



Planning & Development Services

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

Planning Commission Public Hearing

Staff report concerning proposed amendments to Skagit County Code (SCC) 14.18.100

To: Skagit County Planning Commission

From: Stacie Pratschner, AICP
Senior Planner

Re: Code amendment to permit additional extensions of preliminary approval for short plats and plats

Date: December 22, 2017

Contents

Summary	1
Background	2
Proposal	2-3
Findings of Fact	3-4
Recommendation.....	4

Summary

Planning and Development Services (PDS) is providing this memo in advance of the January 23, 2018 Planning Commission public hearing. The Department proposes to provide additional time for short plats and plats to reach final approval that are not currently able to obtain water pursuant to the *Swinomish Indian Tribal Community v. Washington State Department of Ecology* Supreme Court ruling in 2013. The following sections provide the regulatory background for the amendments, present draft code for the Planning Commission’s consideration, analyze the proposal pursuant to local and State requirements, and describes the Departments recommendation for adoption of the amendments. The previous staff memo and supporting documents published in advance of the December 5, 2017 Planning Commission workshop are available at the following website:

www.skagitcounty.net/Departments/PlanningandPermit/shortsub.htm.

Background

Short Subdivisions and Subdivisions

The subdivision of land into lots and tracts is governed by chapter 58.17 of the Revised Code of Washington (RCW) and by Skagit County Code (SCC) 14.18: Land Divisions. Short subdivisions are defined in SCC 14.04.020 as containing four or fewer lots; subdivisions (“long subdivisions”) contain five or more lots. Short plats and plats are the maps of short subdivisions or subdivisions that show the division of land into lots with associated public improvements (streets, dedications, easements).

Land divisions have a three-step approval process prior to the creation and sale of the lots:

- **Preliminary plat approval:** The approval of the general layout of the streets, lots, and verification of water availability, sewage disposal, Fire Department approval, and other requirements of Title 14 and the RCWs.
- **Construction plan approval:** The approval and construction of site improvements (if required), including but not limited to clearing and grading for the installation of stormwater facilities, streets, water lines, and sewage disposal systems.
- **Final plat approval:** Upon completion of the improvements, the final plat document is recorded and the lots are eligible for use, development, and sale.

RCW 58.17.140 provides the time periods for an applicant to submit a preliminary plat for final plat approval. SCC 14.18.100(6) describes the approval duration of short subdivisions and subdivisions, and contains provisions for the extension of approval time for plats. The following table summarizes the timelines for completion of land divisions in development code:

Permit Type	Expiration of Approval	Extensions
Preliminary Short Plat Approval	On or after January 1, 2015: 3 years. On or before December 31, 2014: 4 years.	On or before September 1, 2011: Five one-year extensions allowed for a total of 9 years.
Preliminary Plat Approval	RCW 58.17: 7 years	On or before September 1, 2011: Five one-year extensions allowed for a total of 12 years.

The following section describes the proposed code amendment (**Attachment 1**) and the procedural requirements for this legislative action.

Proposal

The Department proposes to develop code (**Attachment 1**) that provides an additional five one-year extensions for short plats and plats that obtained preliminary approval with the use of ground water wells, but then the well use was later invalidated by the *Swinomish Indian Tribal Community v. Washington State Department of Ecology* decision in 2013. This decision interpreted the 2001 Skagit River Instream Flow Rule (WAC 173-503).

The Department's research indicates that two subdivision projects will be impacted by the proposed code amendments. The Madalyn Estates Subdivision (PL05-0216) and the George Theodoratus Short Subdivision (SP97-0019) were provided verification of water from the Department of Health at preliminary approval. Installation of improvements has begun on both projects; but due to the unavailability of water, neither project can obtain final plat approval. The tables below summarize the status of both projects:

<i>George Theodoratus Subdivision (SP97-0019)</i> – A four-lot short plat in the RRv zone.	
Application Submittal	March 11, 1997
Preliminary Approval	March 6, 2014
Construction Status	Roadway and detention facilities are complete for the four lots.
Extensions Granted	Interim Ordinance #O20170002
Date of Expiration	March 6, 2018

<i>Madalyn Estates Subdivision (PL05-0216)</i> – An eleven-lot plat in the RVR zone.	
Application Submittal	July 22, 2005
Preliminary Approval	February 7, 2008
Construction Status	Access to Lots 10 and 11 is partially complete. No infrastructure is complete for Lots 1 through 9.
Extensions Granted	2012, 2014, 2015, 2016 and 2017
Date of Expiration	March 12, 2018

The proposed code included as **Attachment 1** would allow up to an additional five one-year extensions for preliminarily approved short subdivisions and subdivisions. These additional extensions will allow time for the applicants to continue working with Ecology to ensure legal access to water.

Findings of Fact

The following sections demonstrate the County's compliance with the procedural requirements for legislative actions pursuant to local and State requirements:

1. *Compliance with the State Environmental Policy Act (Chapter 97-11 WAC and SCC Title 16):*
 - Staff prepared an environmental checklist for the proposed code amendment, dated December 21, 2017.
 - The SEPA official issued a threshold Determination of Non-Significance (DNS) on December 22, 2017.
 - No agency or public comments have been received as of the writing of this report. Any comments received prior to the close of the comment period will be presented to the Planning Commission at the scheduled public hearing.

Conclusion – The proposed code amendment will meet local and State SEPA requirements at the conclusion of the comment period on January 25, 2017.

2. *Procedural Compliance with the Growth Management Act (RCW 36.70A.106):*

- The County requested review from the Department of Commerce on December 21, 2017.
- The County must notify the Department of Commerce, at least 60 days in advance, of its intent to adopt comprehensive plan and development regulation amendments.
- Staff will file the ordinance with the Department of Commerce within 10 days of the County Commission's action.

Conclusion – The proposed code amendment will meet the Growth Management Act requirements.

3. *Public Notice and Comments*

- The County will publish a Notice of Availability, Public Comment, and SEPA threshold determination in the Skagit Valley Herald on December 26, 2017.
- The County posted the staff report, public notice, and threshold determination on the County website on December 22, 2017.
- No agency or public comments have been received as of the writing of this staff report. Any comments received prior to the close of the comment period will be presented to the Planning Commission at the scheduled public hearing.

Conclusion – The County has met the public notice requirements of SCC 14.08.070.

Recommendation

The Department recommends that the Planning Commission issues a recommendation to adopt the attached code amendment.

Public Comment

The proposal will receive at least one public hearing and written comment period before the Planning Commission, consistent with the process for adoption of plans and land use regulations in SCC Chapter 14.08. The Board of County Commissioners must approve the final adoption. Information on how to comment is contained in the Notice of Availability document on the project website.

For More Information

Please visit the project website at

www.skagitcounty.net/Departments/PlanningandPermit/shortsub.htm.

Attachment List:

1. Proposed code amendments to SCC 14.18.100

DRAFT CODE

Plain text = existing code with no changes
Strikethrough = existing code to be deleted
<u>Underlined</u> = new code to be added
Double Strikethrough = existing code moved to another location
<u>Double Underline</u> = existing code moved from another location
<i>Italics</i> = instructions to code reviser

Chapter 14.18 Land Divisions

14.18.100 Preliminary Subdivisions

- (1) –(5) *No changes proposed.*
- (6) Preliminary Subdivision Approval Duration
 - (a) through (e): *No changes proposed.*
 - (f) Any applicant who has received preliminary short or long subdivision approval on or before April 1, 2014, who submits a request for extension in writing to the Administrative Official at least 30 days before the preliminary approval expiration date may be granted a one-year extension of the preliminary approval by the Administrative Official or designee upon a showing that the applicant has attempted in good faith to submit the final subdivision within the preliminary approval period set forth in Subsections (6)(a) and (b) of this Section. Only ten total extensions shall be allowed pursuant to Subsections (6)(e) and (f). The Administrative Official’s decision on a plat extension request is appealable as a Level I decision pursuant to SCC Chapter 14.06.