

UGA Open Space Concept Plan Response to Public Comments

Issue	Commenters	Response
GMA compliance		
<p>Legal issue: Differing views on what is required.</p>	AAB, FOOSC, Axthelm	<p>County reached compliance with adoption of Policy 2B-1.3 in Ordinance O20030013 (Attachment A) <i>By December 1, 2007, Skagit County will develop a program to identify and prioritize open space corridors and greenbelts within and between UGAs that include lands useful for recreation, wildlife habitat, trails, and connection of critical areas. The program will include a list identifying and prioritizing open space and greenbelt lands desirable for public acquisition. Any potential acquisition that may be proposed by such a program will not include any condemnation actions, but instead will be achieved by voluntary donation, CaRD subdivision, or mutually agreeable sale.</i></p> <p>This proposed action, adoption of the plan, implements the policy.</p>
Open space benefits and values		
<p>Clear need for open space Extensive public support for trails and shorelines as shown in multiple surveys Population doubling is a challenge</p>	Graham, City of Anacortes, Erbstoesz, Audubon, Nature Conservancy, McNett Crowl, McGuiness, Miller, J., Miller, K., SICBA	Comment noted
<p>Capitalize on urban river focus to generate economic revenue, improve quality of life, and partner with flood control efforts</p>	Nature Conservancy	Share with flood management decision-makers.
<p>Importance of open space in its many functions: recreation, wildlife, natural beauty.</p>	Skagit County Parks and Recreation, Brian Adams, Operations and Land Manager; and Robert Vaux, Director	Agree. Survey conducted for this plan confirmed that residents value the many forms of open space and are concerned that there are not enough programs or policies in place to protect it as the population grows.
<p>Open space and trails are important to families with children and to reducing auto use. Do more to link schools with open space.</p>	Odden, McNett Crowl	Agree
<p>Protecting open space can benefit wildlife if carefully designed. Linked corridors are especially important to</p>	Skagit Audubon Society	Areas with wildlife values require special assessment and consideration.

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wildlife and should be more than just narrow trail corridors. Interpretive opportunities are vital for public awareness. Suggests that wildlife expertise be sought for advisory committee. Importance of farms and forests for habitat value. Supports “adequate and properly designed” open space areas in subdivision design, a strategy that can be pursued regardless of open space funding.		
Use plan to constrain UGA size		
UGA separation standard, i.e. quarter-mile.	AAB, Pritchett	Separation standard does not respect the unique characteristics of each incorporated area and could result in UGAs that are too closely spaced, which is contrary to the goal of the suggestion.
Shift focus to cities		
Subdivision Design: Cities should require greenbelt toward rural side of UGA. Better design for open space set-asides when building subdivisions.	AAB, Pritchett, Skagit Audubon	Cities are required to provide a separation between urban development and natural resource lands when they are adjacent, per countywide planning policies. Will forward to SCOG to determine which cities have put this requirement in their development regulations.
Process		
Earlier suggestions not incorporated	AAB	Plan was revised to include natural resource zoning and Conservation Futures language was corrected. Suggestion to use a fixed distance between UGAs is not feasible. Suggestion to implement Countywide planning policy for urban separation from resource lands can be referred to SCOG.
Public notification: Comments that public notification was extensive and sufficient, or inadequate and insufficient.	FOOSC, response from City of Mount Vernon, Larry Otos, Director of Mount Vernon Parks and Recreation	Existing city plans are the foundation of this document. Each city conducted extensive public outreach to arrive at its adopted plans. In addition, the county conducted public outreach. Mount Vernon Parks and Recreation Comp Plan process followed legal requirements for adoption. Individual notification not required for a conceptual, areawide plan. Not a “land-use action” in the sense of a zoning or comprehensive plan designation.

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Additional input needed	FOSC	Existing city plans are the foundation of this document. Each city conducted extensive public outreach to arrive at its adopted plans. In addition, the county conducted additional public outreach documented separately.
Resource Lands (farms & forests)		
Questions about relationship of resource land to open space planning	FOSC, AAB	It is appropriate to indicate the location natural resource lands as part of an open space system. Resource lands provide open space functions as a value secondary to their productive value.
Plan as concept		
Conceptual nature of plans locations indicated are approximations; requires further study and coordination for specifics	City of Mount Vernon, Larry Otos, Director of Mount Vernon Parks and Recreation	Agree that both city and county plans are conceptual in nature and specific locations require additional study. "Conceptual" means that if a connection or location is mapped, multiple locations in the same general area may be considered.
Private property rights, liability, protections		
Protection for property owners: RCW 4.24.210 Recreation Land Use Statute	City of Mount Vernon, Larry Otos, Director of Mount Vernon Parks and Recreation	Recreation Land Use Statute is added as Attachment B.
Protection from trespass on natural resource land and other lands.	Good, A., Pritchett	Public access is to be tailored to the particular type of open space. For example, public access may not be suitable near resource lands or certain habitat areas. If public access is provided, management features such as fences can reduce trespass. Other enhanced public safety measures should be pursued, for example, citizen patrols as used in Mount Vernon and elsewhere.
Protection of private property values	Erbstoesz, Good, also see Dike and Britt Road comments, below.	Open space plan is not a regulatory plan; it does not affect zoning. It does not change existing uses if there is no purchase or acquisition of "less-than-fee-simple" property interest, such as an easement.
Comments on specific locations		
Dike and Britt Road neighborhood concerns: opposition to extending a trail along the dike or road. Trails would exacerbate existing issues of trespass and littering. Title of UGA open space plan confusing because it	Axthelms, Arendse, Roozens, Linman, Eastman, Smith, DeVlieger, Norlie, Peterson, Guidinger, Lundgrens, Bennett	Property remains in private ownership unless there is a voluntary sale or acquisition of property interest, which would be required for any public access feature. Agree that current large-lot zoning (Ag NRL) results in

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<p>GMA compliance</p> <p>implies no Rural portion. Shouldn't extend into rural area without first expanding the UGA. Current zoning serves as greenbelt/open space. Use of dike for pathway could pose health hazard to the public. Owners of dike on private land enjoy property for private recreation. Property values may decline if public use. Plan takes property away from private owners.</p>		<p>open areas that function as a green belt. Most property in this area is enrolled in the county open-space/current use tax program due to the open space and/or agricultural functions of the property. (Attachment C)</p> <p>Outreach was conducted because there are elements in rural area.</p> <p>Protection from recreational use is in RCW. 4.24.210 and included as Attachment B.</p> <p>Directive is for "within and between," thus supporting City of Mount Vernon's consideration of areas outside its UGA.</p> <p>City owns property in the northern part of this area and outside the UGA and should be a party to addressing existing problems and future planning.</p> <p>Letters describe extensive existing problems that may warrant special response from dike district, sheriff, public works, residents, City of Mount Vernon.</p> <p>Alternative responses to this area to be discussed with Planning Commission.</p>
<p>Specific open space and trail location comments: Reservation Road, golf course, Scimitar Ridge area, SR20 trail connection, dikes, Interurban route, lakes</p>	<p>Stowe</p>	<p>See discussion of conceptual nature of the plan, above. Some specifics follow: Along Reservation Road is a large wetland that visually and functionally ties to the bay to the south. The golf course provides open space functions via its large undeveloped area, which is recognized by its open space taxation status. The future connection shown between the Anacortes Forest Lands (ACFL) and the Sharpes Corner/Fidalgo Bay area could be achieved entirely on city-owned land that extends from Fidalgo Bay Road to the ACFL. SR 20 trail connection: The Anacortes Proposed Parks and Recreation plan (p. 16) recommends working to "secure walking paths and connecting corridors within the City and around the County." The specific location of this connection is the subject of future work. Regarding city contacts, city</p>

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		<p>Parks staff coordinated review with the Port of Anacortes Interurban line (Chuckanut Dr.) A trail here was considered to be not closely tied to this project's focus but could be considered as part of a more specific trails plan.</p> <p>Dikes Coordination with individual dike districts regarding potential trail use was assigned to cities when this project was initiated.</p> <p>Lakes Campbell and Erie are included as open space and regulated as critical areas and shorelines. Small public access areas exist on each lake.</p>
Definitions and Terms		
Terminology: use more precise term than "open space."	Miller, J.; Pritchett	<p>Planning commission will review definitions of open space and greenbelts better suited to Skagit County. Term used in GMA is not defined in the legislation. Rather, it is based on descriptions of various types of open space, as is the Skagit County Comprehensive Plan terminology.</p>
Trails		
Distinguish non-motorized trails and recreation trails Build non-motorized trails along roads.	Pritchett	This is consistent with county non-motorized plan.
Funding and Implementation		
Use road funds to finance trails along roads Use more funds for acquisition than maintenance & operations Support levy over impact fees Build in accountability Avoid piecemeal approach Funding not required by GMA	Pritchett, SICBA, Stowe	Comments noted and forwarded to other county agencies and cities
Corrections		
Discussion of condemnation and inverse possession in FAQ 5.1 is inaccurate.	Stowe	Agree, correction added to errata list.

Acronyms: AAB = Agricultural Advisory Board, FOSC = Friends of Skagit County, SICBA – Skagit Island County Builders Association,

Attachment A Ordinance O20030013

Separate PDF document.

<http://www.skagitcounty.net/Common/Documents/LFDocs/commissioners/00/03/c9/0003c977.pdf>

A link to this document was emailed to the Planning Commission on 3/18/09.

Attachment B

Recreational Land Use Statute RCW 4.24.210

RCW 4.24.210

Liability of owners or others in possession of land and water areas for injuries to recreation users — Limitation.

(1) Except as otherwise provided in subsection (3) or (4) of this section, any public or private landowners or others in lawful possession and control of any lands whether designated resource, rural, or urban, or water areas or channels and lands adjacent to such areas or channels, who allow members of the public to use them for the purposes of outdoor recreation, which term includes, but is not limited to, the cutting, gathering, and removing of firewood by private persons for their personal use without purchasing the firewood from the landowner, hunting, fishing, camping, picnicking, swimming, hiking, bicycling, skateboarding or other nonmotorized wheel-based activities, hanggliding, paragliding, rock climbing, the riding of horses or other animals, clam digging, pleasure driving of off-road vehicles, snowmobiles, and other vehicles, boating, nature study, winter or water sports, viewing or enjoying historical, archaeological, scenic, or scientific sites, without charging a fee of any kind therefor, shall not be liable for unintentional injuries to such users.

(2) Except as otherwise provided in subsection (3) or (4) of this section, any public or private landowner or others in lawful possession and control of any lands whether rural or urban, or water areas or channels and lands adjacent to such areas or channels, who offer or allow such land to be used for purposes of a fish or wildlife cooperative project, or allow access to such land for cleanup of litter or other solid waste, shall not be liable for unintentional injuries to any volunteer group or to any other users.

(3) Any public or private landowner, or others in lawful possession and control of the land, may charge an administrative fee of up to twenty-five dollars for the cutting, gathering, and removing of firewood from the land.

(4) Nothing in this section shall prevent the liability of a landowner or others in lawful possession and control for injuries sustained to users by reason of a known dangerous artificial latent condition for which warning signs have not been conspicuously posted. A fixed anchor used in rock climbing and put in place by someone other than a landowner is not a known dangerous artificial latent condition and a landowner under subsection (1) of this section shall not be liable for unintentional injuries resulting from the condition or use of such an anchor. Nothing in RCW 4.24.200 and this section limits or expands in any way the doctrine of attractive nuisance. Usage by members of the public, volunteer groups, or other users is permissive and does not support any claim of adverse possession.

(5) For purposes of this section, the following are not fees:

(a) A license or permit issued for statewide use under authority of chapter 79A.05 RCW or Title 77 RCW; and

(b) A daily charge not to exceed twenty dollars per person, per day, for access to a publicly owned ORV sports park, as defined in RCW 46.09.020, or other public facility accessed by a highway, street, or nonhighway road for the purposes of off-road vehicle use.

[2006 c 212 § 6. Prior: 2003 c 39 § 2; 2003 c 16 § 2; 1997 c 26 § 1; 1992 c 52 § 1; prior: 1991 c 69 § 1; 1991 c 50 § 1; 1980 c 111 § 1; 1979 c 53 § 1; 1972 ex.s. c 153 § 17; 1969 ex.s. c 24 § 2; 1967 c 216 § 2.]

Notes:

Finding -- 2003 c 16: "The legislature finds that some property owners in Washington are concerned about the possibility of liability arising when individuals are permitted to engage in potentially dangerous outdoor recreational activities, such as rock climbing. Although RCW 4.24.210 provides property owners with immunity from legal claims for any unintentional injuries suffered by certain individuals recreating on their land, the legislature finds that it is important to the promotion of rock climbing opportunities to specifically include rock climbing as one of the recreational activities that are included in RCW 4.24.210. By including rock climbing in RCW 4.24.210, the legislature intends merely to provide assurance to the owners of property suitable for this type of recreation, and does not intend to limit the application of RCW 4.24.210 to other types of recreation. By providing that a landowner shall not be liable for any unintentional injuries resulting from the condition or use of a fixed anchor used in rock climbing, the legislature recognizes that such fixed anchors are recreational equipment used by climbers for which a landowner has no duty of care." [2003 c 16 § 1.].

Purpose -- 1972 ex.s. c 153: See RCW 79A.35.070.

Off-road and nonhighway vehicles: Chapter 46.09 RCW. Snowmobiles: Chapter 46.10 RCW.

Attachment C Current Use/Open Space Taxation

This is a program that reduces the property taxes on land used for agriculture, forestry, and open space. It is a mid-term open space tool since the preferential tax period is 10 years unless renewed.

State law

RCW 84.34.010 Open Space, Agricultural, Timber Lands – Current Use – Conservation Futures

Legislative declaration. The legislature hereby declares that it is in the best interest of the state to maintain, preserve, conserve and otherwise continue in existence adequate open space lands for the production of food, fiber and forest crops, and to assure the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the state and its citizens.

Local Policy in Skagit County

Countywide Planning Policy 9. Open Space and Recreation

9.3 The use of Open Space Taxation Laws shall be encouraged as a useful method of land use control and resource preservation.