

An Ordinance Adopting Amendments to Skagit County Code 14.04 and 14.16 Off-Site Compensatory Mitigation on Agricultural Lands

Whereas, the Growth Management Act requires the County to process amendments to local development regulations per Skagit County Code (SCC) Chapter 14.08;

Whereas, Skagit County has declared that natural resource lands, including agricultural lands, are a cornerstone of the County's economy, culture, community, and history, and as such, their protection and enhancement is of paramount importance to Skagit County and its citizens;

Whereas, the County has declared that commercial, residential and industrial uses unrelated to agriculture are to be discouraged on designated Agricultural Natural Resource Lands (Ag-NRL);

Whereas, only some 88,000 acres of prime Skagit farmland remain, and continued conversion of prime farmland to other uses is likely to have far-reaching effects on the stability and viability of Skagit County's agricultural economy;

Whereas, in 2009, Skagit County prohibited mitigation banking via large scale habitat projects on Ag-NRL lands, over concern that mitigation capital targeting farmland would increasingly create inappropriate economic and political pressure to convert farmland above and beyond regulatory and resource requirements;

Whereas, the Board of County Commissioners finds that existing regulations are inadequate insofar as existing regulations prevent only offsite mitigation on farmland that involves the sale of third party mitigation credits;

Whereas, the Board of County Commissioners finds that adopting an ordinance prohibiting special use permits for offsite compensatory mitigation on lands designated Ag-NRL is necessary for the immediate preservation of the public health and safety and for the support of Skagit County government and its existing institutions;

Whereas, the Board of County Commissioners acknowledges our collective national obligation under the Treaty of Point Elliott to maintain in perpetuity a harvestable anadromous fishery resource in the Skagit River ecosystem, and finds that a robust and sustainable fisheries resource is of significant economic and cultural benefit to our community, both tribal and non-tribal;

Whereas, the Board of County Commissioners affirms the County's commitment to help expedite the completion of habitat enhancement as necessary to meet the recovery goals of the Skagit Chinook Recovery Plan using state and federal funds, consistent with the Farm, Fish and Flood Initiative; Estuary Restoration Strategic Assessment; and Tidegate Fish Initiative Agreement, which this ordinance in no way prohibits;

Whereas, the Board adopted an emergency ordinance in identical form to the amendment now proposed on July 18, 2022, taking written and verbal comment on the ordinance at a hearing on September 6, 2022, pursuant to RCW 36.70A.390;

Whereas, the Department held one work session with the Planning Commission to review the Department's recommendations on the proposed prohibition;

Whereas, the County issued a SEPA threshold determination of non-significance (DNS) on August 23, 2022, in accordance with the WAC 197-11 and SCC Title 16;

Whereas, the County received approval of review from the Washington State Department of Commerce on August 24, 2022, in accordance with the Revised Code of Washington (RCW) 36.70A.106;

Whereas the County advertised a public comment period on September 8, 2022, and the Planning Commission held a public hearing on September 27, 2022, deliberating on the proposed amendments on October 11, 2022;

Whereas, the Planning Commission made a Recorded Motion concerning the proposed code amendments to SCC 14.04 and 14.16 (**Attachments 1 and 2**); and

Whereas, the Board of Commissioners has reviewed the public comments and the Planning Commission's Recorded Motion for the code amendments;

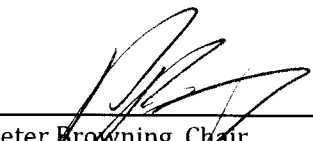
Now Therefore Be It Ordained by the Board of County Commissioners:

Section 1. The Board of County Commissioner's adopts the amendments to SCC 14.04 and 14.16 as shown in **Attachment 2**.

Witness Our Hands and the Official Seal of Our Office this 24 day of October 2022.

**BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**

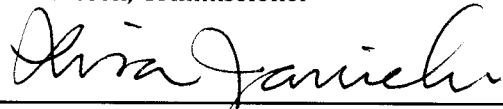




Peter Browning, Chair



Ron Wesen, Commissioner



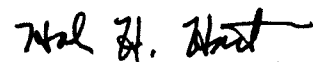
Lisa Janicki, Commissioner

Attest:




Clerk of the Board

Recommended:



Department Head

Approved as to form:



Civil Deputy Prosecuting Attorney

Skagit County Planning Commission's Recorded Motion Regarding the Amendments to Skagit County Code 14.04 and 14.16 Off-Site Mitigation on Agricultural Lands

Proposal publish date:	September 8, 2022
Proposal name:	Amendments to Skagit County Code 14.04 and 14.16 Off-Site Mitigation on Agricultural Lands
Documents available at:	www.skagitcounty.net/Departments/PlanningAndPermit/Mitigation2022.htm
Public hearing body:	Skagit County Planning Commission
Public hearing date:	Tuesday, September 27, 2022, at 6 p.m.
Written comment deadline:	Thursday, September 29, 2022, at 4:30 p.m.
PC deliberations:	Tuesday, October 11, 2022

The Planning Commission held one work session on the amendments to Skagit County Code 14.04 and 14.16, Off-Site Mitigation on Agricultural Lands, on Tuesday, September 13, 2022.

On September 8, 2022, the Planning and Development Services Department published a Notice of Availability (including SEPA determination of nonsignificance and notice of written comment period and public hearing) and staff report, and transmitted a 60-day Notice of Intent to Adopt to the Department of Commerce.

The staff report published on September 8, 2022, contains additional findings related to process, public notice, and department recommendations.

The public comment period was open from September 8, 2022, until September 29, 2022 at 4:30 p.m.

The Planning Commission deliberated on the proposal on October 11, 2022.

After considering the written and spoken comments and considering the record before it, the Planning Commission enters the following findings of fact, reasons for action, and recommendations to the Board of County Commissioners.

Findings of Fact and Reasons for Action

1. Critical mass of farmland is required to support farm practices including crop rotation and agricultural support businesses.

2. A pattern of steady loss of farmland has been documented due to development and other conversion.
3. The Board of County Commissioners found it absolutely necessary, "that any conversion of prime Skagit agricultural land be highly likely to deliver and increase in harvestable anadromous species while minimizing impacts to agriculture and farmland."
4. This amendment is consistent with the Comprehensive Plan by its vision statement to protect and conserve agricultural resource lands and to continue to be viable today and into the future with a goal to ensure the stability and productivity of agriculture in Skagit County. Included in the Comprehensive Plan there are guiding principles to protect agricultural land resources by minimizing the loss of the resource by preserving agricultural lands for agriculture purposes and by limiting new non-agricultural uses and activities on agriculture resource lands.
5. Skagit agricultural lands have a greater value than its dollar figure would indicate.
6. The amendment only prevents large scale habitat restoration projects done as offsite compensatory mitigation for environmental impacts occurring on non ag-NRL lands.
7. Large scale programmatic habitat enhancement often envisions the conversion of farmland adding to further loss of farmland.
8. The Growth Management Act and Countywide Planning Policies encourage the conservation of productive agricultural lands and discourage incompatible uses.
9. Farmland can be targeted for easy acquisition for mitigation by large outside entities, creating undesirable opportunities that lead to conversion of farmland for distant and offsite environmental impacts unrelated to farming.
10. A permanent amendment is needed to advance the County's obligation to protect Ag-NRL lands from inappropriate conversion to non-agricultural uses.

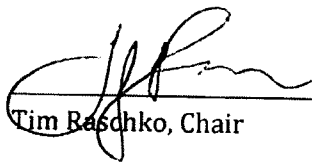
Recommendation

The Planning Commission recommends that the Board of County Commissioners **approve** the proposal without changes.

This recorded motion approved October 11, 2022:


Commission Vote	Support	Oppose	Absent	Abstain
Tim Raschko, Chair	x			
Tammy Candler, Vice Chair	x			
Kathy Mitchell	x			
Vince Henley	x			
Mark Knutzen	x			
Amy Hughes	x			
Martha Rose	x			
Joe Woodmansee	x			
Jennifer Hutchison	x			
Total	9	0	0	0

SKAGIT COUNTY PLANNING COMMISSION
SKAGIT COUNTY, WASHINGTON



Tim Raschko, Chair

10-11-22
Date



Hal Hart, Secretary

10-11-22
Date

2022 Amendments re Offsite Compensatory Mitigation on Ag-NRL zones— DRAFT

Plain text = existing code with no changes
~~Strikethrough~~ = existing code to be deleted
Underlined = new code to be added
~~Double Strikethrough~~ = existing code moved to another location
Double Underline = existing code moved from another location
Italics = Instructions for code reviser/reviewer

Markup DRAFT September 2, 2022

Chapter 14.04 Definitions

Chapter 14.16 Zoning

Chapter 14.04 Definitions

14.04.020 Definitions

Offsite compensatory mitigation: Any action proposed on Ag-NRL zones lands as compensatory mitigation for activities, actions, or environmental impacts occurring outside Skagit County Ag-NRL zones lands.

Chapter 14.16 Zoning

14.16.400 Agricultural—Natural Resource Lands (Ag-NRL).

(1) – (3) *No change*

(4) Hearing Examiner Special Uses.

(a) – (c) *No change*

(d) Habitat enhancement and/or restoration projects, except mitigation banks and other projects involving offsite compensatory mitigation, as defined by SCC 14.04.020.

(e) – (o) *No change*

(5) – (7) *No change*