



# Planning & Development Services

---

1800 Continental Place ▪ Mount Vernon, Washington 98273  
office 360-416-1320 ▪ pds@co.skagit.wa.us ▪ www.skagitcounty.net/planning

## Memorandum

**To:** Skagit County Board of County Commissioners  
**From:** Jenn Rogers, Long Range Planner  
**Re:** Planning Commission's Recorded Motion on Amendments to Skagit County Code 14.04 and 14.16 RE: Off-Site Compensatory Mitigation on Agricultural Lands  
**Date:** October 24, 2022

---

### Summary

Planning and Development Services (PDS) is providing this memorandum in advance of the October 24, 2022, meeting of the Board of County Commissioners on the amendments to the Skagit County Code 14.04 and 14.16 regarding off-site mitigation on agricultural lands. This memo serves as a formal transmittal of the Planning Commission Recorded Motion within two weeks of signature. Appendix 1 contains the Planning Commission Recorded Motion and Appendix 2 includes the proposed amendments.

### Background

Agriculture has long been a defining characteristic of Skagit County's identity and culture. The Skagit Valley is one of the most fertile valleys in the world, producing major commodities, specialty crops, and vegetable seeds and flowers with unique market niches. In total about 88,000 acres of land in the County is devoted to agriculture—most of this land zoned Ag-NRL. Consequently, agriculture is a central part of the Skagit County economy.

On July 18, 2022, the Skagit County Board of Commissioners passed Ordinance O20220007. This interim ordinance declared a moratorium on the issuance of special use permits for significant habitat enhancement projects on Ag-NRL lands that involve offsite compensatory mitigation.

In support of the interim ordinance, the Board noted not only the importance of agriculture to the County's culture and economy, but that its existence is not guaranteed and must be protected. A critical mass of farmland is required to support farm practices such as crop rotation and ensure productivity sufficient to support the businesses and infrastructure that process, transport, store Skagit County agricultural products. The pattern of steady loss of farmland leading to collapse of farming has played out in numerous Western Washington

farming communities to our south. Due to the complex interplay of private economic relations involved, the precise acreage necessary to sustain a farming economy in the Skagit is not reasonably calculable. A significant amount of farmland acreage has already been lost to development and other conversion, and it is clear that failure to maintain the Skagit's farmland base over time will ultimately lead to a collapse of productive agriculture in the Skagit Valley.

The Skagit fisheries resource is also a defining part of Skagit County's identity and culture, which Skagit County's Comprehensive Plan requires the County to protect as well. Key planning documents, most notably the 2005 Skagit Chinook Recovery Plan developed principally by the Swinomish Indian Tribal Community, envisions estuary restoration projects, much of it on Ag-NRL lands, totaling some 2700 acres. While not a typical development activity, large-scale programmatic habitat enhancement nevertheless envisions the conversion of farmland, adding to the cumulative loss of farmland.

In balancing the competing interests of agriculture and the fisheries in this context, the Board found it absolute necessary "that any conversion of prime Skagit agricultural land be highly likely to deliver an increase in harvestable anadromous species while minimizing impacts to agriculture and farmland".

Because habitat enhancements projects on farmland typically involve the removal and relocation of major dike, levee and drainage systems, the Board also noted that the kind of habitat projects the ordinance is concerned with are significant public works construction projects that by their nature impact critical infrastructure.

Certain poorly planned, sited and/or executed habitat enhancement projects on Skagit farmland in the past, undertaken by others with inadequate coordination with diking and drainage districts, have created substantial cost and hardship for landowners and special purpose districts while unhelpfully undermining community support for fisheries resource actions. It is the Board's policy to avoid more such situations in the future.

Given the absolute need for habitat projects to be effective and not adversely impact critical infrastructure, the Board found "it imperative that habitat enhancement projects on Ag-NRL lands be sited, planned, executed and maintained with the utmost forethought and care, with the direct and continuous involvement of diking and drainage districts an indispensable necessity".

In particular, the County and local diking/drainage worked closely with federal, state, tribal and other partners to produce the Estuary Restoration Strategic Assessment, which determined the highest and best locations for significant estuary habitat enhancement necessary to implement the 2005 Skagit Chinook Recovery Plan developed by the Swinomish Indian Tribal Community. The major delta habitat enhancement projects envisioned are substantially on schedule. The Board's emergency adoption of the interim ordinance was in part motivated by compelling

evidence that Seattle City Light -- which will in the next several months file for a new federal license for its Skagit Hydroelectric Project located some 70 miles from the Skagit Delta in Whatcom County -- intends to enter agreements committing to significant habitat enhancement projects on Skagit Ag-NRL lands, the nature and extent of which has yet to be defined. While the Board fully supports collective fisheries resources recovery goals developed locally as necessary to achieve the objectives of the 2005 Skagit Chinook Recovery Plan, the Board concurrently opposes the idea that energy production firms and others should have the right to mitigate for their distant environmental impacts by acquiring and converting Skagit Ag-NRL lands.

The interim ordinance ultimately found that “[t]he regulations currently in effect do not adequately ensure the protection of Ag-NRL lands as agricultural land of long-term significance in Skagit County.” The scope of the declared moratorium to address this deficiency is coextensive with the proposed amendment: prohibition of offsite compensatory mitigation projects on Ag-NRL land.

PDS analyzed the proposed amendments under the State Environmental Policy Act (SEPA) and for consistency with the existing comprehensive plan and the unified development regulations. A full proposal was released for public review and comment on August 25, 2022. A public hearing was held with the Skagit County Planning Commission on September 13, 2022. No members of the public provided testimony at the hearing and there were no written comments submitted for the record.

The Planning Commission recorded motion (Appendix 1) was approved on October 11, 2022. The recorded motion includes recommendations for the Board’s consideration. The various staff reports, memos, and public noticing documents are available to view on the County’s project webpage at the following address:

<https://www.skagitcounty.net/Departments/PlanningAndPermit/Mitigation2022.htm>

This memo serves as a formal transmittal of the Planning Commission recommendation within two weeks of signature.

### **Public Notice and Participation**

On September 8, 2022, the Staff Report for the offsite mitigation amendments was published to the County website. The public notice opened the comment period, noticed the public hearing, and provided the environmental (SEPA) determinations.

Notice was published to the Skagit Valley Herald, the PDS email distribution list, SEPA distribution list, and posted to the PDS and legal notice webpage.

On September 27, 2022, the Planning Commission held a public hearing as authorized by Skagit County Code (SCC) 14.08.080. The hearing was attended by the full Planning Commission and the public had the opportunity to provide comment. A full transcript of the meeting can be found on the [Planning Commission Agenda and Archive page](#).<sup>1</sup>

### **Summary of Planning Commission's Recorded Motion**

On October 11, 2022, the Planning Commission deliberated on the proposed amendments. The recorded motion (Appendix 1) was approved on October 11, 2022. The motion carried 9-0-0-0. Appendix 1 is the Recorded Motion from the Planning Commission recommending the Board adopt the amendments as presented by staff. Redline code language can be found in Appendix 2.

### **Planning and Development Services (PDS) Department Recommendation**

PDS staff provided recommendations in staff reports to the Planning Commission. The department is supportive of the recommendations in the Planning Commission recorded motion.

### **Requested Board Action**

The Department will present the Planning Commission Recorded Motion and this memo to the Board on Monday, October 24, 2022. Proposed amendments can be found in Appendix 2. The BoCC is authorized by SCC 14.08.090 to take the following actions to address the proposed amendments:

1. Adopt the proposed amendments as recommended by the Planning Commission.
2. Adopt the proposed amendments with modifications. Per SCC 14.08.090(2)(b)(i-v), substantial changes to any of the proposals shall require an additional opportunity for public review prior to final action.
3. Decline to adopt the proposed amendments.
4. Remand the issue(s) to the Department or the Planning Commission for additional work, study, review, or refinement.

PDS has prepared an ordinance for Board deliberation on October 24, 2022.

---

<sup>1</sup> <https://www.skagitcounty.net/Departments/PlanningCommission/PCminutes.htm>

**Attachments:**

Appendix 1, Planning Commission Recorded Motion, Amendments to Skagit County Code 14.04,  
14.16, RE: Off-Site Compensatory Mitigation on Agricultural Lands

Appendix 2, Amendments to Skagit County Code 14.04, 14.16

