



# Skagit County Planning & Development Services

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## Memorandum

To: Board of County Commissioners  
From: Dale Pernula, AICP, Director  
Re: Planning Commission’s Recorded Motion on the  
2014 Comprehensive Plan Amendments (CDI and Birdsvew Brewery)  
Date: December 9, 2015

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### Background

The [2014 Comprehensive Plan Amendments docket](#) consists of (1) Sedro-Woolley UGA expansion, (2) redesignation/rezone of Birdsvew Brewery, and (3) the proposed Conservation and Development Incentives program. The Sedro-Woolley proposal was not ready for consideration and has not moved forward. The Planning Commission held a public hearing on the Birdsvew Brewery petition on September 1 and recommended approval in its [October 6 Recorded Motion](#).

On the final docketed item, the CDI program, the Planning Commission discussed the proposed program on June 2, September 15, October 6, and October 20. The Department released the proposed [policies](#) and [code](#) and a [comprehensive staff report](#) on September 24, followed by a [memo responding to Planning Commissioner questions](#) on October 22. The Commission held a public hearing on November 2, and deliberated November 17, December 1, and December 8.

The [public comments](#) on the proposal include the following major themes:

- Opposition to increased density in rural areas.
- Support for cities, towns and non-municipal urban growth areas absorbing increased densities that support rural and natural resource land conservation.
- Support for a conservation program focusing on lands ineligible for the Farmland Legacy program, including forest lands, general open space, and agricultural lands outside of the Ag-NRL zone.
- Support from some commenters for a privately funded conservation mechanism to complement existing publicly funded programs like Farmland Legacy.

- Fear, uncertainty, and doubt from some commenters about the proposal and about transfer of development rights programs in general. The Department prepared a lengthy [Responses to Comments memo](#) in an attempt to correct the record of factual misstatements.
- Comments from the cities of [Anacortes](#) and [Mount Vernon](#) expressing general support for the program and interest in possible participation after it is adopted.
- Comments from the City of Burlington requesting that the program only apply to municipal urban growth areas with the support of the affected city, and indicating potential changes to or elimination of the city’s Agricultural Heritage Density Credit program.
- Positive comments from the Washington State Department of Commerce, supporting:
  - The County’s commitment to working with cities and towns to identify municipal development priority areas to accept additional growth, as well as conservation priority areas that would be supported by the program.
  - The proposal’s inclusion of a public mechanism (County sale) and a private mechanism (TDR) for development credit transactions, which can increase the likelihood of program usage, and
  - The County establishing a market-based conservation program to complement publicly-funded programs such as Farmland Legacy Program and thereby expand the resources available for conservation.

At the same time, the Department of Commerce raised concerns about the proposal’s rural “development priority areas,” consistent with concerns from members of the local community.

While the CDI proposal included both Comprehensive Plan policies and code, the Department communicated to the Planning Commission the Board’s desire to be able to consider at least the CDI Comprehensive Plan policies as part of the comprehensive plan amendments to be adopted this year. The PC therefore issued a recommendation on only the CDI policies. If the Board adopts the policies, the PC can then proceed to issue a recommendation on the code, which the Board can adopt at any time.

## **Summary of Planning Commission’s Recorded Motion**

In its [recorded motion on the Birdsview Brewery petition](#), the Planning Commission recommended approval of redesignation of 2 acres of the parcel from Rural Reserve to Small-Scale Recreation and Tourism. The Department and the applicant support the Planning Commission’s recommendation.

In its [recorded motion on the CDI policies](#), the Planning Commission recommended rejection of the proposed policies. But upon the advice of counsel, the Planning Commission went on to propose the following specific changes to the proposed policies if the Board decides to move forward anyway:

1. Remove the following from the list of Development Priority Areas: Rural Intermediate infill, Rural Village Residential infill, Rural Reserve CaRDs, rural residential comprehensive plan amendments.
2. Remove the following from the list of Conservation Priority Areas: Ag-NRL.

3. Goal 2H should be modified to emphasize conservation before development and read as follows: "Implement a program that supports the voluntary conservation of farm, forest, and open space lands while providing incentives to guide development to areas best suited for additional growth."
4. In unincorporated Skagit County other than municipal UGAs, limit buying and selling development rights to a 1:1 ratio, consistent with the Department of Commerce recommendation. Inside cities and their UGAs, development priority areas could support more than a 1:1 ratio.

The Planning Commission made other recommendations in its Recorded Motion that do not constitute changes to the policies themselves. The Planning Commission also recommended the Board consider establishing a Forest Legacy Program (to conserve forest land similar to Farmland Legacy) and a Rural Legacy Program. They did not identify a funding source for such programs.

### **Requested Board Action**

The Department will present the Planning Commission Recorded Motion and this memo to the Board on Tuesday, December 15. Because the CDI policies are part of the 2014 Comprehensive Plan docket, the Board needs to decide how to proceed on the proposal in sufficient time to adopt before the end of this year.

The Board has the following options:

1. Adopt the CDI Comprehensive Plan policies as proposed.
2. Adopt the CDI Comprehensive Plan policies with subtractive modifications.
3. Add the CDI Comprehensive Plan policies to the 2016 Comprehensive Plan Update with any modifications the Board desires. Those modifications would receive public comment with the rest of the 2016 Update proposal.
4. Decline to adopt any new Comprehensive Plan policies.

The Department will prepare an ordinance for Board adoption on Monday, December 28, that will include the Board's action on CDI *and* the Board's decision on the Birdsvew Brewery Comprehensive Plan map amendment.

### **Department Recommendation**

#### **Analysis**

At the Board's direction, County staff, advisory committee volunteers, and the Planning Commissioners have committed a substantial amount of time to the development of the proposed CDI program in the last three years. The Department believes the proposed program, with the following modifications, would:

- be a valuable addition to the Comprehensive Plan;
- further the County's policies of resource land protection;
- be GMA-compliant;
- not require significant staff time to implement;

- not be controversial (because it would include no rural development priority areas except for rural upzones, which can already occur without the purchase of development credits); and
- be well accepted over time.

### **Specific Recommendation**

The Department **recommends the Board adopt** the proposed policies with the modifications described above as recommended in the Planning Commission’s Recorded Motion but 1) retain rural residential comprehensive plan amendments (rural upzones) as Development Priority Areas, and 2) make the 1:1 ratio not apply to County non-municipal UGAs (modifying PC recommendation #4).

The Department **further recommends the Board adopt** the following additional minor modifications to the CDI policies, which were requested by the Department of Commerce or the cities.

1. **Amend policy 2H-4.1**, as shown, to reflect the County’s commitment to work with the cities to create a market for conservation incentives: “Skagit County should encourage cities and towns to implement similar incentive programs in ~~coordination~~ partnership with the County, enabling cities and towns to assist in conserving county designated farm, forest and open space lands that are important to their residents.” (Recommended by Department of Commerce)
2. **Amend policy 2H-4.1(d)** to clearly state that if the County and a city or town decide to cooperate in transferring development rights from the County into a municipal receiving area, an interlocal agreement is necessary to establish requirements for how transfers are tracked. (Recommended by Department of Commerce)
3. **Add a policy under Goal 2H-4, County-city partnerships**, encouraging the cities to designate their downtowns or urban centers as priority development areas, as many cities in the Puget Sound region have done as part of their plans for redevelopment and revitalization of their downtowns and urban centers. (Recommended by Department of Commerce)
4. **Modify policy 2H-1.5** to clarify that the program must be designed to be in compliance with GMA in addition to advancing the overall goals of GMA. (Recommended by Skagitonians to Preserve Farmland, and Friend of Skagit County)
5. **Modify policy 2H-4.1(b)(i)** to make the affordable housing exemption from development credit purchases optional as it applies to municipal urban growth areas (UGAs), subject to approval by the affected city or town. (Recommended by City of Burlington)
6. **Modify policy 2A-1.2(b) to clarify that designation of municipal UGA** expansions as development priority areas is contingent upon agreement by the municipality and is not a requirement for County approval of a UGA expansion. (Recommended by City of Burlington)
7. **Clarify that policies 2H-4.1(b)(i) and (ii) regarding affordable housing** and UGA expansions apply to non-municipal UGAs as well as to municipal UGAs when agreed to by the affected city or town.

## Effect of Implementing Department Recommendation

The effect of that adoption would be to create a Skagit County Conservation and Development Incentives program that:

- Will support the conservation of additional farm, forest, and open space lands in Skagit County.
- Will generate resources for conservation through the private purchase of development credits allowing additional residential development in designated development priority areas.
- Establishes the following as development priority areas, where development credits may be purchased to obtain additional residential development potential:
  - Rural residential comprehensive plan amendments (rural upzones).
  - Non-municipal (County) UGA expansions.
  - Municipal UGA expansions, when agreed to by the County and the affected city or town.
  - Areas within cities or towns as determined and designated by the municipality.
- Establishes the following as conservation priority areas, where landowners are eligible to sell development rights in order to permanently conserve their lands:
  - Industrial Forest-NRL within a fire district;
  - Secondary Forest-NRL;
  - Rural Resource-NRL; and
  - Rural Reserve lands supporting farm, forestry and open space uses as determined by their eligibility for enrollment in the Open Space Tax Program.

These conservation priority areas could be further prioritized, now or in the future, based on more specific geographic or other criteria.

- Enables cities and towns to identify conservation priority areas in partnership with the County to conserve lands of importance to their residents, including lands within or immediately surrounding their urban growth areas.
- Creates two mechanisms for the purchase of development credits and the resulting conservation of land. Specifically, the program would enable:
  - Owners of farm, forest or open space land to sell residential development rights to the County or to private purchasers in exchange for placing their land in a permanent conservation easement; and
  - Developers to purchase development credits either from the County or from private landowners to access additional development potential in designated development priority areas.
- Complements the Farmland Legacy Program by supporting conservation of natural resource and open space lands other than Ag-NRL, including forest lands and valuable farm

lands located in the Rural Resource-NRL and Rural Reserve designations and therefore ineligible for participation in Farmland Legacy.

- Complements any other publicly-funded conservation program that Skagit County may choose to implement in the future.

If the Board does not adopt the policies in some form now, the Board may not be well positioned to revisit the concept any time in the near future. The concept of establishing a conservation program supported by the purchase of development credits for bonus densities has, for the first time in Skagit County, received a lengthy and thorough vetting through this process including consideration of a specific legislative proposal. The Department recommends that the County Commissioners either implement the CDI policies now or put the issue to rest for the foreseeable future.