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MEMORANDUM

To: Skagit County Planning Commission
From: Planning & Development Services Staff
Date: February 13, 2007
Re: Deliberations on 2005 GMA Update: Proposed Master Planned Resort (MPR) Map Amendments

This memorandum is intended to help guide the Planning Commission through deliberations on the two Master Planned Resort (MPR) map amendment proposals. Additional memos will be provided in advance of Planning Commission deliberations on map amendments in the following categories:

1. ~~Rural~~
2. ~~Urban Growth Areas (UGA)~~
3. ~~Agricultural NRL (Ag-NRL)~~
4. ~~Open Space of Regional/Statewide Importance (OSRSI)~~
5. ~~Rural Resource NRL (RRc-NRL)~~
6. ~~Forestry~~
7. ~~Master Planned Resort (MPR)~~
8. Mineral Resource Overlay (MRO)

GMA Update Master Planned Resort Proposals

Both of the Master Planned Resort proposals addressed in this memorandum are described and analyzed in detail in the [Integrated SEPA/GMA Report \(Click here to view online\)](#), February 17, 2007. For simplicity, this memorandum will not repeat information in that report except as necessary to support any additional analyses and conclusions. Responses provided, as necessary, to address issues raised in public testimony and written correspondence, and to identify and elaborate on the key factors that result in a recommendation either for approval or denial. Please note: Unless noted otherwise, all Comprehensive Plan citations below correlate to the *Draft Comprehensive Plan*.

Introduction

The memorandum relies heavily upon the analysis provided in the *Integrated SEPA/GMA Report* (pages 73 to 84) so it is essential to read and then incorporate the relevant pages of the *Report* into a broader understanding of the nature of the Master Planned Resort proposals, the reasons for the

Department's original recommendations, the issues raised in the public correspondence, and finally, the rationale for the Department's final recommendations.

Nothing in the public correspondence persuades a different recommendation for either of the two Master Planned Resort proposals. In the case of the 1000 Trails/Lifestyle Equities proposal, the Department offers little further comment on the adequacy of the resort master plan submittal requirements. As explained further below, the Department initially reviewed the information supplied by the applicant for conformity with the requirements for a resort master plan, and more importantly, within the context of the GMA Update. All proposals were measured against the goals of making the Comprehensive Plan, land-use/zoning map, and development regulations compliant with the Growth Management Act. In the Department's view, key elements of the applicant's proposal did not (and do not) conform to the goals and policies of the GMA and the Comprehensive Plan. Accordingly, the proposal was released for review and comment only, and not for adoption (Group B, as explained below and in the *Integrated SEPA/GMA Report*, page 13). It is important to remember that the entire "package" of proposed Comprehensive Plan policies, preferred map amendments, and implementing development regulations (Plan) is a product of a long and deliberative process of preliminary review and planning toward the above-stated goal of GMA compliance. It would make no sense to release a proposed Plan update for public review, hearings, deliberations and final adoption if the Plan contained elements that in the County's view would not comply with the GMA.

Whether a Master Planned Resort is compliant with the Growth Management Act is a question first asked during the review of a resort master plan. The Department took two basic steps in its approach toward determining whether a proposed Master Planned Resort should be part of the Comprehensive Plan. The Department first reviewed the submitted materials to determine whether the information comprised a "resort master plan" as required by SCC 14.20.080. During such review Department staff made comments to the applicants, and worked with them to augment their proposals in order to comply with master plan submittal requirements. Prior to release of the GMA Update proposal the Department made a determination as to whether the scope and scale of the proposed Master Planned Resorts and their locations, as presented by the applicants, would, if adopted, comply with the Growth Management Act. In the case of the 1000 Trails/Equity Lifestyles proposal the Department believed that it would not, and so relegated the proposal to the non-preferred Group-B amendment category to allow the public to weigh in and the applicant to further respond. In the case of the Don Clark proposal, the Department placed the proposal in the preferred alternative (Group-A) amendment category, albeit with a recommendation to limit the scope of the approval as explained below.

For the 1000 Trails/Lifestyle Equities proposal, the Department stops short of reviewing the proposal for compliance with the final approval criteria of SCC 14.20.160. Compliance with this criteria is moot, as the proposal at this point is not slated for adoption and has not undergone SEPA review. At best, the Department can only submit such questions to extensive analysis under a SEPA environmental impact statement (EIS). Should the Planning Commission recommend that this proposal be moved to the Group-A category then an EIS would indeed be required. Otherwise, the applicant would have to submit another proposal during some future annual amendment cycle and undergo preliminary docketing review by the Department and the Board of County Commissioners to determine whether such a proposal should be made part of the Comprehensive Plan. If docketed, SEPA analysis would be conducted at that time.

For the Don Clark proposal, the Department holds to its original recommendation to grant approval of a Master Planned Resort, with conditions relating to limitations on the scope of allowed development.

February, 2006 MPR Map Amendment Proposals

CPA05-48 (1000 Trails/Equity Lifestyle Properties)

Department Recommendation:

Affirm the original recommendation: **Deny**

Summary of Proposal:

Important: Please read the *Integrated SEPA/GMA Report*, pages 80-84, and the applicant's correspondence at pages 15 and 463 for a full understanding of the proposal and the Department's responses.

Applicant Correspondence, page 15:

A representative of the applicant (Applicant) reminds the County of the economic development (GMA) intent of Master Planned Resorts, and cites the introduction to MPR policies in the 2000 Comprehensive Plan (page 4-72), which identifies the Skagit River Resort and the Upper Skagit Tribe at Bow Hill Road as areas for consideration as Master Planned Resorts.

Applicant points to and includes two supplemental reports to address MPR criteria. The first, prepared by a local RV Park consultant, estimates the rental income (\$2,670,480), taxes and wages (\$663,410), as well as the spin-off economic benefits to the community (\$6,504,900), based on 865 units (80 townhouses/condos; 180 resort cottages; 130 park models; and 475 total RV slips), and upon 108,415 visitor nights at 50% occupancy. The report points out that tourism is an industry that cannot be outsourced, and concludes that the project would be a nice addition to Skagit County.

The second report submitted by the applicant, prepared by a Seattle-based environmental consulting firm, analyzes the natural amenities associated with the 1000 Trails site. The report describes the characteristics and natural history of the Friday Creek setting, the types of salmon that migrate through and spawn in the creek, the fish hatchery, and the opportunities for resort guests to view the wonders of the salmon lifecycle. The report assesses the ease with which resort occupants can access Friday Creek via the planned trail system, which would provide "not just a fleeting glimpse of the creek or a single viewpoint, [but] an opportunity to completely immerse ones self into the creekside setting to the exclusion of outside influences."

The report also describes the natural wonders, and "the potential to become a true oasis within the surrounding development" of the 100 acres proposed to remain undeveloped, and refers to a "series of bicycle and pedestrian trails"¹ that would link the upland developed area to the lowland area.

¹ Not shown on maps submitted by the applicant.

The report indicates that the resort will be ‘self-contained’ and ‘fully integrated’ as required by statute – describing the array and availability of onsite amenities (food, lodging, sports and social recreational facilities), and local offsite amenities (casino, raceway). The report also lists a number of distant amenities, such as wilderness and national parks, eagle watching along the Skagit River, the Padilla Bay interpretive center and Bay View State Park, the San Juans, and the Chuckanut Mountain trail system.

The report concludes that all of the off-site amenities “contribute to the ‘setting of significant natural amenities’ designation for the proposed resort, anchored on-site by Friday Creek and its valley, forests, fish and wildlife.”

Applicant, explains that the proposal “is not located right in the middle of any of these features...in recognition that the Comprehensive Plan directs that careful attention be given to environmental impacts...” citing narrative from page 4-72 of the 2000 Comprehensive Plan as follows:

The economic reasons for siting of a Master Planned Resort, however, must also be carefully balanced against the potential for significant adverse environmental effects from such a development.

Applicant indicates that state law and Skagit County Code (SCC 14.20.020 and .140) allows for the designation of existing resorts as Master Planned Resorts, and that “the proposal appears to be acceptable to the community as we have not heard any objections...”.

Applicant advises that the “Planning Commission and the County Commissioners’ primary focus must be on the 11 ‘criteria for approval’ [SCC 14.20.160],” and calls attention to the requirement to impose “‘reasonable conditions and modifications’ as part of the process of MPR approval.” Finally, applicant excerpts SCC 14.20.160(4), as follows, and concludes that the proposal meets the criteria for approval, “especially when considered against the history of successful operation at this site over the years.”

The MPR will provide active recreational uses, adequate open space, and sufficient services [such as transportation access, public safety, and social and health services] to adequately meet the needs of the guests and residents of the MPR. (SCC 14.20.160. Portion excluded from applicant’s quote shown in brackets.)

Applicant Correspondence, page 463:

Applicant responds to portions of the Department’s analysis (pages 81-84 of the *Integrated SEPA/GMA Report*²) relating to these 4 (of 11) requirements for a resort master plan as discussed here:

SCC 14.20.080(1): Applicant asserts that the location of the proposed Master Planned Resort is indeed in a setting of significant natural amenities, and submits a report to demonstrate

² The Department concluded that the applicant had not met 4 of the 11 criteria for the approval of a resort master plan found in SCC 14.20.080 – specifically, subsections (1), (4), (9), and (13). Please read the Department’s analysis and the applicant’s response letter (page 463) completely.

compliance with this requirement. The report, prepared by a Seattle-based environmental consulting firm, describes the natural features and the distribution of salmon species in Friday Creek, as well as the educational opportunities it provides. The report offers that a small channel connecting Friday creek with an off-channel pond could be enhanced for winter salmon habitat, and “could be a valuable educational opportunity to highlight the uniqueness of the resort setting.” The author opines “that the Thousand Trails Resort near Mount Vernon provides a unique opportunity for resort users that may not ordinarily be able to access salmon streams to experience the natural setting of a salmon stream.”

SCC 14.20.080(4): Applicant submits a land use map, in response to the Department’s analysis of this requirement, “depicting the ‘full extent and ultimate development of the resort and its facilities and services, including residential and non-residential development types and locations.’” (Color version included with this memo)

SCC 14.20.080(9): Applicant submits a traffic analysis (correspondence, page 475) in response to the Department’s analysis of this requirement.

SCC 14.20.080(13): Applicant submits a graphic phasing plan (correspondence, page 473) in response to the Department’s analysis of this requirement. (Color version included with this memo)

Public Correspondence, page 1781:

Commenters are concerned with the scale of the proposed development, and that a change at this time would conflict with the Alger community plan and community vision – transforming the nature of the area from rural to urban. Of particular concern to the commenters are impacts to water quality and salmon in Friday Creek, and the impact to emergency services.

Public Correspondence, page 1734:

Commenter is concerned with the scale of the proposed development, and the cumulative impact of such a development along side the Skagit Valley Casino complex. Although the commenter acknowledges that the casino complex is not part of the applicant’s proposal, the proximity of the two amount to sprawl and is contrary to the GMA.

Commenter is concerned that the use of the Samish Water District sewer line (which runs from Lake Samish to a treatment plant in Burlington) is an extension of an urban service into the rural area, citing the 2000 Comprehensive Plan, Policy 6A-3.6.³

Commenter takes issue with the applicant’s characterization as “significant natural amenities” the site’s mature vegetation and creek, as well as the inclusion of distant natural amenities, and believes these features do not comply with (proposed February 10, 2006) Comprehensive Plan Policy 3C-8.1.⁴

³ Carried forth in proposed February 10, 2006 CP, non-substantively revised, as Policy 2A-3.3

⁴ Non-substantively revised from 2000 CP Policy 4A-17.1

Commenter states that the proposed ratio of short- to long-term residential units (in this case, 55% short-term, 45% long-term) is not “predominantly” short-term residential use (Policy 3C-8.3(e), and that the number of additional residences amounts to “an illegal LAMIRD...”

Analysis:

The Department understands that the current 1000 Trails facility may be a nice place to visit, includes pleasant natural amenities and recreational facilities, and can be a starting point for visiting numerous nearby and distant natural and man-made features in Skagit and neighboring counties. But the Department continues to question how the existing site could be considered a “setting of significant natural amenities” once developed with 50 to 80 townhouses, 150 to 180 cottages, 100 to 130 park model homes, and 475 total RV slips. The existing natural amenities of the site, however characterized by the applicant, do not attain a level of significance sufficient to warrant MPR designation and are not proportionate to the amount of development proposed.

The applicant continues to tout the off-site amenities (some distant) as supportive of the proposed development and location. Although further development of the adjacent Skagit Valley Casino and Skagit Speedway are not integrated into the applicant’s proposal, increased interaction with these uses is nevertheless incorporated into the applicant’s overall plan concept.

Additional Considerations:

Equity Lifestyle Map Amendment Proposal Remains in Group B

Upon release of the County’s GMA Update proposal, in February, 2006, the Department did not recommend approval of the Equity Lifestyle Properties map amendment for the reasons stated in the *Integrated SEPA/GMA Report* (pages 80-84). As also indicated in the *Report* (page 63), the Department reviewed the [non-preferred] proposals and found them not to be consistent with [in the case of recommendations to deny all or part of an MPR proposal] the Comprehensive Plan and the Growth Management Act. “Including these proposals in the Preferred Alternative map would likely have required a Determination of Significance (DS) and an extensive environmental review process.”

Only those amendments characterized as “Group A” or “preferred alternative” were proposed to be adopted, and only the “preferred alternative” set of amendments received a Determination of Nonsignificance (DNS). As indicated in the analysis above, nothing in the record persuades the Department to recommend otherwise. The proposal remains in the Group-B category of amendments unless the Planning Commission recommends that the proposal be adopted. If this were the case, a SEPA threshold determination would have to be issued and the process of review would begin anew.

To remind the Planning Commission, in lieu of docketing the Board of County Commissioners instead encouraged continuous policy input from citizens and advisory groups. As this process invited any and all amendments to the table without the typical screening, or docketing, the Board approved a 2-track review process, “Group A/Group B” (*Integrated SEPA/GMA Report, page 14*) to establish “a record of public opinion, additional information, and agency comments and recommendations.” Both Group A & B policies include map amendments are defined on page 14 of the *Integrated SEPA/GMA Report*.

Conclusion/Recommendation:

The applicant has provided additional maps, a phasing plan, and traffic, economic and environmental reports in response to the Department's analysis contained in the *Integrated SEPA/GMA Report* (pages 80-84). In that report, the Department indicated that its analysis was "not exhaustive of every law, policy and regulation relating to Master Planned Resorts, but is nevertheless conclusive." After review of the newly submitted information, the Department remains equally convinced that the applicant has not shown, at the very least, how the scale of this proposed development – equivalent to a small town at full occupancy – is warranted in relation to the proposed setting, and how the potential demands on public services would be adequately addressed.

The Department did not include this proposal in the "preferred alternative" set of map amendments (Group B) because it believed, and still does, that the information supplied by the applicant is not sufficient to overcome the Department's concerns to the extent that the County would issue a Determination of Nonsignificance for this proposal and move it to the Group A category of amendments.

Therefore, the Department recommends that the 1000 Trails/Lifestyle Equities proposal remain a non-preferred, Group-B amendment proposal, not eligible for adoption. The applicant may wish to modify the proposal and re-submit as part of some future amendment cycle.

CPA05-70 (Don Clark)

Department Recommendation:

Affirm the original recommendation: **Approve, with limitations**

Summary of Proposal:

Important: Please read the *Integrated SEPA/GMA Report*, pages 73-80, and the applicant's letter at page 190 of the 3-volume set of written correspondence for a full understanding of the proposal and the Department's responses.

Applicant Correspondence, page 190:

NOTE: As indicated elsewhere in this memorandum, it is important that the Planning Commission re-read the applicable public correspondence. The applicant's letter contains numerous assertions and representations of fact that cannot be properly summarized here.

Therefore, the Department will refrain from attempting to summarize the applicant's correspondence, but believes it has addressed relevant points in either the *Integrated SEPA/GMA Report* or in this memorandum.

Public Correspondence, page 263:

Commenter recommends approval of a Master Planned Resort without limitations. Commenter recommends that the approval recognize that:

- Cabins in all campgrounds at Clark’s Cabins/Skagit River Resort should be historically permitted.
- The existing resort, its shoreline-dependent uses, & historic setbacks should be recognized in this rezone, & included in the resort Development Agreement.
- CUP 170 should vest as conditioned, until the BCC-authorized Development Agreement is finalized. Skagit River Resort campgrounds should not be force-moved due to more recent regulations.
- Permits and variances applied for at the time of the resort “down-zone” should be vested, & be processed as vested.
- The resort master plan should govern until a plan amendment is processed.
- Planning & Development Services shall process the BCC-approved development agreement.

Commenter also claims that the existing resort has the approvals and historic zoning rights needed to grow according to the resort master plan, and that re-designation to MPR should not negatively impact the applicant’s plans until the resort submits a plan amendment.

Note: Letters at pages 462, 779, 894, 896, 925, 980, 1032, 1040, 1109, 1111, 1676, and 1678 all enthusiastically support, and in some cases reiterate verbatim, the points made in the letter on page 263.

Public Correspondence, page 1577:

Commenter is concerned regarding the lack of information provided by the applicant for this proposal, inconsistency between the proposal and the Critical Areas Ordinance and attendant uncertainties for both the applicant and the public regarding fisheries resources and streamside development. Commenter believes Master Planned Resort “may be an inappropriate designation.”

Analysis:

Important: Please read the *Integrated SEPA/GMA Report*, pages 73-80

The Department stands by its original recommendation to approve, with limitations, the re-designation to Master Planned Resort of the applicant’s current resort property. The primary reason for limiting the scope of the Master Planned Resort approval is that the applicant did not, and has not submitted sufficient information to show that future development proposed in the applicant’s resort master plan complies with the Comprehensive Plan policies and regulations relating to Master Planned Resorts. Rather, the applicant has shown only that the existing resort, as it is developed now, coupled with at least one vested development application, is sufficient to attain the designation of Master Planned Resort.

The applicant claims that his resort master plan, prepared years ago, vests him to any and all development contemplated in that document. He also is aggrieved by the loss of his Commercial/Limited Industrial zoning, and certain perceived misdeeds and unfulfilled promises of the County. Although the applicant has requested Master Planned Resort designation, he has done little to demonstrate anything more than that his current resort qualifies as a Master Planned Resort, and that he has in place certain development applications which have not yet been approved. The Department is in possession of volumes of information relating to the permitting

history of the Skagit River Resort, but without the applicant's cooperation and willingness to comply with Master Planned Resort requirements, the Department cannot assemble the necessary documents and make the applicant's case for him.

The Growth Management Act does in fact allow for the recognition of exiting resorts as Master Planned Resorts, but such resorts can only be recognized as Master Planned Resorts if they meet the requirements of the GMA, and the Master Planned Resort policies and regulations adopted by the County. The Department made the determination that the applicant had not met the requirements for a resort master plan (for new, yet to be permitted development) but believes that this determination is not fatal given that the regulations contain provisions for incorporating existing vested applications into the overall master plan. (SCC 14.20.080(5))

The Department is recommending approval of a Master Planned Resort designation only to the extent that such a resort could be developed under existing vested development applications when approved. Whether the developments proposed under those previously submitted development applications can be approved is a matter yet to be reviewed by the Department, and is a matter for the Department or the Hearing Examiner to decide, as appropriate. Only then can the applicant proceed with such planned developments, and only those developments which are specifically permitted upon issuance of the permits.

The applicant has disputed nearly every determination made by the County regarding the previously submitted development applications, even to the extent of asserting that the Hearing Examiner's decision regarding cabins is not valid. The applicant asks that the County take him at his word that the "vested" applications and resort master plan are all that are necessary to fully develop. However, plans do not vest. Vesting would apply only to those development applications, listed in the resort master plan, that have been submitted and determined to be complete by the County. Development cannot occur until those vested applications are approved and permits are issued. The applicant cannot simply rely on decades-old applicatios as assurance that any and all development contemplated in the applicant's resort master plan can be brought to fruition.

This memorandum is not the forum in which to recapitulate unresolved issues. By this memorandum the Department is simply affirming its original recommendation to approve the re-designation of the applicant's resort property to Master Planned Resort, with the limitations on development as outlined in the original recommendation. Disputes over the details of any vested development applications can be addressed during the review of those development applications. If the applicant wishes to engage in new development under Master Planned Resort zoning, he must first submit his resort master plan to the Master Plan Resort requirements of SCC 14.20, which he has not thus far agreed to do.

Conclusion/Recommendation:

The County recognizes and is sympathetic to the fact that the applicant once had, but no longer has, Commercial/Limited Industrial zoning, that his resort master plan has long stood as a vision for Skagit River Resort, that he wishes to develop the uses at the locations contemplated in his resort master plan, that he believes his resort master plan vests him from having to comply with current regulations, and that the current resort exceeds the limitations of the Small-scale

Recreation and Tourism designation. But the County can only allow what is legal to allow. The applicant has made his case, the Department has responded by recommending limited approval, and finds no reason to change that recommendation.