



# Planning & Development Services

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## Memorandum

To: Board of Skagit County Commissioners  
From: Tara Satushek, Sr. Planner  
Date: October 29, 2024  
Re: Proposed SCC 14.16.400(4)(h) Amendment; Prohibiting Major Electrical Utility Developments on Ag-NRL Zone Land

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### Summary

This staff report is issued ahead of the discussion and possible action scheduled with the Board of Skagit County Commissioners on November 4, 2024. The proposal seeks to amend SCC 14.16.400(4)(h) to prohibit the siting of electrical generation and/or storage facilities classified as major utility developments on Agricultural—Natural Resource Lands (Ag-NRL).

Currently, these developments can be permitted with a hearing examiner special use permit (SUP). The Planning Commission held an open public hearing on October 8, 2024, received public comments, deliberated, and recommended approving the proposed amendment. Please refer to Exhibit 1 for the proposed code amendment.

**Staff Recommendation:** Approve the proposed amendment.

### Background

SCC 14.040.20 defines Utility development as; “*includes, but is not limited to, facilities and services that generate, transport, process, or store water, sewage, solid waste, electrical energy, communications and pipelines for fuel, oil, natural gas, and petroleum products. A utility development is one of the following types:*

- (1) Minor utility development: *an unmanned utility development designed to serve a small local community that would be considered a normal utility service for the area.*
- (2) Major utility development: *a utility development that is not a minor utility development or a major regional utility development.*
- (3) Major regional utility development: *a utility development that is designed to serve a region.”*

From 2023-2024, at the request of energy companies seeking to develop energy production or storage facilities on farmland, three Administrative Official Interpretations (AOI) on defining electrical utility developments as a major utility development were issued. While a major utility development can be permitted on Ag-NRL with a hearing examiner special use permit (SUP), to

obtain the SUP the applicant must establish that “there is no other viable parcel or non-agricultural designated land to serve the affected area.” [SCC 14.16.400\(4\)\(h\)](#).

This criterion was not evaluated in the AOIs, which solely classified the projects as major utility developments. Recently, the Goldeneye Project filed an application with the Washington Energy Facility Siting Evaluation Council (EFSEC) and [has argued](#) its AOI constitutes certificate of compliance with the County’s land use regulations.

Because Skagit County has long maintained a strong policy of protecting agricultural land for agricultural uses, the Board of Skagit County Commissioners adopted a moratorium September 23, 2024, on applications for major utility development projects involving electrical energy generation or storage on Agricultural-Natural Resource Lands (Ag-NRL).

This moratorium allows Skagit County time to create permanent regulations that address gaps in the current rules, which do not adequately protect Ag-NRL lands as areas of long-term commercial agricultural significance. Please refer to Exhibit 2 for comments received during the post adoption public hearing phase.

This code amendment will prohibit major utility developments for electrical generation and/or storage facilities on Ag-NRL zoned land. This proposed amendment would not affect permitting of minor utility developments, which require an administrative SUP, [SCC 14.16.400\(3\)\(g\)](#), nor net metering systems allowed under [SCC 14.16.400\(2\)\(t\)](#). The amendment proposal has satisfied the consistency review, as required by SCC 14.08, Legislative Actions Chapter. Analysis of this review is in the September 3, 2024, Planning Commission Staff Report (Exhibit 3, Attachment 1).

A public comment period was open from September 12 to October 4, 2024, at 4:30 PM. A total of seven (7) comments were received. Please refer to Exhibit 3, Attachment 2 for summary of comments received and complete list of comments. The Planning Commission held a public hearing on the on October 8, 2024, and the Planning Commission received testimony from six (6) community members. After closure of the public hearing the Planning Commission deliberated on the proposed amendment and recommended approval of the proposed amendment (Exhibit 4).

## **Recommendation**

The Department recommends approval of the proposed amendment.

## **List of Exhibits**

- Exhibit 1 – Redline Code Amendments SCC 14.16.400
- Exhibit 2 – Post Adoption Moratorium Public Comments Received
- Exhibit 3 – October 7, 2024, Planning Commission Staff Report
- Exhibit 4 – Planning Commission Recorded Motion