to consider revisiting the current population forecast and allocations that provide no population allocation for an FCC. Unless the GMASC's decision on December 14 reverses its 2015 decision, the Department believes there is no point in providing further consideration to this proposal. This recommendation is consistent with the Board of County Commissioners' March 2016 [letter](#) to the applicants' representative, Bob Carmichael, indicating that further analysis of FCCs in Skagit County should move forward only if such a work program item is approved and supported by the GMA Steering Committee.

Recommendation

At this time, the Department recommends **excluding** the proposal from the 2017 docket on the basis of [criterion](#) (e). Unless the GMA Steering Committee indicates willingness to reconsider the population forecast and allocations, there is no legal way for this proposal to be implemented.

County-Initiated – Comprehensive Plan or Code

C-1. Wiseman Creek Boardwalk Project Removal (Commissioner Wesen)

Summary

Remove the Wiseman Creek Boardwalk Project, which is proposed for a portion of the Cascade Trail, from the list of proposed non-motorized projects in the Comprehensive Plan's Transportation Technical Appendix. Wiseman Creek is a highly dynamic stream system and the petitioner believes that a boardwalk broad enough to span the potential flood area will be very expensive and will not necessarily be a successful solution to the problem of trail flooding. This proposal has not yet been considered or supported by the other two Commissioners.

History

The Wiseman Creek Boardwalk Project was added to the Transportation Element's [20-year project list](#) through the 2016 Comprehensive Plan Update. The project is also included in the Skagit County Parks and Recreation Comprehensive Plan and in the Skagit Council of Government's Regional Transportation Plan.

Analysis

The Cascade Trail is [frequently flooded](#) by Wiseman Creek during periods of major rainfall in the winter. The creek crosses the trail in an alluvial fan where the creek is naturally subject to flowing out of its normal channel and flooding the area to each side, [including the trail](#). During the dry

summer months, when fish are not present, the creek flows through the palustrine wetland⁸ to the north and/or subsurface.

The Washington Department of Fish and Wildlife has written to the County indicating that Wiseman Creek supports Chinook, steelhead, and native char—which are all federally listed species—as well as coho, pink, and chum salmon. The [WDFW letter](#) says that the Cascade Trail and nearby infrastructure built or permitted by the County are harmful to fish habitat and adversely affect the riparian area and natural stream processes.

The WDFW's preferred solution to the problem would be for the County to move the location where the trail crosses the stream out of the alluvial fan, eliminating the seasonal flooding of the trail and negative impacts on fish and stream processes. Short of that, the WDFW recommends an elevated boardwalk that spans the length of the alluvial fan and is tall enough to allow the stream and associated debris to pass under it. Commissioner Wesen has expressed concern that such a boardwalk would be extremely expensive and would not necessarily fully or permanently solve the problem.

The boardwalk project appears to Planning & Development Services to be necessary to protect Wiseman Creek and the fish it supports, and also to allow use of this portion of the Cascade Trail during winter months. The Board just approved inclusion of this project in the Comprehensive Plan Transportation Technical Appendix in June as part of the 2016 Update. Even if there are not immediate prospects for funding the project, it is important for the County to signal its awareness of the problem and intention to address it when resources become available; inclusion of the project in the Comprehensive Plan may be a requirement for some grant opportunities. Skagit County Parks and Recreation has a history of success in leveraging grant funded fish projects for the benefit of recreationalists.

Recommendation

The Department recommends that the Board **exclude** this proposal from the 2017 docket on the basis of criterion (c); the proposal is inconsistent with other goals, objectives and policies adopted by the Board, including the addition just last year of this project in the 20-year transportation project list; its inclusion in the Parks and Recreation Comprehensive Plan; and the County's ongoing efforts to sustain Skagit River salmon runs.

C-2. US Bike Road 10 (Coast to Cascades Trail) Corridor Study Revision (Commissioner Wesen)

Summary

Revise the [US Bike Route 10 \(Coast-to-Cascades Trail\) Corridor Study description](#), located in the Comprehensive Plan Transportation Technical Appendix, to preclude use of unused County right of way between Burlington and Bayview Ridge for non-motorized transportation purposes. The County owns unused right of way that runs through Ag-NRL lands and the petitioner is concerned about impacts of a potential non-motorized facility on agriculture. This proposal has not yet been considered or supported by the other two Commissioners.

⁸ Palustrine wetland refers to the types most people think of when hearing the term "wetland". These are the soggy, transitional areas (i.e., marshes, bogs, swamps, bottomland forests, and small ponds).

History

This corridor study was added to the Transportation Element's 20-year project list through the 2016 Update. In the process of Planning Commission consideration, the description was changed from a trail project to a corridor study. The study would consider shoulder widening where necessary and trail construction and/or existing trail improvements along this existing east/west multimodal corridor.

Analysis

The Coast-to-Cascade Trail Corridor Study description in the Transportation Technical Appendix is brief and does not specifically mention unused County right of way between Burlington and Bayview Ridge. That is one of many items that could be evaluated if such a corridor study were to occur. The Board of County Commissioners would first need to place the project on the 6-Year TIP.

Typically, the purpose of a corridor study is to consider a variety of options for a corridor, rule out options that are found to be economically, technically, or politically unfeasible, and identify options that are preferred. Some might consider it premature to rule out any potentials option in advance of the corridor study itself; however, that is a policy consideration that would receive further airing if the proposal is added to the docket and moves forward for full review. The Department does not find a docketing criterion that would warrant a negative recommendation.

Recommendation

The Department recommends that the Board **include** the proposal in the 2017 docket.

Note:

All of the following proposals originated with the Planning & Development Services Department, and the Department and recommends inclusion in the 2017 docket.

C-3. Garage Setbacks in Bayview Ridge Residential (Planning & Development Services, henceforth "PDS")

Summary

Revise SCC 14.16.340(5)(c)(i)(D) to clarify that this setback provision applies to new garages only.

Analysis

The setback does not work for existing garages built before the current setback was adopted.

C-4. Major Utility Development in Bayview Ridge Residential (PDS)

Summary

Add major utility development as a Hearing Examiner special use in the Bayview Ridge Residential zone, SCC 14.16.340.

Analysis

Minor utility development is already listed, but major utility development is inadvertently missing from the zone. This could preclude the ability to run larger water or sewer lines through the zone.

C-5. Temporary Events in Various Bayview Ridge Zones (PDS)

Summary

Make temporary events an outright permitted use in the Aviation Related, Bayview Ridge Light Industrial, and Bayview Ridge Heavy Industrial zones, as they are in Urban Reserve Commercial Industrial.

Analysis

As an example, the Heritage Flight Museum at Skagit Regional Airport currently needs to obtain a permit every time it holds an aviation event. Such temporary events should be an outright permitted use in the Aviation Related zone and in other industrial zones at Bayview Ridge.

C-6. Prohibit Creation of Multiple Lots in Small Scale Business (PDS)

Summary

Amend SCC 14.16.140, Small Scale Business, to prohibit lots from being divided through binding site plans to create more development potential than is intended in the Small Scale Business zone.

Analysis

The amendment clarifies that the Small Scale Business designation is intended for a single business, not multiple businesses on multiple lots created through a binding site plan. A property designated Small Scale Business may house a business up to 10,000 sq. ft. and employing up to 20 employees. While one business of this sort on a parcel is consistent with rural character and the intent of the zone, multiple such businesses on a single parcel would not be.

C-7. Rural Freeway Service-and Rural Center Development Size Limits (PDS)

Summary

Clarify that SCC 14.16.120(5)(b), Rural Freeway Service, limits development to one building rather than to one establishment per parcel; and that the building may contain more than one business. Make similar change to Rural Center code SCC 14.16.110(5)(b).

Analysis

The amendment clarifies that buildings in Rural Freeway Service and Rural Center may contain more than one business, provided that the building itself falls within the overall square footage limits of the zone. There are several examples in the RFS and Rural Center zones where individual buildings house more than one business, providing a wider range of commercial uses to rural residents without exceeding building size limits that help to maintain rural character.

C-8. Mobile Home Parks (PDS)

Summary

Correct SCC 14.16.850(9) which references the wrong section of Title 12 for mobile home parks.

Analysis

The amendment simply corrects a scrivener's error.

C-9. Similk Beach Septic (PDS)

Summary

Update SCC 14.16.920 to reflect that the septic system envisioned by this section was never constructed.

Analysis

The amendment simply corrects code to reflect actual conditions.

C-10. Affidavit for Accessory Dwelling Unit (PDS)

Summary

Delete requirement under SCC 14.16.710(1)(i) that the property owner must sign an affidavit affirming the owner or an immediate family member will occupy the principle dwelling unit or accessory dwelling unit (ADU) for at least six months per year. Consolidate this requirement with title notice requirement in SCC 14.16.710(1)(j).

Analysis

The ADU code can be simplified through this amendment, and permit processing can be streamlined.

C-11. Variance Chapter Formatting Error (PDS)

Summary

Correct the formatting error in SCC Chapter 14.10 Variances made through the 2016 Comp Plan/Code update.

Analysis

The amendment corrects a formatting error.

C-12. Repair, Replacement, and Maintenance of Water Lines (PDS)

Summary

Make repair, replacement, and maintenance of existing water lines that are 12 inches or less in diameter a permitted use in all zoning districts. The current limit in County code is 8 inches.

Analysis

The amendment would make County code consistent with SEPA categorical exemptions, which were amended in 2014 to exempt from SEPA review storm water, water and sewer lines 12 inches or less in diameter. The amendment will expedite smaller scale repair, replacement and maintenance projects on existing lines.

C-13. Reorganize Personal Wireless Services Facilities (PDS)

Summary

Revise SCC 14.16.720 to achieve clearer organization and clarify applicability.

Analysis

The amendment clarifies and improves organization of code and provides an opportunity to ensure consistency with federal telecommunications law.

County-Initiated – Map

C-14. Update and simplify the Airport Environs Overlay (AEO) map (PDS)

Summary

Change Airport Compatibility Zone (ACZ) 1 to ACZ-2 for all properties not owned by the Port of Skagit.

Remove extraneous lines on AEO map that make it difficult to interpret.

Analysis

Several private properties are in the ACZ 1 zone just west of Farm to Market Road. ACZ 1 removes all ability to develop property, which is not appropriate for land in private rather than Port, ownership. This proposal would change the zone affecting these properties to ACZ-2.

The removal of extraneous lines on the AEO map will make the map much easier to use. Skagit GIS has already revised the map viewable through iMap, as shown [here](#). This map amendment will change the official AEO map as well.

C-15 – C18. Update OSRSI Designations (PDS)

Summary

These amendments propose to update Public Open Space of Regional/Statewide Importance (OSRSI) designations on the Comprehensive Plan/Zoning map. Most would add land in public ownership to OSRSI; however, in the case of Ika Island, which is privately owned, the proposal would remove the OSRSI designation.

Analysis

Chapter 2 of the Comprehensive Plan says: “Public open space areas include publicly owned lands that are dedicated or reserved for public use or enjoyment for recreation, scenic amenities, natural resource land management, or for the protection of environmentally sensitive areas. Where identified.... to be of regional or statewide importance, such lands are designated on the Comprehensive Plan/Zoning Map.” (Comprehensive Plan, p. 35)

Most of the proposed amendments address land owned by the Department of Natural Resources (DNR) and Seattle City Light (SCL), both of which are public entities. Each organization has placed additional land that it owns into one of several categories that the Comprehensive Plan/Zoning Map identifies as OSRSI. The proposed additions include land the Department of Natural Resources has added to its Natural Resources Conservation Areas (NRCA) and Natural Area Preserves (NAP); and land that Seattle City Light has added to its Wildlife Mitigation Lands. Other DNR and Seattle City Light lands so designated by the organizations are already shown in the Comprehensive Plan/Zoning Map as OSRSI. This amendment updates the Comprehensive Plan/Zoning Map to add these additional lands that meet the OSRSI designation criteria.

Another amendment would apply the OSRSI designation to Skagit County's Presentin Park in Marblemount.

C-15. Ika Island to Rural Reserve (PDS)

Summary

Ika Island (P15229 and P15230) is privately owned and therefore should not be designated Public Open Space of Statewide/Regional Importance (OSRSI). Some of the privately-owned land adjacent to the island is 2nd class tidelands and would be removed from OSRSI and shown as "water" consistent with other 2nd class tidelands, as shown in this [map](#) and this [aerial photo](#).

Analysis

The County became aware of the ownership issue through a public comment submitted during the 2016 Update. Because of its relatively small size and geographic isolation, the parcel does not meet the designation criteria for any of the natural resource land designations. The most appropriate designation would be Rural Reserve, consistent with other wooded knolls in the area.

The Department has communicated with the property owner who supports the proposed change for Ika Island. (The property owner would like to see the private tidelands also designated Rural Reserve but this would be contrary to how tidelands are mapped elsewhere in the County).

C-16. Department of Natural Resources Lands to OSRSI (PDS)

Summary

The Department of Natural Resources has added land on Cypress Island and nearby Hat Island to its Natural Resources Conservation Areas (NRCA) and Natural Area Preserves (NAP) designations. According to DNR, "Natural Resource Conservation Areas (NRCAs) protect outstanding examples of native ecosystems, habitat for endangered, threatened and sensitive plants and animals, and scenic landscapes. More than 118,700 acres are conserved in 36 Washington state NRCAs." Likewise, "Natural Area Preserves protect the best remaining examples of many ecological communities including rare plant and animal habitat. The preserve system presently includes more than 38,290 acres in 56 sites throughout the state."

The DNR lands proposed for addition to OSRSI on Cypress Island and on nearby Hat Island are shown in maps 1 – 7 of this [map set](#); and are also identified by the same numbers on this [Countywide map](#).

Skagit GIS/Mapping informed Planning and Development Services about these potential map updates in the process of discussing other 2017 docket map amendment proposals.

The Commissioners should docket this proposal to designate these new NRCA and NAP properties as OSRSI, consistent with existing DNR lands already designated as such in the Comprehensive Plan.

C-17. Seattle City Light Lands to OSRSI (PDS)

Summary

Seattle City Light has added land to its inventory of Wildlife Mitigation Lands in Skagit County. According to Seattle City Light website: "The Skagit River Wildlife Mitigation Program is designed to

meet the requirements of Federal Energy Regulatory Commission License for City Light's Skagit Project. It includes three main components: acquiring and managing wildlife habitat; providing funding for wildlife monitoring to City Light's partners on the Skagit River; and administering wildlife research grants.”

The Seattle City Light lands proposed for addition to OSRSI are shown in maps 8 – 20 of this [map set](#); and are also identified by the same numbers on this [Countywide map](#).

Skagit GIS/Mapping informed Planning and Development Services about these potential map updates in the process of discussing other 2017 docket map amendment proposals.

The Commissioners should docket this proposal to designate these new Wildlife Mitigation Lands as OSRSI, consistent with existing Seattle City Light lands already designated as such in the Comprehensive Plan.

C-18. Presentin Park to OSRSI (PDS)

Summary

Skagit County's Presentin Park in Marblemount was enlarged by about 13 acres in 2009. It is proposed to be designated OSRSI like other County parks including Howard Miller and Sharpe's Park and the Montgomery-Duban Headlands

Presentin Park is an existing County park and is included as a park facility in the Skagit County Comprehensive Parks and Recreation Plan.

Skagit GIS/Mapping brought this map amendment proposal to the Department's attention, suggesting Presentin Park should be designated OSRSI consistent with other County parks.

C-19. Island International Artists Rural Business Correction (PDS)

Summary

The proposal would correct the location of a Rural Business (RB) designation on Guemes Island. The RB designation intended for Island International Artists is shown on an incorrect parcel. This technical mapping error occurred several years ago. It was recently brought to the Department's attention by Skagit GIS/Mapping.

Department records show the RB designation was intended for the property housing Island International Artists. The Department has confirmed that business is located at P61751, 5362 Guemes Island Road, not at P46905, 5412 Guemes Island Road, which is currently and designated RB.

The proposal would move the RB designation from P46905 to P61751. It would redesignate P46905 to Rural Intermediate, consistent with surrounding properties.

The Department has written to and called the owners of both parcels. The owner of P46905 is supportive of the proposed change. The Department has not heard back from the owner of P61751 where Island International Artists is located.

C-20. Weide Mineral Resource Overlay Correction (PDS)

Summary

The proposal would restore the Mineral Resource Overlay (MRO) designation to portions of parcels P35738 and P114291 and an adjacent portion of P35737.

The MRO was removed from those parcels through the 2005 Comprehensive Plan Update as part of the countywide update of the MRO that occurred at that time. Resource maps used by the County for that update did not show commercially-significant mineral resources in that location. The MRO designation was removed following opportunity for public review and comment. However, Department records indicate the property owners did not receive a notice sent out to other property owners informing them that the MRO was proposed for removal.

Recently the property owners contacted the Department about applying for a mining special use permit and provided documentation of hard-rock resources on the property. As a result, the Department believes the proposal to restore the MRO should be docketed as a County-initiated amendment.

The property owner supports the proposal.

C-21. Jensen Rural Reserve Correction (PDS)

Summary

The proposal would change the designation of P74450 and P20724, located between the Swinomish Channel and the Town of La Conner from Rural Business to Rural Reserve. Despite the property's Rural Business zoning, there is only a residence on site. The property owners are not interested in establishing a business or selling the property for commercial purposes, yet County code on non-conforming uses and structures precludes any enlargement or alteration to the residence, such as adding a deck.

Normally the property owners themselves would be required to submit a map amendment proposal, but the County bears some responsibility for the property's mis-designation as Rural Business. In 2012, the County initiated a map amendment after learning that the property was incorrectly shown as being within the Town of La Conner. The property (and two others to the south that do have commercial uses) was rezoned to Rural Business, which is inconsistent with the existing residential use of the property.

The proposal would redesignate the property to Rural Reserve, making the existing residence a conforming use. The property owner supports the proposal.