



To: Hal Hart, Planning Director
From: Robert Carmichael and Simi Jain, attorneys for Skagit Partners
Re: Alternative Process for Docketing
Date: 10.10.18

We think it is a good time to revisit the County's approach to Skagit Partners' applications and propose that the GMASC recommendation on our applications be given *after* the County's decision on docketing. We understand that you plan to meet with your Commissioners prior to our meeting to discuss an alternative process for docketing Skagit Partners' applications than has been followed for prior applications. As such, we are providing this memorandum which addresses our proposed process and the reasoning behind our approach.

Historical Question Presented to the GMA Steering Committee (GMASC):

Skagit Partners submitted applications requesting changes to the County's Comprehensive Plan, development regulations and Countywide planning policies for docketing in the past. Each time the County sent Skagit Partners' applications to the GMASC seeking its recommendation *before* the County's decision setting its docket. Each County request posed various versions of, does the GMASC wish to revisit the 20-year population allocation? The GMASC's negative answers to variations of this question have stopped Skagit Partners' application from moving forward to the County's docket. This has prevented the applicant and the County from really reviewing the applications on their merits. The population allocation question to the GMASC is best answered *after* gathering information regarding the effects of a change to population allocation so that the GMASC can make a recommendation after public vetting and an environmental impact study. This will help the GMASC make a more fully informed decision on the above question (and others).

Benefits of a non-project EIS

Upon docketing, the County will undertake its environmental review of Skagit Partners' proposed amendments. SCC 14.08.050. A non-project EIS would be an appropriate vehicle for this environmental review. The County will be in charge of determining the scope of topics to be covered in such an EIS. The scope of such an EIS can be broad, analyzing the impacts of all of the proposed changes requested, including changes to the countywide planning policies. Such an EIS will necessarily include information on housing and affordable housing and likely also include information on transportation, utilities, schools, and other topics. This information will be helpful to the County and its jurisdictions even if the County does not approve of the amendments that Skagit Partners' proposes.

Skagit Partners will bear the cost of the EIS. It has also offered to fund a new staff position to help with review of its applications. As such, the total cost to the County should be reasonable. As to the

likelihood of an EIS appeal, most EIS challenges are to the adequacy of the EIS. Skagit Partners expects the County to fully consider all potential significant adverse environmental impacts so that the community can intelligently assess whether it wants to support adoption of the proposed changes to CPPs, comprehensive plan amendments, and development regulations. Skagit Partners will support a thorough environmental review to minimize chances of an appeal. And as a non-project EIS, an appeal is less likely than with a project specific EIS.

No Requirement for GMASC recommendation:

Our proposed process is consistent with the County's code and the Framework Agreement. Under the County Code, SCC 14.08.030 and .040, the Planning Department and the Board of Commissioners are not required to obtain the recommendation of the Steering Committee prior to the Board's decision on docketing proposed changes to the CPPs and the population allocation. The Framework Agreement also does not require the Steering Committee's recommendation prior to the Board's decision on docketing.

The Framework Agreement addresses how to adopt new CPPs. (Sections 3, 9 and 10). The Agreement requires that adoption of any amendment to a CPP follows the procedures in the Agreement with ultimate adoption by the Board of County Commissioners. The Steering Committee shall develop recommendations for CPPs and UGAs. (Section 3A). Policy decisions regarding CPPs should be arrived at consensus and if this can't be achieved then the members follow the Agreement on how votes may be counted. (Section 3B). These sections do not state that the policy decision must be made *prior* to the County's docketing decision.

Also, under the Agreement, policy decisions concerning a change to any *municipal* UGA population allocation shall not take effect until ratified by the City whose UGA is affected by the proposed change and the County. (Section 3B). However, the Skagit Partners application does not propose a population allocation change to any *municipal* UGA population allocation. Only the County must ratify the proposed change to the population allocation. So, the County can move forward to docketing with the requested change to the County's population allocation without a recommendation from the Steering Committee.

The Steering Committee would review the applications and make a recommendation to the County prior to the County's decision on the non-project applications.

Effects of Proposed CPP changes on Jurisdictions within the County

The benefits in seeking the GMASC recommendation on Skagit Partners' applications after the County's decision on docketing are considerable. Information has value. By docketing the proposals so that information on vital topics such as housing and housing affordability may be gathered along with public input, the GMASC and County will for the first time be able to make decisions based on facts, rather than speculation.

On the other hand, the changes to the CPPs have a neutral or no effect on the jurisdictions within the County. It is hard to see any real disadvantages with bringing the proposals to the GMASC *after* docketing. Our proposed CPP changes are as follows.

1. Amendment to CPP 1.1 which clearly states that urban growth may be allowed outside of cities and towns if it is designated a new fully contained community.

Effect of Change on Jurisdictions

The above change allows the *possibility* of a new fully contained community in Skagit County. Such UGAs are specifically allowed under GMA (RCW 36.70A.350). This change, without more, does not directly affect jurisdictions within Skagit County.

2. Population Reservation for Allocation to Avalon: 8500

Effect of Change on Jurisdictions

The above change allows the *possibility* of the specific fully contained community called Avalon, which Skagit Partners seeks to establish in the future. This population allocation does not require any changes to the current population allocations for each municipal UGA. Instead, the addition of 8500 would be reserved for addition to the County's population allocation. Also, the additional population reserved for a fully contained community is well within the range provided by OFM's forecast. "In 2014, the Growth Management Act Steering Committee adopted a county population target of 155,452 for 2036, or 35,751 new residents over the next 20 years" (2016 Comp. Plan p. 23). "The OFM forecast a range from 128,123 to 198,189." (Id.) Adding an additional 8500 population reserved to the County allocation still leaves the overall Skagit County population projection much closer to the median than the high point of the OFM range.

3. A new Section 5 to Appendix B of the CPPs

5. New Fully Contained Communities. New fully contained communities are specially authorized non-municipal urban growth areas under RCW 36.70A.350, which have the potential to draw additional population that would not otherwise come to reside in Skagit County. A new fully contained community is not within the forecasting parameters described by the population allocation process outlined in Appendix B. Therefore, additional population may be allocated or reserved to a new fully contained community outside the procedural steps in Appendix B, upon recommendation of the GMASC and approval of the County Commissioners, so long as the additional population allocated to the new fully contained community does not result in Skagit County exceeding the high range of the most recently published official 20-year population projections for Skagit County from the OFM.

Effect of Change on Jurisdictions

The above change allows the *possibility* of a new fully contained community in Skagit County. This possibility does not affect jurisdictions within Skagit County.

Conclusion

Skagit Partners will fund a comprehensive non-project environmental impact study, providing the County with valuable information on housing and other topics, from which a thorough and transparent public review of its applications may proceed. The best way to ensure this opportunity is to seek the GMASC recommendation on the applications *after* the County's decision on docketing. This will enable the GMASC to make an informed decision at the appropriate time.

We look forward to meeting with you and answering any questions or concerns.