

**Attachment A to Sanfi Acres Chronology  
Sanfi Acres, LLC 2005 GMA Update  
Application Materials**



# Amendment Request Form

2005 Growth Management Act Update

Comprehensive Plan Policies  
Comprehensive Plan Land Use / Zoning Map  
Skagit County Code Title 14 - Development Regulations

SKAGIT COUNTY  
PERMIT CNTR.

NOV 15 2004

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## Deadlines:

Proposed Amendments to City Urban Growth Areas (UGAs): **September 15, 2004**

All Other Proposed Policy and Map Amendments: **November 15, 2004**

## Instructions:

1. You must complete and submit this form along with your proposed amendments) if:
  - a. You wish to receive future correspondence relating to this Comprehensive Plan Update;
  - b. You are proposing to amend the Comprehensive Plan Land Use / Zoning Map designation of a specific parcel of land.
2. Answer the questions on Page 2 of this form to the best of your ability. Provide any additional information that may be required or helpful (see Page 2 questions for further instructions).
3. Submit by mail or in person, by the appropriate deadline (see "Deadlines" above) to:

Skagit County Planning & Permit Center  
2005 GMA Update  
200 West Washington Street  
Mount Vernon WA 98273

## Please Complete the Following:

Name: Sanfi Acres LLC; Attn. Mike Janicki

Mailing Address: 103 N. Township

City: Sedro-Woolley State WA Zip 98233

Phone (Home) \_\_\_\_\_ (Work) 360-856-2086 (Mobile) \_\_\_\_\_

Email Address: \_\_\_\_\_

## **B. Proposed Map Amendments**

Remember these deadlines:

- ☎ Proposals is to amend a city Urban Growth Area boundary. **Deadline: September 15<sup>th</sup>**
- ☎ Other Comprehensive Plan Land Use/Zoning Map amendments. **Deadline: November 15<sup>th</sup>**

### **Map Amendment Questions:**

B-1 For each proposed map amendment, please give a detailed statement of your proposal and the reason(s) why the amendment is necessary.

The proposed map amendment is to change the designation on the subject parcels from Industrial Forest to Secondary Forest. Skagit County designated the parcels Industrial Forest in error as a result of reliance on inaccurate County mapping to determine the appropriate land use designation for the property. The discussion that follows provides rationale for redesignating the property as Secondary Forest.

Review of the Forest Resource Lands designation criteria shows that the only real difference between Industrial Forest and Secondary Forest is parcel size. Industrial Forest parcels are predominately 40 acres in size and are in 160 acre blocks. Secondary Forest parcels are predominately 20 acres in size and border Industrial Forest. The remaining criteria for each of the designations are virtually identical.

In applying the criteria, County Staff relied on Assessor's information to determine parcel size. There are two problems with this approach. First, Assessor information is based on "parcel numbers" (i.e. tax account numbers). These account numbers are for purposes of taxing property in the County and are assigned geographically based on Section, Township and Range and on the different taxing districts. Because of this, "parcel numbers" and the entities they represent are not synonymous with "parcels" in the sense that the term is used for evaluating property for purposes of land use designation.

A single "parcel" in a land use planning sense may have multiple "parcel numbers" due to its boundaries crossing section lines or taxing district lines.

The difficulties associated with this concept are particularly well exhibited in the complexity and controversy surrounding the "Lot Aggregation/Lot Certification/Lot of Record" issue that has plagued Skagit County for many years. This situation further illustrates the inherent problems in using information developed for one purpose to determine something completely different.

The second problem associated with relying entirely on Assessor mapping for determining parcel size for land use purposes has to do with the timing of assignment of tax accounts (parcel numbers) for subdivided property. Tax accounts are not immediately assigned upon subdivision of property. It is common practice for the Assessor to wait until individual lots are sold before new parcel numbers are assigned. From the Assessor's perspective (since the purpose for parcel numbers is taxation), deferring the assignment of account numbers until there is more than one individual being taxed makes good sense. From the perspective of a planner that is using the Assessor's information as the sole source for determining parcel size for appropriate land use designation, the deferral of assignment of parcel numbers is problematic.

The Sanfi Acres property was subdivided into 56 - 20-acre parcels on November 5, 1990. It was done under the County provisions in place at the time that allowed large lot segregations by legal description. The legally divided 20-acre parcels remained under the same ownership until Sanfi Acres LLC purchased the lots on September 27, 2001. It was not until May 2004 that the current owner inadvertently

discovered that County mapping did not show the lots that they owned. Only 3 lots appeared on the County map where the maps that the owner obtained when the property was purchased showed 56. (As was discussed previously the reason that the County mapping showed 3 parcels instead of just 1 is because the property is located in three different sections). The property owner became concerned and after doing some research became aware of the Assessor's practice of deferring the assignment of tax account numbers for subdivided property. Once this fact had come to light, the owner approached the Assessor and requested that separate tax account numbers be assigned to the separate parcels and that the County mapping be corrected to accurately show the 56 parcels. This was accomplished during June and July of 2004.

In 1996 property in Skagit County was analyzed for designation as resource lands. When the Sanfi Acres holdings were reviewed, mapping showed adjacent parcels of 120 acres, 560 acres and 440 acres. Applying the designation criteria for forest lands, the property was designated Industrial Forest. If accurate mapping had been used a different designation would have been appropriate. The 56 – 20-acre parcels do not meet the criteria for Industrial Forest and would be appropriately designated Secondary Forest.

We respectfully submit that the property was designated in error and are including in this submittal documentation illustrating the points made in this narrative. Over the course of the last months we have worked with the Assessor's Office to correct their mapping and are now requesting that the Planning and Permit Center redesignate the properties and correct the Comprehensive Plan and Zoning Map.

B-2 If proposing to change the Comprehensive Plan Land Use / Zoning Map designation of a specific parcel(s) of land, include the Assessor account number (example: P12345) of each parcel. Also provide a notarized Ownership Certificate for each parcel. (Ownership Certificate available at the Planning & Permit Center).

The parcels included in this proposal are:

|          |         |          |         |
|----------|---------|----------|---------|
| P18285   | P121799 | P121713  | P121706 |
| P121726  | P121800 | P121714  | P121709 |
| P121729  | P121801 | P121715  | P121710 |
| P121 730 | P121802 | P121716  | P18381  |
| P121731  | P121803 | P121717  | P121704 |
| P121732  | P121807 | P121718  | P121696 |
| P121785  | P121808 | P121719  | P121697 |
| P121786  | P121809 | P121720  | P121698 |
| P121787  | P121810 | P121721  | P121699 |
| P121 788 | P121812 | P121 722 | P121700 |
| P121789  | P121813 | P121723  | P18282  |
| P121790  | P121814 | P121724  |         |
| P121791  | P121815 | P121725  |         |
| P121797  | P121711 | P121 726 |         |
| P121798  | P121712 | P121705  |         |

An ownership certificate is attached.

B-3 Would the policy affect the cost of, or the ability of service providers to provide, public services? (Examples: transportation, water, sewer, fire, law enforcement, parks and recreation, drainage, schools, etc.)

The proposal would not affect the cost of availability of services or affect the ability of providers to provide those services.

B-4 Would the proposed new or amended policy require changes to existing laws or regulations (such as to Skagit County Code Title 14, Zoning, etc.) in order to implement the policy? If so, please generally describe what changes would be necessary.

The proposal would not require changes to existing laws or regulations.

B-5 The Comprehensive Plan is a reflection of years of hard work and the involvement of countless Skagit County citizens. The result of this effort is expressed in the "community vision statements," goals, objectives, and policy directives of the Comprehensive Plan. How does the proposed amendment comply with, or propose to change, any of these statements, goals, objectives and policies? For each proposed map amendment, please give a detailed statement of your proposed amendment(s).

Approval of the proposal would be consistent with the intent and stated objectives of the Comprehensive Plan. The Resource Lands section of the code discusses Industrial and Secondary Forest. The primary difference between the two is parcel size. Parcel size was determined based on County Mapping reflecting Assessor records. As was discussed previously the Assessor record did not and still does not reflect many large lot segregations. Because of this, Comprehensive Plan designations were made that are not consistent with designation criteria.

B-6 Has there been a change in circumstances, pertaining to the Comprehensive Plan or public policy, that makes this map change necessary or desirable?

While there has been no change in circumstances, there is additional information that is now available to the Planning Staff that would result in different designation of these properties.


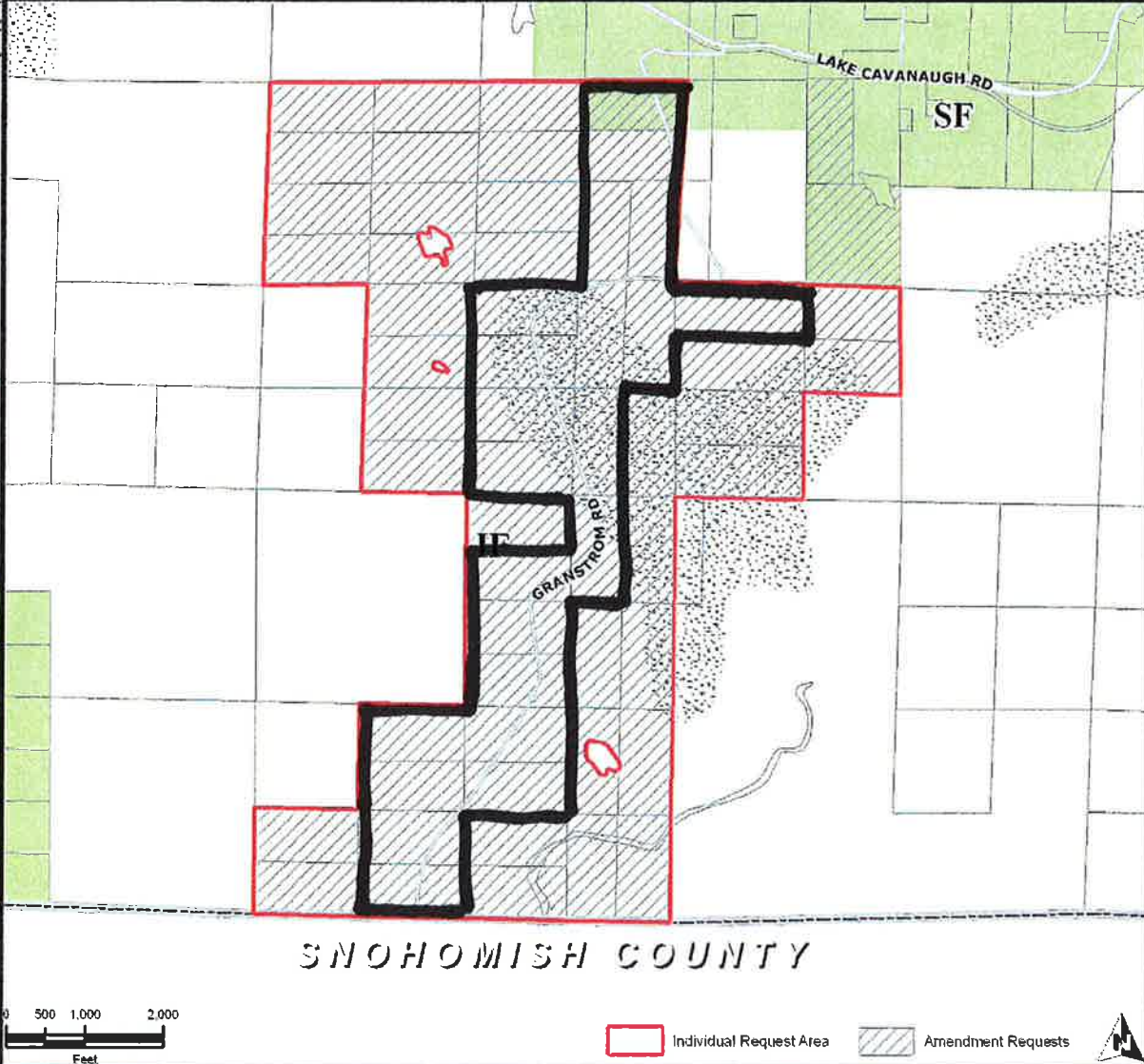
B-7 Changes to urban growth area boundaries must be supported through an analysis of population forecasts, allocated urban population distributions, existing urban densities and infill opportunities, phasing and availability of adequate services, proximity to designated natural resource lands, and the presence of critical areas. Please provide any information that you can to assist the County and cities in this analysis.

Not Applicable—not within an Urban Growth Area.

B-8 If proposing to remove any lands from a Natural Resource Lands designation, demonstrate why, based on Comprehensive Plan Natural Resource Lands designation policies.

The proposal is not to remove land from a resource land designation it is to change it from one resource lands designation to another. See discussion under B-1.

**Attachment B to Sanfi Acres Chronology**  
**February 17, 2006 Recommendation**  
(Shows buildable lots in black)

|   |   |   |
|---|---|---|
|  <p><b>General Location</b></p>  | <p><b>Sanfi Acres LLC Mike Janicki</b></p> <p>Industrial Forest-NRL (IF-NRL) to Secondary Forest-NRL (SF-NRL)</p>   | <p><b>Request Number</b></p> <p><b>CPA05-14</b></p> |
| <p><b>Summary:</b></p> <p>Redesignate fifty-six (56) 20 acre contiguous parcels totalling 1,120 acres in single ownership from Industrial Forest (IF-NRL) to Secondary Forest (SF-NRL) along Granstrom Road</p>                       | <p><b>Recommendation:</b></p> <p><b>Recommend denial. Parcels meet IF designation. SF designation intended as a buffer--no buffer is needed on subject parcels.</b></p> |   |
|  <p style="text-align: center;"><b>SNOHOMISH COUNTY</b></p> <p>0 500 1,000 2,000<br/>Feet</p> <p>Individual Request Area    Amendment Requests</p> |   |   |

**Attachment C to Sanfi Acres Chronology**  
**Reversal of Recommendation**  
**Memorandum to PC, December 7, 2006 (part)**



## **CPA05-14 (Sanfi Acres LLC)**

### Department Recommendation:

Reverse the original recommendation: **Approve**

### Summary of Proposal:

The applicant requests the redesignation of fifty-six 20-acre lots, approximately 1,120 acres, from IF-NRL to SF-NRL, based primarily on the consistency of the 20-acre lot pattern with SF-NRL designation criteria.

### Analysis:

The Department originally objected to the re-designation because it would create an illogical boundary to the IF-NRL district, and create a discontinuity in the Industrial Forest-NRL land base between the IF-NRL area to the west of the subject parcels, and the very large block to the east.

The Department reconsidered. Forest-Natural Resource Lands of long-term commercial significance are defined and designated based primarily on soils, parcel sizes, location and current uses. Long-term commercial significance is attributed to all designated resource lands (Ag-NRL, IF-NRL, SF-NRL and RRc-NRL) based on the characteristics of the land for growing or producing crops, timber and minerals. As, for the most part, Secondary Forest lands are derived from initially designated Industrial Forest lands, the characteristics of SF-NRL for producing timber are indistinguishable from IF-NRL. The intended uses of each are the same, but a higher density in Secondary Forest lands is allowed, and offers "the potential for smaller-scale commercial timber operations, supporting natural resource industries, and limited residential uses." (Policy 4B-5.1) The acceptable residential density in SF-NRL is 20 acres (Policy 4B-1.4). In effect, Secondary Forest lands at 20-acre density are nevertheless resource lands of long-term commercial significance.

As indicated elsewhere in this memorandum, Skagit County has applied a wider-than-1/4-mile SF-NRL designation in areas where the average parcel sizes are more consistent with the allowed 20-acre density. Bacus Hill is offered as an example.

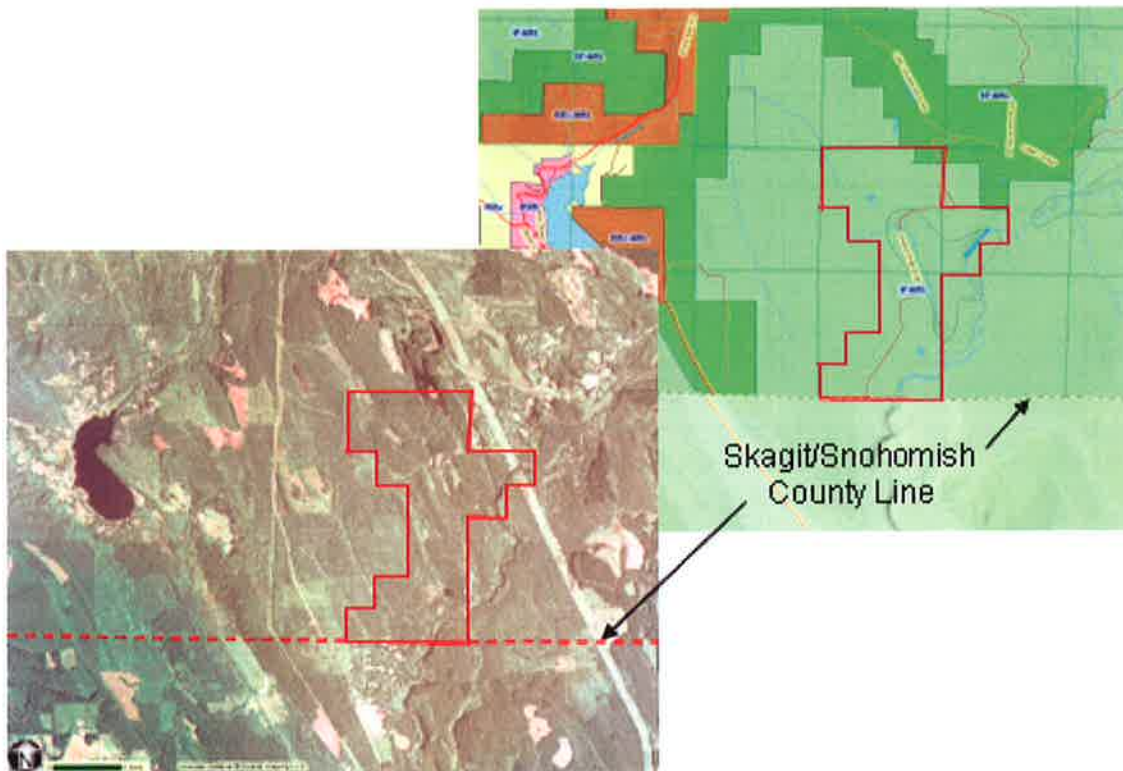
### Conclusion/Recommendation:

A Secondary Forest-NRL designation for this subject area is consistent with the SF-NRL designation criteria. In essence, the Department's recommendation is based on parcel sizes.

NOTE: Approval of this request will result in an approximately 90-acre "island" of IF-NRL at the northeast corner of the subject area (see Attachment A). The Department does not recommend the creation of an isolated island of IF-NRL. If this request is approved, the 90-acre area should be considered for inclusion in the SF-NRL designation to preserve a logical boundary of SF-NRL. As the February 10, 2006 proposal did not include this alternative, a public hearing will likely be required.

**Attachment D to Sanfi Acres Chronology  
Map Attachment from December 7, 2006  
Memorandum to PC (part)**

# Sanfi Acres (CPA05-14)



**Attachment E to Sanfi Acres Chronology  
Planning Commission Recorded Motion  
Page 35, Finding No. 149  
(Ordinance No. O20070009, part)**

149. **CPA05-14 (Sanfi Acres; Mike Janicki)** - This proposal was to redesignate fifty-six 20-acre lots from Industrial Forest-NRL to Secondary Forest-NRL. The Department's February, 2006 recommendation was to deny the request, as redesignation would create illogical SF-NRL boundaries, and a discontinuity within the Industrial Forest-NRL area. Upon consideration of public correspondence and testimony, the Department reversed its recommendation, citing that the lots were legally in existence prior to the initial GMA designation of NRL lands (22 lots are currently certified as buildable and 34 lots are currently certified for conveyance only), but for some reason were not depicted on County land-use maps. And accordingly, if the Department had then been aware of the existence of these lots when first designating Forest-NRL areas, it would have recommended Secondary Forest on the subject lots, consistent with the practice of applying the Secondary Forest designation to areas outside of the prescribed 1/4-mile-wide band to recognize lot sizes and lot patterns that are more consistent with the allowed 20-acre parcel density of SF-NRL. However, the majority of the Planning Commission is not persuaded by the Department's revised recommendation, and instead finds merit in the Department's earlier recommendation, for the reasons stated. Further, the Planning Commission finds that although the County has extended the Secondary Forest designation beyond a 1/4-mile-wide band to encompass other areas of predominantly 20-acre or smaller lots (like Bacus Hill, Finn Settlement, Oyster Creek, and others), the County did so because such areas were in active residential/small-scale resource use, whereas the subject parcels represent a large block of largely undeveloped land in single ownership. The Planning Commission recommends denial of the request. The minority, on the other hand, agrees with the Department's revised recommendation.

*(This recommendation was made by a 7-2 vote)*

**Attachment F to Sanfi Acres Chronology  
January 26, 2009 Settlement Agreement  
(Contract # C20090066)**

**SETTLEMENT AGREEMENT**

THIS SETTLEMENT AGREEMENT ("Agreement") is made and entered into this 26<sup>th</sup> day of January, 2009, by and between SANFI ACRES LLC ("Sanfi") and SKAGIT COUNTY ("County"). The foregoing parties shall be collectively referred to herein as the "Parties".

**I. RECITALS**

**WHEREAS**, Sanfi requested a comprehensive plan map amendment (CPA)/rezone of Skagit County Tax Assessor Parcel No. P18285 and other associated parcels (hereinafter, the "property"), from Industrial Forest (IF) to Secondary Forest (SF) zoning designation (hereinafter, the "CPA application"); and

**WHEREAS**, Skagit County Planning and Development Services ("PDS") assigned the CPA application file number CPA05-14, and the matter was docketed for consideration under the 2005 Growth Management Act Comprehensive Plan update ("2005 Comp Plan Update"); and

**WHEREAS**, PDS initially recommended disapproval of the CPA application, later recommending approval of the CPA application on grounds that the property was segregated into twenty acre lots through a plat duly recorded with the Skagit County Auditor prior to the enactment of the Growth Management Act ("GMA"); and

**WHEREAS**, on July 9, 2007, the Skagit County Planning Commission ("Planning Commission") recommended that the Skagit County Board of Commissioners ("Board") deny the CPA application; and

**WHEREAS**, on September 10, 2007, the Board passed Skagit County Ordinance No. O20070009, among other things adopting the recommendations of the Planning Commission in whole as to the CPA amendment, denying the CPA application; and

**WHEREAS**, Sanfi thereafter filed a petition for review before the Western Washington Growth Management Hearings Board, WWGMHB No. 07-2-0019 (the "Growth Board petition"), seeking to reverse the County's decision with respect to the CPA application; and

**WHEREAS**, it is the policy and intent of the Board as expressed in Skagit County's Comprehensive Plan that industrial forest resource lands should not, as a general proposition, be converted to other more intensive uses, but rather should remain dedicated to timber production in order to sustain Skagit County's timber economy on a long-range basis; and

**WHEREAS**, Skagit County Comprehensive Plan policies in place at the time envisioned designation of lands as SF-NRL when, among other things, the land in question possessed an average parcel density of twenty acres; and

**WHEREAS**, the opportunity to seek redesignation of property that was lot segregated prior to the GMA's enactment was intended to be a time-limited opportunity, and, accordingly, the SF-NRL designation criteria were removed from the Comprehensive Plan as part of the 2005 Comp Plan Update; and

**WHEREAS**, any new CPA applications seeking redesignation from IF-NRL to SF-NRL submitted after the effective date of the 2005 Comp Plan Update will not consider the average parcel density as a redesignation criteria; and

**WHEREAS**, Sanfi has asserted that the County may have liability for the County's handling and treatment of the CPA application, an assertion that the County disputes; and

**WHEREAS**, the Parties enter into this Agreement to compromise and settle any and all claims arising from this matter of any nature.

## **II. TERMS AND CONDITIONS**

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein, the Parties hereto agree as follows:

1. **Effective Date of Agreement.** This Agreement will become effective on the date on which all the Parties' signatures are affixed below (the Effective Date).

2. **Remand to Planning Commission.** The Skagit County Board of Commissioners agree to execute a resolution within 60 days of the mutual execution of this agreement substantially in the form attached hereto as **Exhibit A**, remanding the CPA application to the Planning Commission. Skagit County agrees to move the CPA application forward without delay, in good faith. The Parties agree and understand that the remand to the Planning Commission may involve one or more public hearings before the Planning Commission at which the public will be allowed to participate and provide testimony. For the purposes of this agreement only and without purporting to articulate a rule of general applicability, the Parties agree that the Sanfi CPA amendment application shall be considered by the County under the Comprehensive Plan policies in effect at the time that the CPA amendment was docketed for consideration.

3. **Agreed Dismissal of Growth Board Petition.** Immediately following mutual execution of this Agreement, the Parties shall present the Western Washington Growth Management Hearings Board with a stipulated order of dismissal, attached hereto as **Exhibit B**. The Parties agree and understand that the stipulated dismissal of the Growth Board petition shall not in any way prejudice Sanfi's right to seek a subsequent or additional appeal following the new Planning Commission recommendation and Board decision this settlement will produce.

4. **No Warranties or Representations As To Outcome or County Position.** The purpose of the remand to the Planning Commission as set forth herein is to allow Sanfi an opportunity to further develop facts and present additional evidence relevant to the twenty acre average lot size rezone criteria, and for the Planning Commission to make additional findings and a new recommendation on that basis. Sanfi understands and agrees that the remand does not assure or guarantee any particular outcome. Sanfi further understands and agrees that the Board has the right to accept, reject or modify the Planning Commission's new recommendations in accordance with the law and sound public policy, which Sanfi agrees shall not be construed as a breach of this Agreement. Nothing in this Agreement imposes any obligation on Skagit County to make any statement or provide any information that is not entirely truthful and accurate. Nothing in this Agreement shall obligate PDS to take any particular position with regard to any matter relevant to the CPA application before either the Planning Commission or the Board of Commissioners.



**5. Mutual Release.** The Parties, for themselves and on behalf of their successors and assigns, hereby release and forever discharge each other and their predecessors, successors, parents, subsidiaries, or affiliated entities, past or present, as well as any partner, officer, member, director, shareholder, agent, servant, employee, representative, attorney or insurance carrier of each other, and each of them, from any and all claims, demands or causes of action of every kind and nature (including but not limited to all claims for damages, costs, expenses, and attorneys' fees and expenses), whether known or unknown, suspected or unsuspected, which either party now owns or holds or at any time heretofore has owned or held against each other, or any of them, arising out of, resulting from, or in any way related to any the CPA application, *provided however*, that the Parties do not release each other from any claims or causes of action arising from breach of this Agreement. The Parties represent and warrant that they are not aware of any claims or causes of action arising from breach of this Agreement that they could assert as of the Effective Date of this Agreement. Sanfi understands and agrees that this release does not extend to any regulatory matters that are not associated with the rezone agreement, and Skagit County retains all rights, duties and powers to enforce applicable laws and regulations associated with the property.

**6. Free Will and Neutral Authorship.** The Parties hereby represent and warrant that (a) they have entered into this Agreement of their own free will and in accordance with their own judgment and upon advice of their own legal counsel who has represented them in connection with this Agreement, and (b) they have not been induced to enter into this Agreement by any statement, act or representation of any kind or character on the part of anyone except as expressly set forth in this Agreement. Each party to this Agreement, with the assistance of competent counsel, has participated in the drafting of this Agreement, and any ambiguities shall not be construed against any party on account of such drafting.

**7. Skagit County Approval Required.** Sanfi understands and acknowledges that this Agreement must be approved by the Skagit County Board of Commissioners and that no representative of Skagit County has authority to execute this Agreement until the Agreement is so approved.

**8. Captions.** The captions of this Agreement are for convenience and reference only and in no way define, limit, or describe the scope or intent of this Agreement.

**9. Understanding of Agreement.** The Parties acknowledge that they have read this Agreement and understand its contents, that they have had the opportunity to have this Agreement reviewed by an attorney of their choice, and that they have either consulted with an attorney or voluntarily chosen not to consult with an attorney before signing this Agreement.

**10. Applicable Law, Jurisdiction and Venue.** This Agreement shall be deemed to have been made in the State of Washington and shall be governed by the laws of the State of Washington without regard to the laws pertaining to choice of law. Jurisdiction and venue for any action arising from this Agreement lie exclusively in Skagit County, Washington.

**11. Waiver.** No waiver of any provision of this Agreement shall be valid unless it is in writing and signed by the party against whom such claim or waiver is sought to be enforced, nor shall failure to enforce any right hereunder constitute a continuing waiver of the same or a waiver of any other right hereunder.

**12. No Admission of Liability or Statement of General Policy.** This settlement is a compromise of disputed claims and is not to be construed as an admission of liability on the part of the parties hereby released, by whom liability is expressly denied. This Settlement Agreement shall not be construed in any way to benefit any third party or any other CPA amendment application.

**13. Entire Agreement.** This Agreement supersedes all prior understandings and agreements between the Parties and may not be amended orally, but only by a written document signed by the Parties hereto.

**14. Authority.** The individual signatories to this Agreement represent that they have been duly authorized to execute this Agreement on behalf of the parties they purport to represent herein, and that their signature is binding on the represented entity.

**IN WITNESS WHEREOF,** the Parties have executed and entered into this Agreement as of the day and year first above written.

**SANFI ACRES LLC**

A handwritten signature in black ink, appearing to read 'Robert W. Janicki', is written over a horizontal line.

By: Robert W. Janicki  
Its: Manager

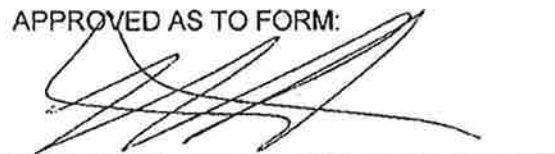
**BOARD OF COUNTY COMMISSIONERS  
SKAGIT COUNTY, WASHINGTON**

  
KENNETH A. DAHLSTEDT, Chair

  
SHARON D. DILLON, Commissioner

  
RON WESEN, Commissioner

APPROVED AS TO FORM:

  
WILLIAM HONEA, Chief Civil Deputy  
Skagit County Prosecuting Attorney

ATTEST:

  
JOANNE GIESBRECHT, Clerk of the Board  
Skagit County Board of Commissioners

**Attachment G to Sanfi Acres Chronology**  
**Letter dated April 8, 2009 from Sanfi Acres, LLC**

SANFI ACRES, L.L.C.  
103 North Township  
Sedro-Woolley, WA 98284

SKAGIT COUNTY  
PERMIT CONTR.

APR 09 2009

RECEIVED

April 8, 2009

Mr. William Stiles III, Chairman  
Skagit County Planning Commission  
601 Virginia Avenue  
Sedro-Woolley, WA 98284

Mr. Gary Christensen, Director  
Skagit County Planning & Development Services  
1800 Continental Place  
Mount Vernon, WA 98273

Re: 2005 Comprehensive Plan Amendment Application (CPA05-14)  
Remand to Skagit County Planning Commission

Gentlemen:

My name is Kevin B. McGoffin, and I am an owner with Mike and Robert Janicki and other family members in Sanfi Acres, L.L.C. (Sanfi). Sanfi owns 1,120 acres in the vicinity of Lake McMurray that is the subject of CPA05-14, wherein Sanfi asked to have its property reclassified from Industrial Forest (IF) to Secondary Forest (SF) zoning to correct a mapping error.

As you may know, Skagit County Planning and Development Services recommended *approval* of CPA05-14, but the Skagit County Planning Commission recommended that the Skagit County Board of Commissioners *deny* CPA05-14, and the Skagit Board of Commissioners did *deny* CPA05-14 on September 10, 2007. Sanfi filed a petition for review with the Western Washington Growth Management Hearings Board. During the review, Sanfi and Skagit County agreed to remand the matter back to the Skagit County Planning Commission for further review. I am enclosing a copy of the Settlement Agreement dated January 26, 2009.

On February 19, 2009, Robert Janicki and I met with Gary and staff to determine the procedure for remand to the Planning Commission. We discussed expanding the request on remand to include development conditions on the Sanfi property, which expansion would necessitate a new SEPA review. Sanfi now believes this would

April 8, 2009 - 2.

complicate the issue on remand and is premature. At this time, we simply want to address to the Planning Commission why our application to reclassify to SF is warranted under the facts and the relevant land use policies.

I am asking that the Planning Commission and/or Planning Department schedule the remand pursuant to paragraph 2. of the Settlement Agreement. Please advise me of the future date for any hearings or other protocol related to the remand. We anticipate presenting a brief written narrative of our position at a time to be determined, and Mike and Robert Janicki will undoubtedly like to have the chance to present their views to the Planning Commission.

Please send all correspondence in this matter to me at 103 North Township, Sedro-Woolley, WA 98284. My direct line is (360) 856-5435.

Respectfully,

A handwritten signature in black ink, appearing to read 'K. B. McGoffin', followed by a horizontal line.

Kevin B. McGoffin, Authorized Member  
SANFI ACRES, L.L.C.

Enclosure

**Attachment H to Sanfi Acres Chronology**  
**Remand Resolution (R20090231)**  
**May 26, 2009**

**A Resolution Remanding Comprehensive Plan Amendment Application No. 05-14 to the  
Skagit County Planning Commission For Further Consideration and Recommendation  
Pursuant to Litigation Settlement Agreement**

WHEREAS, on January 26, 2009, Skagit County entered a settlement agreement (the "Settlement Agreement") with Sanfi Acres LLC (hereinafter, the "applicant") settling an appeal by the applicant before the Western Washington Growth Management Hearings Board related to Skagit County's denial of applicant's Comprehensive Plan Amendment Application No. 05-14 ("CPA 05-14");

WHEREAS, pursuant to the Settlement Agreement, Skagit County agreed to remand CPA 05-14 to the Skagit County Planning Commission for further consideration;

**Now, Therefore, Be It Resolved And It Is Hereby Ordered By the Skagit County Board of Commissioners As Follows:**

1. CPA 05-14 is hereby remanded to the Skagit County Planning Commission for further fact finding, review and recommendation, at the Planning Commission's soonest reasonable opportunity;
2. Pursuant to the terms of the Settlement Agreement, the Planning Commission shall consider CPA 05-14 under the laws, regulations, and policies in effect at the time CP 05-14 was docketed for consideration.

**IN TESTIMONY WHEREOF, WE HEREUNTO SET OUR HANDS AND AFFIX THE  
OFFICIAL SEAL OF OUR OFFICE** this 26<sup>th</sup> day of May, 2009.



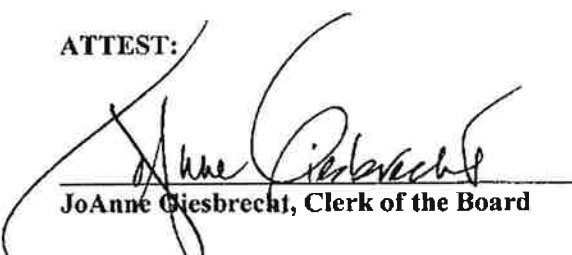
**BOARD OF COMMISSIONERS  
SKAGIT COUNTY, WASHINGTON**

  
**KENNETH A. DAHLSTEDT, Chair**

  
**SHARON D. DILLON, Commissioner**

  
**RON WESEN, Commissioner**

**ATTEST:**

  
**JoAnne Giesbrecht, Clerk of the Board**

**APPROVED AS TO FORM:**

  
**William Honea, Chief Civil Deputy  
Skagit County Prosecuting Attorney**



**Attachment I to Sanfi Acres Chronology  
Sanfi Acres, LLC Applicant's Memorandum  
May 29, 2009**

SANFI ACRES, L.L.C.  
103 North Township  
Sedro-Woolley, WA 98284

SKAGIT COUNTY  
PERMITTING  
JUN 01 2009  
RECEIVED

May 29, 2009

Mr. William Stiles III, Chairman  
Skagit County Planning Commission  
601 Virginia Avenue  
Sedro-Woolley, WA 98284

Mr. Gary Christensen, Director  
Skagit County Planning & Development Services  
1700 East College Way  
Mount Vernon, WA 98273

Re: 2005 Comprehensive Plan Amendment Application - CPA05-14  
Remand to Skagit County Planning Commission

Gentlemen:

This is a follow-up to my April 8, 2009 letter to you. I have not received a response to my letter regarding the scheduling of the remand hearing in the above matter. Please let me know the status. If you wish to contact me by telephone, I can be reached at (360) 856-5435.

Also, I indicated in my earlier letter that Sanfi Acres, L.L.C. would be presenting a written narrative of its position on remand. I am enclosing an original and eight (8) copies of a document entitled "Applicant's Memorandum" to Mr. Stiles for the Planning Commission members. I am providing one (1) copy of the Memorandum to Mr. Christensen. Each Memorandum has two (2) Exhibits attached. Should you require additional copies, I can provide these.

Should you have any questions or comments, please contact me at the Sanfi address above or call me at the phone number above.

Respectfully,



Kevin B. McGoffin, authorized Member  
SANFI ACRES, L.L.C.

Enclosures

SANFI ACRES, L.L.C.  
103 North Township  
Sedro-Woolley, WA 98284

To: Skagit County Planning Commission Members  
From: Robert W. Janicki - Sanfi Acres, L.L.C.  
Date: May 29, 2009  
Re: CPA05-14 Remand Hearing -- Applicant's Memorandum

I. Introduction. Sanfi Acres, L.L.C. ("Sanfi") is the applicant on CPA05-14, seeking to correct a mapping error and to redesignate Sanfi's Lake McMurray property from Industrial Forest-NRL to Secondary Forest-NRL zoning. Sanfi respectfully requests the Planning Commission reverse its earlier recommendation and issue a recommendation of approval on CPA05-14 to the Skagit County Board of Commissioners.

II. Property Description. See attached December 23, 2008 zoning map ("Exhibit 1"). Sanfi's property is situated in Sections 27, 28, and 33 of T33N R5E, and is etched as fifty-six (56) twenty (20) acre parcels lying from the Snohomish County border northward to the peninsula of Secondary Forest-NRL lands in Sections 21, 22, and 27 bisected by Lake Cavanaugh Road. Sanfi's property is also bisected by an asphalt County road (Grandstrom Road), and is situated within Fire Protection District 15 (Lake McMurray). Property to the south of the County line along Grandstrom Road is dotted with residential development on small sized acreage.

All fifty-six (56) of Sanfi's parcels have received lot certification by the Skagit County Planning & Development Services. Sanfi currently utilizes its property as a commercial tree farm.

III. Timeline.

- In 1990, the previous owner of Sanfi's property recorded three (3) Declaration of Segregation documents in Skagit County, which lawfully subdivided the property into fifty-six (56) lots, each lot being twenty (20) acres in size. Despite the recordings, the Skagit County Assessor's maps were not updated and continued to show the property as three (3) large parcels of: one hundred twenty (120) acres, five hundred sixty (560) acres, and four hundred forty (440) acres.

COPY

- In 1996-7, Skagit County analyzed the property for GMA designation as resource lands. Due to the Assessor's maps not being updated to reflect the 1990 subdivision into twenty (20) acres lots, the County incorrectly viewed the property as three (3) large parcels fitting the Industrial Forest criteria (average parcel size of forty (40) or larger acres). The County designated the property Industrial Forest-NRL. If the County had the benefit of an accurate map showing the fifty-six (56) twenty (20) acre lots, the Secondary Forest-NRL criteria (average parcel size of twenty (20) acres) would have directed designation of the property as Secondary Forest-NRL.
- In 2001, Sanfi purchased the property for \$3,400,000, or a little over \$3,000/acre. A significant factor in setting the purchase price higher than the average cost per acre for timber land (\$800/acre) was the 1990 subdivision of the property into twenty (20) acre lot sizes, which meant Sanfi's property had potential for development in addition to its use as a commercial tree farm.
- In June-July, 2004, the Skagit County Assessor's office assigned separate tax account numbers to Sanfi's fifty-six (56) twenty (20) acre parcels and corrected the Assessor's maps to reflect the 1990 subdivision of the property.
- In November 2004, Sanfi presented to Skagit County a 2005 Growth Management Act Update Amendment Request Form, requesting a reclassification of its property from Industrial Forest-NRL to Secondary Forest-NRL zoning. *See* Sanfi's Application on file. Sanfi's Application was assigned number CPA05-14.
- In early 2006, the Planning Department initially recommended denial of CPA05-14, because the property met Industrial Forest-NRL designation and the property was not needed as a buffer.
- In April-May 2006, Skagit County issued and Sanfi recorded Lot of Record Certifications for all fifty-six (56) twenty (20) acre parcels on the property. *See* Skagit Auditor's File Nos. 200605030098-200605030153. This proves the legality of the 1990 subdivisions into twenty (20) acres parcels.
- On December 7, 2006, the Planning Department issued a memorandum to the Planning Commission, wherein it changed its recommendation to "approve" CPA05-14 (page 5-6). In this memorandum, the Planning Department first elaborated on its reasoning for its earlier recommendation of "denial" of CPA05-14, namely: the re-designation to Secondary Forest-NRL would create an illogical buffer and inconsistency with the surrounding Industrial Forest-NRL lands. Despite this it concluded: "[A] Secondary Forest-NRL designation for this subject area is consistent with the SF-NRL designation criteria. In essence, the Department's recommendation is based on parcel sizes."

The Planning Department's conclusion of "approval" is based upon the following stated reasons: 1.) re-designating Sanfi's property to Secondary Forest-NRL

would not alter the uses of the property as a resource land of long-term commercial significance, or create a conflicting area of non-resource land in the midst of resource lands; 2.) the twenty (20) acre parcel sizes meet the Secondary Forest-NRL size criteria, not the Industrial Forest-NRL size criteria; and 3.) while the Secondary Forest-NRL criteria call for the majority of Secondary Forest-NRL lands to be within a ¼ mile band adjacent to Industrial Forest-NRL lands, Skagit County has applied a wider than ¼ mile Secondary Forest-NRL designation in areas where the average parcel sizes are more consistent with the allowed 20-acre density (citing Bacus Hill as an example).

- In July 2007, a majority of the Planning Commission disagreed with the Planning Department's revised recommendation and entered a recommendation of "denial" of CPA05-14. The majority agreed with the earlier recommendation of the Planning Department that, "...redesignation would create illogical SF-NRL boundaries, and a discontinuity within the Industrial Forest-NRL area." Further, the majority distinguished Bacus Hills and other larger than ¼ mile buffer SF-NRL zones because they had pre-existing residential/small-scale resource use.
- In September 2007, the Board of County Commissioners adopted the Planning Commission's recommendation of "denial" of CPA05-14. Sanfi appealed to the Growth Management Hearing Board. Ultimately, Sanfi and Skagit County agreed to dismiss the appeal and remand CPA05-14 to the Planning Commission for further review.

IV. Discussion. Sanfi agrees with the Planning Department's reasons for its December 2007 recommendation of "approval" of CPA05-14.

Additionally, the Skagit County Comprehensive Plan criteria for Forest Natural Resource Lands in effect at the time of Sanfi's application support approval of CPA05-14. *See* copy of Objective 4 attached ("Exhibit 2"). The criteria for Industrial Forest-NRL and Secondary Forest-NRL are practically the same except for the parcel size. Clearly, the Industrial Forest-NRL criteria envision a parcel size larger than twenty (20) acres (average parcel size of 40 acres or larger for screening), whereas Secondary Forest-NRL shall have an average parcel density of 20 acres, citing 4A-4.7. Note, that 4A-4.7 was revised in the 2005 amendments to eliminate reference to 20 acre parcel size in the criteria and is not available for future requests, but it applies to Sanfi's application and is strong evidence that twenty (20) acre segregations like Sanfi's property were expected to be Secondary Forest-NRL zoning. To not honor this clear directive in light of the amendment would appear confiscatory against Sanfi.

Also, looking at the Comprehensive Plan map attached as "Exhibit 1", there is an existing peninsula of Secondary Forest-NRL zoning along Lake Cavanaugh Road that is beyond the ¼ mile band criteria for Secondary Forest-NRL. Sanfi's property as Secondary Forest-NRL would be a logical connection to this peninsula, and Sanfi's property shares similar features to this peninsula. It appears illogical to not make Sanfi's property

Secondary Forest-NRL when looking at the property immediately to the north and considering the residential development to the south in Snohomish County.

Finally, the fact that Sanfi's property is a large block of undeveloped resource land without residential development means that it fits within the Forest Natural Resource Lands criteria, and Sanfi is not asking for more. It will continue to be natural resource lands after redesignation to Secondary Forest-NRL, which is the correct designation. Please recommend approval of CPA05-14.

Respectfully,

A handwritten signature in black ink, appearing to read 'Robert W. Janicki', written in a cursive style.

Robert W. Janicki  
Managing Member  
Sanfi Acres, L.L.C.

# SKAGIT COUNTY COMPREHENSIVE PLAN Designations And ZONING DISTRICTS

\* December 23, 2008

## LEGEND

### URBAN

Unincorporated Areas

### UGA ZONING

- [UGA] Urban Growth Area
- [AWR] Avalon Reserve
- [BR-CC] Bayview Ridge Community Center
- [BR-H] Bayview Ridge Heavy Industrial
- [BR-L] Bayview Ridge Light Industrial
- [BR-R] Bayview Ridge Residential
- [BR-UR] Bayview Ridge Urban Reserve
- [URR] Urban Reserve Residential
- [URC-I] Urban Reserve Commercial Industrial
- [URP-OS] Urban Reserve Public Open Space
- Urban Development Districts
  - [AUD] Anacortes Urban Development District
  - [LUD] LaConner Urban Development District
  - [MVD] Mount Vernon Urban Development District

- [HR] Hamilton Residential
- [HI] Hamilton Industrial
- [RI] Residential (Sukomish UGA)
- [IC] Commercial (Sukomish UGA)

### RURAL

- [RRV] Rural Reserve
- [HURV] Hamilton Urban Reserve
- [RII] Rural Intermediate
- [RVH] Rural Village Residential

### NATURAL RESOURCE LAND

- [RR-NRL] Rural Resource - NRL
- [Ag-NRL] Agriculture - NRL
- [SF-NRL] Secondary Forest - NRL
- [IF-NRL] Industrial Forest - NRL
- [MRD] Mineral Resource Overlay

### COMMERCIAL / INDUSTRIAL

- [C/I] Commercial / Industrial
- [RB] Rural Business
- [RC] Rural Center
- [RVC] Rural Village Commercial
- [RFL] Rural Freeway Service
- [RII] Rural Intermediate Industrial
- [SIT] Small-Scale Recreation & Tourism
- [SSB] Small-Scale Business
- [RM] Rural Medium Industrial
- [RMC] Rural Medium Commercial
- [RMR] Rural Medium Residential
- [RMR] Master Planned Resort

### OPEN SPACE

- [OSR] Public Open Space of Statewide/Regional Importance

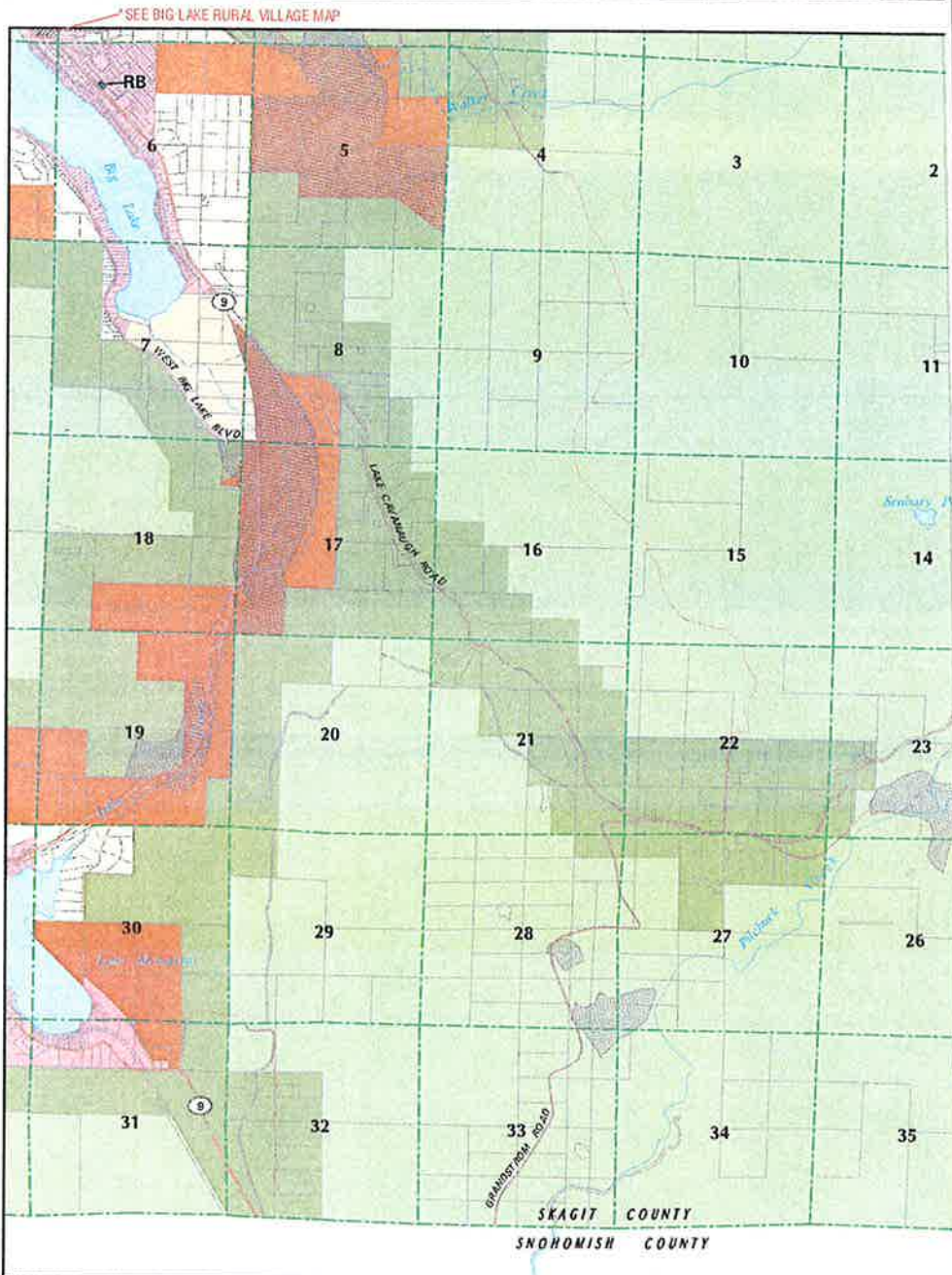


0 1/2 mile 1 mile

0 2000 ft 4000 ft 6000 ft

MAP SCALE 1: 24,000

T33N R5 and 6E W.M.



This map was created from available public records and existing map sources, not from field surveys. Map features from all sources have been adjusted to achieve a "best fit" registration to the Ownership Parcels Map. While great care was taken in this process, maps from different sources rarely agree as to the precise location of geographic features. The relative positioning of map features to one another results from combining different map sources without field "ground truthing".

\*Skagit County disclaims any warranty of merchantability, fitness of this map for any particular purpose, either express or implied. No representation or warranty is made concerning the accuracy, completeness or quality of data depicted on this map. Any use of this map is at the user's sole risk, and the user assumes all responsibility for use thereof, and further, Skagit County disclaims any liability for any damage, loss or injury from use of this map.



## FOREST NATURAL RESOURCE LANDS

### OBJECTIVE 4

*Establish land use designation criteria and densities for forest natural resource lands.*

The following criteria shall be considered when classifying Industrial Forest lands:

- 4A-4.1** All lands in unincorporated Skagit County shall be screened for possible Industrial Forest designation as described in this section. First, the majority of the area contains land where the average parcel size is 40 or larger acres (the number of parcels contained in a 1/4 subdivision of a Section divided into 160 acres) and contains one or more of the following characteristics:
- (a) The majority of the area contains WA State Department of Revenue – Private Forest Land Grade (PFLG) soils 1-5.
  - (b) The majority of the area includes "lands which are primarily devoted to and used for growing and harvesting timber" (84.33.020).
- 4A-4.2** Then, those lands located in blocks of contiguous parcels approximately 160 acres and larger shall be retained in Industrial Forest designation.
- 4A-4.3** Parcels remaining after steps 4A-4.1 and 4A-4.2 shall be further evaluated for inclusion or exclusion based on the following additional factors:
- (a) The majority of the area contains a predominance of parcels or acreage participating in a current-use tax assessment program under the provisions of RCW 84.33 and 84.34 as it pertains to forestry. Such current-use tax assessment status is, not by itself, a sufficient determining factor for inclusion or exclusion, but is only part of the relevant characteristics to be considered.
  - (b) The majority of the area has limited public services and facilities (although the area may be located within a public water district).



- 4A-4.4** Parcels that may not meet the criteria described in 4A-4.1 and 4A-4.2 above may, nonetheless, be included to provide logical boundaries to the Industrial Forest lands designation and to avoid small "islands" or "peninsulas" of conflicting non-resource land uses in the midst of resource lands. Similarly, parcels that meet the criteria described in 4A-4.1 and 4A-4.2 above may be excluded to provide logical boundaries to the Industrial Forest lands designation and to avoid conflict with existing land uses. Isolated, pre-existing residences shall not preclude the adjacent forest land areas from being classified Industrial Forest.
- 4A-4.5** Areas with pre-existing conditions such as vested subdivisions and rural development, other than isolated pre-existing single-family homes, where the predominant activity is clearly not that of commercial forestry, shall not be classified as Industrial Forest lands. Isolated, pre-existing single-family homes shall not preclude the surrounding undeveloped forest land areas from being designated Industrial Forest as long as most of the other criteria in this section can be met.

#### Industrial Forest Land Parcel Density Policy

- 4A-4.6** The minimum parcel size for land designated as Industrial Forest shall be 80 acres or 1/8 of a section. The practice of Forestry shall be the preferred use on Industrial Forest land. Residential development shall be limited to those areas located within an existing fire protection district.
- (a)** Residential development is a permitted use on parcels within an existing fire protection district that are within 200 feet of an existing county road or state highway.
  - (b)** Residential development may be permitted as a hearing examiner special use if the parcel is located within an existing fire protection district, but not within 200 feet of an existing county road or state highway if the applicant can demonstrate to the hearing examiner that:
    - (i)** all uniform fire code requirements for construction of that residential structure can be met, andfire prevention and suppression requirements for construction of that residential structure can be met as follows:

- (1) ingress and egress for fire vehicles meets the standards of the Uniform Fire Code Section 902, as amended;
- (2) there is a 200 foot slash abatement maintained around the exterior portion of the dwelling;
- (3) there is a safety zone cleared of flammable vegetation 30 feet from any portion of the exterior of any structure on level ground and 100 feet downhill on loped ground;
- (4) the dwelling or any accessory structure is constructed of a non-combustible roofing material; and
- (5) there is availability of 300 gallons of water onsite, 400 feet of 1 inch fire hose with foam applicator, and an internal combustion engine powered pump.

#### Secondary Forest Land Designation Criteria Policies

The following criteria shall be considered when designating Secondary Forest lands:

- 4A-4.7** The majority of Secondary Forest lands shall be located within a 1/4 mile band adjacent to lands designated as Industrial Forest lands and have an average parcel density of 20 acres. This band shall be derived from land primarily devoted to forestry and contain one or more of the following characteristics:
- (a) The majority of the area contains WA State Department of Revenue -- Private Forest Land Grade (PFLG) soils 1-5.
  - (b) The majority of the area includes "lands which are primarily devoted to and used for growing and harvesting timber" (84.33.020).
- 4A-4.8** Parcels remaining after step 4A-4.7 shall be further evaluated for inclusion or exclusion based on the following additional factors:
- (a) The majority of the area contains a predominance of parcels or acreage participating in a current-use tax assessment program under the provisions of RCW 84.33 and 84.34 as it pertains to forestry. Such current-use tax assessment status is not by itself a sufficient

determining factor for inclusion or exclusion, but is only part of the relevant characteristics to be considered.

- (b) The majority of the area has limited public services and facilities (although the area may be located within a public water district).

- 4A-4.9** Parcels that do not meet the criteria described in 4A-4.7 and 4A-4.8 above may, nonetheless, be included to provide logical boundaries to the Secondary Forest lands designation and to avoid small "islands" or "peninsulas" of conflicting non-resource land uses in the midst of resource lands. Similarly, parcels that meet the criteria described in 4A-4.7 and 4A-4.8 above may be excluded to provide logical boundaries to the Secondary Forest lands designation and to avoid conflict with existing land uses. Isolated, pre-existing residences shall not preclude the adjacent forest land areas from being classified Secondary Forest.
- 4A-4.10** In addition to these land use designation criteria the Swinomish Indian Reservation should be designated Secondary Forest-NRL. While these lands are not located within a ¼ mile buffer of the Industrial Forest-NRL, much of these lands are in forest production and management and are designated as such in the draft Swinomish Comprehensive Plan (September 19, 1990).
- 4A-4.11** When the adjacent property is designated as Agricultural natural resource land, no Secondary Forest band is required. Generally, the band was still used if adjacent to Rural Resource designated lands.

#### Secondary Forest Parcel Density Policy

- 4A-4.12** Residential gross densities for land designated as Secondary Forest shall be 1 dwelling unit per 20 acres.