

**2009 MISCELLANEOUS CODE AMENDMENTS
WRITTEN COMMENT CORRESPONDENCE
JUNE 12, 2009 - JULY 21, 2009**

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Skagit River System Cooperative

11426 Moorage Way • P.O. Box 368 LaConner, WA 98257-0368
Phone: 360-466-7228 • Fax: 360-466-4047 • www.skagitcoop.org

June 24th, 2009

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

RECEIVED
JUN 2 2009

Reference: Skagit Critical Areas Ordinance forestry rules DNS

Dear Mr. Christensen:

Skagit River System Cooperative (SRSC) appreciates the opportunity to comment on upcoming changes to the Skagit County Code, in particular SCC Section 14.2, the Critical Areas Ordinance (CAO). We would assert that these changes, although short in text, represent a substantial and far-reaching change to land use management on the ground, and we expect a substantial and significant effect on the environment. We therefore do not concur with the threshold determination issued by the County and request that a determination of significance be made regarding these changes. We make these comments on behalf of the Swinomish Indian Tribal Community and Sauk-Suiattle Indian Tribe.

As we understand it, the proposed changes include the addition of one sub-section in 14.24.070, for the activities allowed without standard CAO review. The new sub-section would allow Class IV General forest practices (non-conversion harvest) on lands designated as Natural Resource lands on which a natural resources easement (a NRLE) has been established. A NRLE is established on natural resource lands where a CaRD (Conservation and Reserve Development) subdivision is proposed. The NRLE prevents the current and subsequent owners from dividing or using the land in a way not incidental to the natural resource purposes, such as food or timber production. Forest practices on the resource land portion of the CaRD would be exempted from CAO review but governed instead by the State Department of Natural Resources under WAC 222. The County would continue to enforce the NRLE and the residential portion of the CaRD.

Current DNR forest practices regulations exempt Small Forest Landowners with less than 80 acres of timber who are applying to harvest less than 20 acres from the normal buffer regulations (WAC 222-30-023). For small forest landowners the buffers on salmon bearing streams can be as narrow as 29 feet and have as few as 29 trees per 1000 feet of stream, which equates to a single line of trees on a 34-foot spacing. These exempt harvests potentially constitute the vast majority of the timber activities on NRLEs administered by Skagit County. By our calculations nearly 30 percent of Skagit County non-industrial natural resource lands are on parcels less than 20 acres, so the change from current land use regulations is significant. We estimate that more than 40,000 acres of land could potentially be exempt from the CAO and fall under the DNR

small forest landowner exemption instead, resulting in buffer reductions on fish-bearing waters from 150 feet under the CAO to 29 feet under the DNR forest practices regulations.

The DNR forest practices regulations for large landowners are less stringent and more complex than the Skagit CAO in protecting streams and wetlands. For example, Skagit CAO regulations for Type S (salmon bearing) streams require a 200-foot no-cut buffer, whereas the DNR regulations have a three-zone buffer of varying widths, depending on site potential and stream size, and partial harvest in two of the three zones. Under DNR rules tree growth modeling is required to determine if a particular stand meets growth requirements (WAC 222-30-021). Except in cases where channel migration zones are wide, the DNR buffers would never be wider than those provided under the CAO, and hence would provide less protection for streams and riparian areas. Having said that, SRSC participated in the development of the DNR forest practices regulations at the State level, and is comfortable with their implementation on lands that are, and always will be, dedicated to forestry uses. The small forest landowner exemption is however a sticking point to which SRSC vigorously objects. The very fact that a CaRD is being applied for indicates a conversion of the parcel from forestry to other uses. Slicing up the uses within a single relatively small parcel is merely creating a pathway for diminished environmental protection.

In summary, on parcels where forest harvesting will continue without future conversion (to residential or commercial areas) the DNR Forest Practices rules for large landowners may provide adequate protection for streams, as is currently the case on private lands across the state. However, on lands where the small forest landowner exemption applies the buffers will be less than adequate, as has been repeatedly shown by the best available science (which SRSC can provide, again, if necessary). The potential for small forest landowner exemptions with this change is immense, and constitutes more than a third of the non-industrial natural resource lands under County jurisdiction. By any measure this regulatory change will have a significant effect on the Skagit County environment, and should receive a commensurate SEPA determination.

As usual, SRSC appreciates the opportunity to comment on this proposal, and we look forward to continuing our collaborative relationship with the County. If you have any questions about our comments, or if there is anything more that we can provide, please don't hesitate to call me at (360) 466-7308 or email at thyatt@skagitcoop.org

Sincerely,



Tim Hyatt
Resource Protection Ecologist
Skagit River System Cooperative

June 26, 2009

JUN 26 2009

RECEIVED

Carly Ruacho, Senior Planner
Skagit County Planning & Development Services
1800 Continental Place
Mount Vernon, Washington 98273

Re: Threshold Determination - Designation of non-significance involving changes to
SCC 14.18

Dear Ms. Ruacho,

I am contacting you regarding the proposed change to Skagit County Code 14.18.000 (5)(h). The new language appears to effectively prohibit any subdivision of lands for residential use in the zones cited if they were not in a fire district as of July 26, 2005.

Aside from having deep concerns over the merits of such a proposal, clearly this legislative measure constitutes a significant action. If enacted there will be land use consequences some of which may have not been fully contemplated. As such there could be resultant unintended environmental impacts. With this potential in mind I believe that a determination of significance is warranted for the review of the aforementioned proposal.

Sincerely,



Dave Chamberlain
14348 Hidden Ridge Lane
Bow, WA 98232

Planning Commission Comment Letter
Miscellaneous Code Revisions

June 19, 2009

To: Skagit County Planning Dept. – Carly Rauch
From: June Kite and Friends of Skagit County
Re: Code Revisions – CaRD (Conservation & Reserve Development)

SKAGIT COUNTY
PLANNING DEPT.

JUN 19 2009

RECEIVED

In 2007 the Comprehensive Plan was adopted and recognized **Land Use Analysis** and the **CaRD** as trailing issues to be addressed in 2008. That didn't happen, and now that the 2009 economy with budget and staff cuts, the Planning staff is to postpone Long Term Planning projects. There would seem to be a need also to stop accepting applications for new land subdivisions.

Currently the Planning Commission is reviewing Development Codes and this comment letter from Friends of Skagit County (FOSC) is addressing the Conservation and Reserve Development (CaRD) that has been utilized for numerous land sub-divisions in rural areas. Some language changes have been submitted and there will be more changes requested at the public hearing scheduled for June 30.

First and foremost is a **request for a moratorium** on new applications for Zoning changes and land sub-divisions to allow the Planning Staff and Planning Commission to make a thorough review of the CaRD ordinance.

The CaRD ordinance was first presented as a short plat (4 lots) on a single parcel of land. This has many good aspects and is in accord with good planning policies; i.e. the conservation of open space protecting resource land and allowing for some residential cluster development. It was cost saving utilizing a single road, same utility easement, could be supplied with a single well and kept rural characteristics. This was supported by FOSC.

Later, the Long CaRD was adopted and introduced the concept of amassing multiple parcels, multiple ownerships, Transfer of Development Rights (TDR's) with no limits or cap on the total number of small one-acre lots. As a result, most of the long CaRD's ignored good planning policies.

#1. Skagit County has never adopted a TDR program. TDR's are required to transfer development rights from rural lands to urban designations.

#2. Amassing contiguous parcels with multiple owners, multiple zones/densities, unlimited number of residential lots has all the characteristics of a Planned Unit Development (PUD's) that are not permitted outside of urban areas.

#3. The 2007 Comprehensive Plan provided for a complete understanding of the LAMIRD (Local area of more intense Rural development) and set boundaries to the existing development of 1990. Long CaRDs create new LAMIRDs (not permitted), and does not maintain rural character.

#4. Some of the CaRDs required extension of sewer and water lines (urban services) not permitted outside of urban growth areas.

#5. None of the Long CaRDs substandard lots can be viewed as rural in character.

Mount Vernon has placed a moratorium on Planned Unit Developments addressing complaints that there were too many homes on too small properties, change the way density is calculated by first subtracting out critical areas, and prohibit small lots development in zones that mandate large lots.

A look at the "Saratoga Passage" CaRD south of Mount Vernon on the side of the hill will illustrate many wrongs created by the Long CaRD.

#1. Five different zones/densities -- Industrial Forest, 2ndary Forest, Ag.NRL, Rural Intermediate and Rural Reserve -- all parcels contiguous -- multiple owners -- formed a LLC. This seemingly would create a **Planned Unit Development -- and LAMIRD.**

#2. All of the Industrial Forest is steep and rocky slopes and would be considered critical areas not eligible for residential development. Most of 2ndary forest was also steep. Only one 40 acre parcel was suitable for development -- 26 residential lots were located on that 40 acre parcel utilizing extension of water line and individual onsite septic systems, creating dramatic increase in impervious surfaces and storm- water runoff impacting the fish bearing stream, the Carpenter Creek/Hill-Ditch stream.

#3. Utilizing a Transfer of Development Rights from 3 different resource designations to another resource designation would not be permitted even if the County had adopted such a TDR program. There was no preservation of resources on the parcel with 26 homes where the **PRIMARY USE OF RESOURCE LAND IS FOR RESOURCE PROTECTION.**

There seems to be more Resource lands protected when the basic large lot NRL zoning is not subject to small lot residential development.

There are major problems with the Long CaRD and I urge the Board of County Commissioners to place a moratorium on applications for new land subdivisions and CaRD ordinance and allow the Planning Department staff to work on doing an appropriate review and make recommendations for needed changes to the CaRD ordinance.

Thank you for the opportunity to comment.



June Kite for Friends of Skagit County
kitejune@fidalgo.net

cc: Board of County Commissioners, Ken Dahlstedt, Sharon Dillon, Ron Wesen

SCARP

Skagit Citizens Alliance
for Rural Preservation

PO Box 762, Sedro-Woolley WA 98284 | 360-856-2290

June 30, 2009

Skagit County Planning Commission
1800 Continental Place
Mount Vernon WA 98273

re: County Code Revisions per Notice of June 11, 2009

Commissioners:

We are pleased the Planning Department is attempting to "clean up" the County's Unified Development Code. These changes will likely improve the Department's efficiency and, hopefully, may lead to a reduction in the number of legal appeals in the future. Rather than commenting on all proposed changes that concern us, we wish to draw your attention to Code definitions by offering one example where certain definitions have caused problems in the past.

P&DS Proposals — Page 3 / Line 44 — The definitions for minor and major utility developments are inadequate in that the terms "small," "broaden" and "normal utility service" lack meaning and are practically useless. PUD #1 of Skagit County used this deficiency to its advantage during the Hansen/Thomas water line appeals which were adjudicated by two of the County's hearing examiners in 2006. Both Mr. Dufford and Mr. Furlong mentioned the issue in their respective decisions as follows:

FROM DUFFORD'S DECISION: *These definitions are not models of clarity.*

FROM FURLONG'S DECISION: *The definitions of "minor" and "major" utility developments are vague at best, since the only difference in the case of unmanned systems is whether they serve a "small" or "broader" community.*

For water line permits, we recommend that the definitions for "small local community," "broaden community," and "normal utility service for the area" be refined using the following criteria:

- size of the community (in square miles);
- number and type of hook-ups (residential / commercial / industrial);
- type of development (water distribution or transmission only);
- size of pipe (e.g. 8-inch vs 36-inch);
- length of the line (feet vs miles);
- number of hydrants, pressure-reducing stations, etc.; and
- county road cuts required, if any

Other utility developments should be similarly defined and, to comport with the intent of the Comprehensive Plan, "urban governmental services" as defined in SCC 14.04.020 should be limited to cities, towns and urban growth areas and prohibited in rural zones including, but not limited to, Natural Resource Lands and the Rural Reserve.

In addition to recommending correction of all ambiguous definitions that occur throughout the Code, we caution against the use of conditions, exceptions and exemptions which can subvert the intent of the Growth Management Act, Countywide Planning Policies and the County's Comprehensive Plan. This type of deviation tends to invite legal challenges that drive up costs which in turn place an undue burden on taxpayers.

Diane Freethy, President

~ SKAGIT CITIZENS ALLIANCE FOR RURAL PRESERVATION ~
A Nonprofit Corporation Dedicated to Minimizing Urban Sprawl and Preserving the
Country Way of Life in Rural Skagit County

June 30, 2009

Skagit County Code Amendment Proposals.

Kim Mower, address, on behalf of the AAB

I. Our concerns are about the Proposals and ~~how~~ potential harmful impacts on Agriculture.

- a. The AAB consists of highly dedicated volunteers from the ag sector of the county. We need clear, timely information from County Planning Staff about how any changes in the code may affect agriculture.
- b. The Code Amendment Proposals document has many significant changes that may negatively affect Agriculture, in contrary to the Determination of Non-Significance, primarily the 14.08.020 (5) C regarding the allowance of the development of schools in land designated farmland.
- c. More time is needed for the Ag community to analyze these changes. We need transparency from Planning and help from County Staff to sort through all the different sections.

II. We ask the BoCC to extend the comment period.

- a. Most of the ag community was unaware of the dates regarding comments, as well as some of the major changes in the document. I personally, as Chair of the AAB, did not know of the significance of the document until I read about in last Sunday's newspaper. The Advisory Board must function with attentiveness to detail for which it was intended, Committee Chairs need

to organize their groups to discuss the varied changes with Planning and County Staff.

b. The Agriculture Leaders are only now becoming aware of the potential harmful Code changes.

III. **The DNS document states** "correction of typographical errors adding clarity, rectify inconsistencies, including needed provisions, and general refinement of the existing regulations". This Code Amendment Proposal is interpreted by the ag community as a great deal more than that.

IV. **Thank you** Kim Mower
Skagit County Agriculture Advisory
Board.

Skagit County Planning Commissioners
Skagit County Planning Dept.
Mount Vernon

June 29, 2009

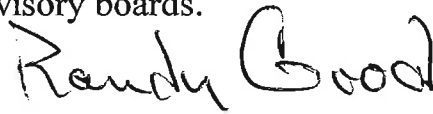
RE: Comments on Code Amendment Proposals

As a member of the County Ag Advisory Board I am very alarmed that the County Planning staff member assigned to the Ag Board failed to bring forward any information on the Code Amendment proposals to the Ag Board to review and make recommendations. County Advisory Boards are public citizens who volunteer to serve at the request of the County Commissioners to assure a properly functioning County Public Participation process and fulfill GMA requirements. The Ag Advisory Board first became aware of the Code Amendment changes last Friday. Planning staff call the changes housecleaning. I call the changes a breakdown of our democratic process.

14.08.070- Public Participation Requirements.- Proposed code language change from shall to may will eliminate the need for all Advisory Boards that review Comp Plan Elements, Sub-area Plans, functional plans and development regulations. Proposed is only a review by Planning staff to the Planning Commission totally eliminating early knowledgeable public processes.

All of these Code Amendment proposals require further review by the citizens and advisory boards.

Randy Good



25512 Minkler Rd. Sedro Woolley, WA. 98284



Goodyear Nelson
Hardwood Lumber Co., Inc.



P.O. Box 997 • Bellingham, Washington 98227 • Phone: (360) 733-3960 • FAX: (360) 733-0803

June 29, 2009

Skagit County Planning Commission
1800 Continental Place
Suite 100
Mount Vernon, WA 98273

JUN 30 2009
TEL 360 733-3960

Commissioners:

I want to share a couple of thoughts regarding forestry within the Planning Department package coming before you this evening.

The rural forestry initiative and the subsequent permitting process is a project that has been worked out by the Forest Advisory Board and the Planning Department. This is a first step in defining the permitting process between land conversions and on going forestry operations. I believe this is a good beginning, but only the start.

Interestingly enough, after months of collaboration on this issue, the Planning Department has never had the time to explain to the FAB the need for the department's changes involving subdivisions on resource lands.

The Planning Departments efforts to terminate subdivision opportunities on IF, SF and Rural Resource lands comes as a complete surprise and I find this absolutely unacceptable! This type of policy only serves to reduce the value of our lands!

If we are forced to give up our only management options, it will be just a matter of time before we will have no options at all, and the small timberland owners will disappear from the landscape.

I know that you hear often from some of our critics that all we want is to develop our property. I hope you will look at our track record.

We can't afford to give up the options that keep us in business. Time and again when confronted with dissatisfied neighbors over harvest plans, the one card we have to play is if not harvest and management then houses. Forest management wins out every time.

Please put the attempt to change the rules regarding being in a fire district prior to 2005 on hold and give the FAB a chance to discuss the need for this change with the planning department.

Thank You,

Paul Kriegel
Paul Kriegel

June 30, 2009

Planning Commission Members:

Thank you for the opportunity to comment on the proposed changes to the Critical Areas Ordinance. I am a Forestry Advisory Board (FAB) member and a professional forester who frequently works in Skagit County. I would like to express my support for the Planning Department's proposal for the Rural Forestry Initiative (RFI).

The viability of maintaining forestland is being increasingly threatened by regulatory, market, and development pressures. RFI is a means of addressing those pressures by giving forestland owners increased flexibility to manage their land.

Simply stated, RFI advocates applying critical areas regulations where true development activity is taking place and forestry regulations where forestry is taking place. Development means removing of trees and stumps and not planting trees back. Forestry is management of (to include harvest) trees and replacing those trees with new trees.

Some people have thought that simply drawing lines on a map and dividing a property into large lots (10 acre, 20 acre parcels etc.) constituted "development" of the entire property. RFI rejects this notion in that simply drawing lines on a map via land division does not mean that the entire area is now lost to forestry. My experience working with a wide variety of private owners over the last 17 years has confirmed to me that forestry and low-density development can be quite compatible. There is no reason that an owner of a 10, 20, or 40 acre parcel cannot maintain a home and a viable tree farm. In fact, many of these owners are able to take better care of their properties because they live on site. RFI simply proposes to maintain critical areas standards on portions of the property where development activity is taking place and Forest Practices Code standards on portions of the property being maintained in trees. A Natural Resource Lands Easement can be recorded on the property title to ensure the large majority of the land is maintained in forestry.

While some may view this proposal as a way to allow more development on forestland, I view it as a way to maintain forestland on property that has a potential for low impact development.

The current Forest Practices Code was heavily scrutinized before adoption. It received federal assurances of adequacy by such agencies as National Marine Fisheries Service, U.S. Fish and Wildlife Service, and the Environmental Protection Agency (via Dept. of Ecology) for the protection of wildlife and clean water resources. This code has proven to be effective in protecting resources where forestry is being practiced.

Over the last decade forest landowners have been sent the regulatory message that tree farming is not a favored land use. It is time to send these owners a message that reinforces continuing forestry land use. Please join me in supporting RFI.

Aubrey Stargell
7640 Bear Ridge Way
Maple Falls, WA 98266
360 815-5457

Comments to the Skagit County Planning Commission – June 30, 2009

The Forestry Advisory Board (FAB) is dedicated to preserving working forests in Skagit County; this includes Federal, State and private lands. Within County jurisdiction, expansive forests are most recognized in the resource zones, yet it is also true that productive forests occupy thousands of acres in the various rural zones. While most of the privately owned forested acreage is located in remote areas within the Industrial Forest zone, a large percentage of forest cover is located in areas associated with partial development including houses fields and other non-forestry uses.

Since 2007 our Board has promoted the Rural Forestry Initiative as a means to maintain and encourage the continuation of forest management on lands of mixed use. While these lands can be of great value for many uses, our intent is to strengthen the option to practice forestry on at least portions of these lands.

The FAB Board has worked hard to stay informed and participate on all issues relating to forest land. For this reason we were disappointed to find that a major land use proposal was included in the current code update process without any prior knowledge. I am referring to the proposed revision to the Land Division ordinance that would prohibit subdivision in IF, SF, and Rural Resource lands.

These lands include a bundle of rights that have collective value. Certainly one of the values is the productivity of the land for growing timber. Other uses carry value as well. These combined values are part of the intricate uses of the land for overall management of assets. Removing these rights without thorough and careful consideration sends a chilling message to landowners about the stability of land investments.

In the future I hope that the FAB will be included in the early discussions about proposals with significant potential to affect the value and use of forest lands in Skagit County. As we all know, well intended actions often result in great harm through unintended consequences.

Thank you,



**Dave Chamberlain
FAB Chair**

Speaking as the Chairman of the Forestry Advisory Board this day has been long awaited. Since the Board was established in 2004 we have worked on various matters concerning forest practices. Early on most of our efforts involved State actions that would hinder forestry in Skagit County. Since 2007 we have been working on a project called the Rural Forestry Initiative, also known as RFI. RFI is a County based initiative aimed at removing obstacles to practicing forestry on rural lands in Skagit County. Though the proposed code changes cover only a portion of the RFI package it is a worthy starting point.

In the package of code changes that you are reviewing, RFI concepts are included in CaRD subdivisions involving resource lands. The RFI concept is very basic, and simply stated involves application of State Forest Practices Rules to the portion of a parcel being managed for forestry, while CAO regulations would apply to any areas where land is being converted to non-forestry use.

CAO regulations were established pursuant to the Growth Management Act and were intended to protect critical areas in association with conversion activity. Critical area buffers were never intended to address resource protection for ongoing forest practice activity. The Forest Practices Act is the long standing regulatory framework governing the protection of public resources during the conduct of forest practices.

The proposed code amendment in this case falls under the category of rectifying inconsistencies. The inconsistency in this case is the application of a development regulation on land that has not been and is not being converted.

Implementation of RFI will allow landowners to manage their land for timber under the laws designed for such practices. The misapplication of the CAO causes multiple deterrents for prospective forest managers. There is the consequence of a reduced land base from additional buffering, permitting costs would be exponentially higher, and managers may not be able to obtain timely approvals when attempting to respond to marketing windows.

Support for the code changes involving CaRD subdivisions in resource lands will promote the maintenance of forested open space and will contribute to the rural character of the County.

Thank you,



Dave Chamberlain

Chair, Skagit County Forestry Advisory Board

June 30, 2009

Skagit County Planning Commission
Skagit County Planning & Development Services
1800 Continental Place
Mount Vernon, WA 98273

RE: SKAGIT COUNTY UNIFIED DEVELOPMENT CODE CHANGES

Commissioners:

Skagit Surveyors has recently dealt with several land divisions that have had difficulty with setbacks. Each of these projects has been a CaRD within and adjacent to NRL designated properties. Skagit County Code (SCC) 14.16.810 addresses setback requirements in general and 14.16.810 (7) and (8) address Natural Resource Lands (NRL) specifically. 14.16.810 (7) indicates that "Parcels of land outside of and immediately adjacent to Natural resource lands (Rural Resource-NRL, Agriculture-NRL, Industrial Forest-NRL, Secondary Forest-NRL, and Mineral Resource Overlay Zones) shall observe a minimum building setback of 200 feet from such Natural Resource Lands." This section of code goes on to allow the setback to be waived if the applicant on the non-resource complies with stated waiver requirements including waiver of claims for damages, etc. SCC 14.16.810 (8) allows PDS to administratively reduce setbacks within Natural Resource Lands if specific provisions are met. From these sections of code it is evident that there is a desire in the County Code to allow for flexibility in administering setbacks in Natural Resource Lands. This allows for better management of resources and for specific site circumstances to be considered in allowing building placement in these areas without extensive processing.

The CaRD land division ordinance also includes language regarding setbacks that is slightly different than the language of 14.16.810 (7). SCC 14.18.310 (8) (b) states "A 200-foot setback shall be observed from adjacent NRL designated parcels". This language does not differentiate between lands outside of NRL and those within NRL. The language therefore does not have the flexibility that the provisions of 14.16.810 have and as such results in instances where there is less efficiency and flexibility for land use and more impact on resource lands and reduced incentives for using the CaRD land divisions. This appears to be in direct conflict with the stated purpose of the CaRD (SCC 14.18.300 (1) (a) To buffer and protect natural resource lands & (e) To create development patterns that provide for greater efficiency and flexibility for current and future land use; housing diversity; natural resource land and critical area conservation and protection; retention of open space; and provide incentives for utilizing CaRD land divisions).

We believe that it is an oversight that the language of 14.18 does not more closely match the language of 14.16. It appears that the CaRD language inadvertently left out the outside of and adjacent to language that is include in 14.16. If this language were added to the CaRD setback language greater protection would be afforded resource land. It is not possible to push development further into the resource land and have a lesser impact on it. This is illustrated by the example of the Morgan short plat that we have included in our attachments. An alternative

to a revision of the code language would be to allow an administrative process for reducing the 200 foot buffer.

The 200 foot setback has been inconsistently applied. We have attached numerous examples of the many different ways that the provisions have been applied on projects completed by Skagit Surveyors & Engineers over the years. We do not believe that the inconsistent enforcement is any indication of a lack of competence on the part of anyone but is more an indication of the fact that the provision is not intuitive and often does not make sense in light of the entire County Code.

We respectfully request that the Planning Commission give consideration to correcting the conflict between the setback provisions of 14.16 and 14.18.

Sincerely,

Skagit Surveyors & Engineers

A handwritten signature in black ink, reading "Marianne Manville-Ailles". The signature is fluid and cursive, with the first name "Marianne" and last name "Ailles" being more prominent than the middle name "Manville".

Marianne Manville-Ailles, AICP
Senior Land Use Planner

MMA/mma
Attachments

To: Planning Department and Planning Commission
 From: June Kite – Friends of Skagit County
 Re: Recommendations – Code Amendments – CaRD

*** *I have organized the material starting with general information that can be applied to the CaRD by condensing and reducing duplications thereby making it easier for the reader to understand the basic requirements of the Ordinance. Portions that are in *Italics* are my comments and explanation for the recommendations made. The use of underline is for emphasis.*

14.18.300 - Conservation and Reserve Developments (CaRDs) – A CaRD is an alternative method of single-family residential land development characterized by small clusters of lots smaller in size than normally permitted in the designated rural zones. This results in protecting critical areas, maintaining open space, preserving rural character and resource lands, and reducing the amount of impervious surfaces and other costs associated with development.

A Short CaRDs - 4 or less lots (short plat). The Short CaRD may be approved by a simple Administrative Approval permitting process. See 14.18.320

A Long CaRD – 5 or more lots and less than 9 requires a more detailed review and processing and public hearing is generally required. See 14.18.330

(1) Purpose – to achieve the goals of the Skagit County Comprehensive Plan to:

- a. buffer and protect natural resource lands
- b. reserve lands that may be considered for future urban growth
- c. retain the rural landscape, character, and lifestyle.
- d. protect critical areas by locating development away from critical portions of a parcel **

*** *Delete “Transferring” not needed as each parcel has a DR – locating avoids land that are not suitable for residential development. Transferring of DR’s is only permitted after a programs for the same has been developed and “receiving/sending” designations have been established that send DRs from resource lands to Urban designations.*

- e. preserve the remainder of the parcel in open space.
- f. minimize infrastructure requirements and costs of development/maintenance.

(2) CaRD Permit Applications

- a. applications must be accompanied by a land division permit.
- b. allowable density and open space options vary with the zoning designation,
- c. CaRDs are permitted in Rural Zones (see 14.18.310)
 - (i) Rural Resource (with parcels 20 acres or greater) (EDASC definition)
 - (ii) Rural Reserve (with parcels 10 acres or greater)
 - (iii) Rural Intermediate (with parcels 5 acres or greater)
 - (iv) Rural Village Residential (with parcels 2 acres – public water/septic system)
 (with parcels 5 acres or greater - private wells/onsite septic system)
 - (v) Urban Reserve – rural land adjacent to UGA that may be considered for future UGA.

d. CaRDs are not permitted in Urban Growth Areas –

*** Exceptions - Bay View Ridge and Hamilton are developing incorporated and urban growth areas (not rural lands) that need to have a section specific to their development requirements.
 *** Industrial Forest and Prime Agricultural designations are protected by Current Use Open Space taxation and (as provide by County Wide Plan Policies) the primary use of these Resource lands are for resource production, and not intended for small lot residential developments.

(3) Additional Requirements

- a. Lots shall be located to minimize infrastructure requirements such as roadways, driveways and utilities. All new building lots shall be clustered.
- b. Additional information may be needed including but not limited to topography, impacts to environment, future intended use and other information deemed necessary.

(4) Process -

- a. The Short CaRD shall be reviewed . . . with underlying land division permit as an *Administrative Approval* process.
- b. no change

14.18.310 - General Approval provisions - CaRD

- (1) no change
- (2) old(4) Open Space Requirements - All lands outside of the clustered lots shall be in an open space designation.

*** I have recommended changing the order to first listing the 6 types of open space and followed with the chart. The allowed uses etc. are #(5) as written.

(2)a old(4) Open Space Designations

- (i) Protection Areas (Os-PA) Critical Areas and Historic sites
- (ii) Natural Resource Lands (Os- NRL)
- (iii) Open Space Reserve (Os-RSV) **Preserve unused development rights.
- (iv) Urban Reserve (Os-UR) **limited to land adjacent to UGA
- (v) Rural Open (Os-RO) **unclassified rural open space
- (vi) Recreational Amenities (Os-RA) **may opt to change from RO

(2)b Allowable Density.

Density shall not exceed that set forth in the following table.

<u>ZONE</u>	<u>Maximum Densities with CaRD</u>	<u>Open space Options</u>
	<i>**Start with the smallest lot sizes</i>	<i>no changes</i>
i. Rural Village - 1 lot on 1 acre (1/1) with public water & public sewer system		
Rural Village - 1 lot on 2.5 acre (1/2.5) - with private well & onsite septic		
ii. Rural Intermediate - 1 lot on 2.5 acre (1/2.5)		
iii. Rural Urban Reserve - area designated for future urban growth area.		(5 acre minimum)
iv. Rural Reserve - 2 one acre lots on 10 acres (2/10) (<u>double density</u>)		
*** v. Rural Resource - 1 lot on 20 acres (1/20).	<u>4/40 quadruples density</u>	
vi. 2ndary Forest (NRL) 1 lot on 20 acres (1/20)		

(2)

*****CTED describes lots 20 and greater as rural resource lands (small agriculture and woodlots)**

(2) b. (continued) Additional limits may be necessary to meet septic and/or water requirements. No density bonus for areas designated "sole source aquifer", unless on existing public water system. Water Systems Outlined in Chapter 12.48 SCC. CaRD applications requesting an alternative to density or water system requirements shall be processed as a Level II application, Hearing Examiner Review.

(Insert Exception MRO)

(3) no change

(4) no change

(5) Preservation Open Space and Allowed Uses.

*****Full descriptions remain unchanged. I find it easier to follow when the acronym is first.**

(a) Os-PA- Protection Areas

(b) Os-NRL- Natural Resource Lands and easements (NRLE)

(c) Os-UR – Urban Reserve

(d) Os-RO – Rural open – uncommitted to specific recreational use.

(e) Os-RA - Recreational/Amenities

(f) Os- RSV – Reserve for future any unused development rights.

(6) Preservation of Development Rights in NRL Areas.

*****It is presumed that NRL areas (forest and agriculture) are already in Open space and CaRDs have not been permitted. The underlying density-development rights are unchanged.**

(7) Lot Size Requirements - No change

(8) no change

(9) no change

14.18.320 Short CaRDS –(4 lots or less) Approval Provisions

***** Same as "general provisions for all CaRDs"**

14.18.330 Long CaRDs – (5 lots or greater) Approval Provisions.

9 to greater than 50??? – These are viewed as planned unit developments (PUDs) and LAMIRDS not permitted in rural areas.

***** The number of lots in a cluster will be dependant on the size of the parent parcel(s). A majority of rural lands (exclusing LAMIRDS) are 20 or 40 acres in size. The Short Card with 4 or less 1 acre lots can be viewed as meeting the goals of the alternative land division.**

The long CaRD 5 or more one acre lots would necessitate an adjacent parcel (same density designation requirement) that could also contain a 4 lot cluster creating the long CaRD (5 to less than 9) and would need to meet added review and processing requirements, i.e. water supply. Level II – Hearing Examiner.

(3)

Comp Plan language provides for "a land owner" to live and work on the land with limited opportunities for residential development. The land owner may choose to also benefit from the "current use taxation exemption" to protect the resource value of the land.

Current permitting practices of the long CaRD has allowed multiple land owners to form LLCs, combine multiple densities, create unlimited number of substandard lots on resource lands.

Current language in no way provides for transferring development rights from one zone (density) to a different zone (density).

Neither Current Skagit County Comprehensive Plan & Policies nor the GMA allows the extension of urban services (sewer and water lines) outside Urban Growth Areas.

Current regulations provide cluster pods with no limits on the number of pods. Unlimited clustering creates new LAMIRDs and are not permitted.

The Long CaRD cannot be fixed with a few miscellaneous code amendments. It is in need of a (work session) determination at what limits Long CaRDs can be approved. For this reason the recommendations that have been submitted with this letter have not addressed the Long CaRD except to say the Long CaRD as written for the most part is not in compliance with the Comprehensive Plan and a moratorium on accepting new applications is requested. In the event that an advisory group be invited to participate in a work session, I would request to be included.

Thanks for the opportunity to submit specific recommendations and extending the comment period.

June Kite, for Friends of Skagit County
Email - kitejune@fidalgo.net

A hard copy is being mailed to the office.

(4)

Addendum to CaRD Ordinance – Edit re: Open Space Designation and Allowed Uses
*** Additional comments and explanations for Code Amendment to CaRD

14.18.310 - Section (5)

Designation of the six categories is a 2 page single-spaced rather rambling dialog that is difficult to follow and could be improved with more concise statements with indenting to separate.

(a) **Os-PA** – This designation provides for establishing an easement to set aside areas of open space to protect Critical Areas and Historic sites. (Chapter 14.24 SCC – Critical Areas Ordinance)

All Open Space in this category shall be preserved pursuant to SCC 14.24.080 and 14.24.090. Sites that have not had a CAO assessment are placed in this category unless future requests are made to change the delineation.

If a critical area assessment has been performed and the critical area delineated, (see SCC 14.24.080) and the criteria of another designation is met then the designation may be changed.

Amendments to the plat map and recorded easement shall be required. The amended designation will not be considered a plat amendment.

Non-residential historic sites and their landscape setting shall also be placed in this category. Historic sites used as residences may be located inside or outside of the open space.

Uses and preservation of the Os-PA are as follows –

(i) **Critical Areas** – parameters as set forth in CAO for conservation and maintenance.

(ii) **Historic Sites** – covenants, conditions, duration and restrictions (CC&R) shall be determined through the CaRD review process and noted on the plat.

****(b) Os-NRL – This purpose of this designation is to preserve the natural resource lands within the County. (2nd sentence - Open space within CaRDs zoned Ag-NRL & IF-NRL – this is area of disagreement and should be separated from the rural resource designations.*

*** *There are 4 categories of Resource Lands. NRL Agricultural and NRL Forestry are considered Industrial (economic) in scope and the CaRD has not been requested nor permitted in these designations. "Open Space Current Use" taxation is generally applied to them and any change requested for residential development (except for a dwelling unit) should not be considered. NRLE easements are needed in rural resource when there is a request for a CaRD or a change the open space category to a designation that is no longer considered as having "long-term commercial significance" or a request to change the zoning that requires a Comprehensive Plan Amendment.*

SF-NRL – Secondary Forest – Parcels 40 acres or greater – Primary use is for forestry

RR-NRL – Rural Resource – Parcels 20 acres or greater – Woodlots and Agricultural uses.

Much of the parcels in these two designations are also in "Current Use Taxation" and subject to the CaRD development that requires the preservation of the Open Space and the continuation of the resource activities indicated in the current use. NRLE easements may be requested by the land owner to keep the land in resource production.

J. Kito

(5)

July 7, 2009

Carly Ruacho
Skagit County Planning & Development Services
1800 Continental Place
Mount Vernon, WA 98273

RE: ADDITIONAL COMMENT REGARDING SKAGIT COUNTY UNIFIED DEVELOPMENT CODE CHANGES

Carly:

The purpose of this letter is to summarize and greatly clarify the materials that were previously submitted by Skagit Surveyors & Engineers on this topic. In addition, as requested by the Planning Commission we have included proposed code language that would address our concerns.

The Problem

The setback provisions included in the zoning code (SCC14.16.810 (7) and (8)) and the CaRD code (SCC 14.16.310 (8) (b)) are inconsistent in terms of their application to resource lands. The inconsistency results in negative impacts to resource production when applying the CaRD provisions. The CaRD setback provisions appear also to be internally inconsistent with the intent of the code regarding protection of resource production (SCC 14.18.300 (1) (a) and (b), 14.18.310 (5) (b), and 14.18.310 (9) (b)).

Analysis

Zoning

SCC 14.16.810 addresses setback requirements that are specific to circumstances that exist across zoning districts.

SCC 14.16.810(7) deals with parcels of land located outside of and immediately adjacent to resource lands and does the following:

- Requires a 200 foot building setback from the resource land;
- Includes provisions for a waiver from the 200 foot setback if specific criteria are met; and
- Includes provision for administrative setback reduction without a waiver if specific criteria are met.

SCC 14.16.810(8) deals with parcels of land located within resource lands and does the following:

- Allows PDS to administratively reduce building setbacks to facilitate reasonable development if specific criteria are met.
- Allows road right of way to count as part of setback when parcel is adjacent to a road.
- No 200 foot setback is required for parcels located within resource lands. The setback reduction anticipated in this section is a reduction to the standard setbacks that are detailed in each specific zoning designation.

FYI Side Note: Each of the zoning designations (with the exception of Aviation Related, Ag-NRL, MRO, and OSRI) includes the following provision; "Setbacks from NRL lands shall be provided per SCC 14.16.810(7)." For Industrial Forest, Secondary Forest and Rural Resource the reference is inaccurate (recall (7) applies to parcels outside of and immediately adjacent to resource lands and

these designations are resource lands and by definition cannot be “outside of”). The appropriate reference should be SCC 14.16.810(8) (the section pertaining to parcels located within resource lands). This should be corrected as part of the “housekeeping” items associated with this code revision.

Zoning Analysis Recap

- A. The 200 foot building setback only applies to parcels located outside of and immediately adjacent to resource lands. The 200 foot setback can be reduced by waiver or through an administrative process.
- B. Building setbacks for parcels located within resource land are those prescribed in the specific zoning designation (the dimensional standards section). The prescribed building setbacks for parcels located within resource lands can be administratively reduced to facilitate reasonable development.
- C. These provisions apply to and have been routinely and consistently enforced for Building Permits and Standard Land Divisions (Long Plats and Short Plats as opposed to CaRDs).

CaRD

SCC 14.18.300(1) CaRD purpose includes two subheadings that specifically apply to resource lands—(a) is to buffer and protect these lands and (e) is to design development in a way that is flexible and efficient for resource management on resource lands.

SCC 14.18.310(5) specifies the open space designations required for the non-building area of the CaRD subdivision. The open space designations are based on zoning and site characteristics. (5)(b) is the OS-NRL and is required for lands designated as resource lands. This open space is intended to preserve resource lands by clustering development and leaving the large remainder available for resource production. This designation requires a Natural Resource Land Easement (NRLE) that includes very specific and detailed documentation regarding maintaining the parcel for resource protection.

SCC 14.18.310(8) addresses building setbacks in CaRDs. Subsection (b) states; “A 200 foot setback shall be observed from adjacent NRL designated parcels.”

SCC 14.18.310(9)(b) indicates that for parcels adjacent to or within NRL, lot design shall minimize potential impacts to resource production and not complicate access or operation.

CaRD Analysis Recap

- A. CaRD requires a 200 foot setback for all parcels adjacent to resource land regardless of their own designation.
- B. The CaRD provisions are silent on setback reductions either by waiver or administrative process.
- C. PDS requires a Hearing Examiner Variance to reduce the required 200 foot setback provision in the CaRD. This has been inconsistently enforced as illustrated by the subdivision examples that were submitted with our June 30, 2009 submittal.
- D. PDS currently allows SCC 14.16.810(8)(b) (the provision that allows road right of way to count as part of setback when parcel is adjacent to a road) to apply to CaRDs but none of its other provisions and none of the provisions of SCC 14.16.810(7).

The application of the 200 foot setback for parcels located within resource lands on CaRD developments results in building lots being forced toward the center of the parcel thus not protecting resource production and eliminating flexibility and efficiency as it relates to lot design and resource management. The provision is a rigid arbitrary line that does not even consider resource management. It results in reduced area available for resource production and complicates management. This is illustrated by the examples of the Mike Morgan subdivision and the Ovenell

subdivision that were submitted in our June 30, 2009 submittal. It would seem that the setback provisions of SCC 14.18.310(8)(b) are in fact internally inconsistent with other provisions of and even the intent of the CaRD regarding protection of resource production.

The Solution

To correct the problem and allow flexible lot design for parcels located within resource land and better protect resource production the provisions of 14.18.310(8)(b) need to be modified. Our first and preferred "fix" would be to replace 14.18.310(8)(b) with the language found in each of the zoning districts (as modified to be accurate for parcels adjacent to and within resource lands)—"Setbacks from NRL lands shall be provided per SCC 14.16.810(7) and (8)".

That would look like this in underline strikeout format:

(8) Setbacks for All Buildings Within the Development.

(a) From a public road, a minimum of 20 feet. For lots designated Ag-NRL, IF-NRL, and SF-NRL, lots

shall be configured so that houses are no more than 200 feet from adjacent public roads.

~~(b) A 200-foot setback shall be observed from adjacent NRL designated parcels.~~

(b) Setbacks from NRL lands shall be provided per SCC 14.16.810(7) and (8).

(c) Fire separation shall be required pursuant to the IBC.

(d) Underlying zoning setbacks shall be required from the exterior boundaries of the CaRD development

except as provided in Subsection (8)(a) of this Section.

(e) Internal setbacks may be established by private covenant.

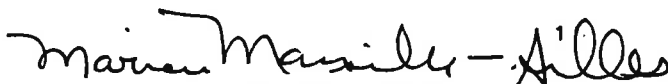
Another way to accomplish this is to expand 14.18.310(8)(b) to mirror 14.16.810(7) & (8) however the downside of this is that if there are any kind of modifications to one then you need to make sure that they get made to both and this doesn't always happen. This approach is strongly discouraged in Code Writing 101.

If the Commission decides for whatever reason that a 200 foot building setback is a good idea for parcels within resource land we would request that there be an opportunity for an administrative setback reduction to allow for reasonable development of the property. This is not the preferred solution as it puts PDS staff in the position of being resource managers. As a professional planner I can assure you that our training does not include in depth study of ag, forest and mineral production. By and large most owners of resource lands know the best ways to manage and protect the resources on those lands. When and if it becomes necessary to develop a portion of their holdings, those property owners are in the best position to determine a lot design that will allow the resource production to continue with the least impact.

We appreciate your willingness to consider our concerns and look forward to your recommendations.

Sincerely,

Skagit Surveyors & Engineers



Marianne Manville-Ailles, AICP
Senior Land Use Planner

MMA/mma
Attachments



**SKAGIT COUNTY FOREST
ADVISORY BOARD**

Dave Chamberlain, Chairman	
Lisa Cassidy	Ken Osborn
Al Craney	Chuck Parker
Gordon Iverson	Tom Nelson
Paul Kriegel	Aubrey Stargell
Tim Raschko	Dick Whitmore
Fred Loffer	
Kendra Smith, Staff	

June 30, 2009

Dear Skagit County Planning Commission:

Please accept the following documents for the record for the amendments to SCC 14.24 regarding the use of the forest practice regulations for forest practice operations.

The original proposed language by the FAB is included along with an introduction as to why the code needs to be changed. Some quick facts are also provided. For clarification the term RFI had been used (Rural Forest Initiative) for the proposed code change.

Thank you for providing us with the opportunity to submit these documents to the record. If you have any questions please contact Kendra Smith, FAB staff, or myself.

Sincerely,

A handwritten signature in cursive script that reads "Dave Chamberlain".

Dave Chamberlain



**SKAGIT COUNTY
AGRICULTURAL
ADVISORY BOARD**
2021 E. College Way
Suite 200
Mount Vernon, WA 98273
Phone (360) 424-4708
Fax (360) 428-5035

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JUL 20 2009
SKAGIT COUNTY
PDS

July 20, 2009

To Planning and Development Services, Carly Ruacho, Gary Christiansen:

As per our meeting on Wednesday, July 15th, the AAB Land Use Committee compiled this list of areas of concern. Our desire is to discuss these items for clarity. Although we would like to push back the Amendments Proposals document in its entirety for a few weeks, we also wanted to maintain our agreement from the meeting.

So here goes:

- 14.04 Definitions, Substantial Improvement, page 3 lines 13 -25
- 14.06.045 page 4 line 39, page 5 line 3
- 14.06.150 page 7 2a -v, vi, lines 4, 5
- 14.08.020 pages 7 through 12, the whole section
- 14.08.030 page 13 line 10
- 14.08.040 page 13 whole section, particularly lines 25 -34
- 14.08.050 page 13 whole section, particularly line 37, 42, 46-49
- 14.08.070 page 14 whole section
- 14.08.080 pages 14 – 15 whole section
- 14.08.090 pages 16 -17 whole section
- 14.12 page 18 lines 25-29
- 14.16.160 page 25 lines 20-21
- 14.16.400 page 31 line 29
- 14.16.900 page 36 lines 27-28
- 14.18.000 page 37 lines 37-40
- 14.18.310 page 38 lines 41-47, page 40 lines 1-2
- 14.24.520 page 40 lines 42-45
- 14.24.530 page 41 lines 7-22
- 14.34.190 page 42 lines 33-38, page 43 lines 1-3

***"Honoring our past,
sustaining our
future, where Skagit
farms are the pride
of the community."***

Please allow our groups to analyze these items more in depth.

Sincerely,

Mike Hulbert, Chair AAB Land Use Committee

Skagit County Agricultural Advisory Board Members: Kim Mower (Chair), Mike Hulbert (Vice Chair), Murray Benjamin, Randy Good, Bob Hughes, Kraig Knutzen, Nels Lagerlund, Greg Lee, Bill McMoran, Lyle Wesen, Carly Ruacho, Ex-Officio, Planning & Development Services, Don McMoran, WSU Extension.

July 17, 2009



**SKAGIT COUNTY
AGRICULTURAL
ADVISORY BOARD**

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***"Honoring our past,
sustaining our
future, where Skagit
farms are the pride
of the community."***

Skagit County Planning Commission
Dear Ladies and Gentlemen:

SKAGIT COUNTY
JUL 20 2009
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As Chair of the Agriculture Advisory Board I want to bring to your attention the document outlining the Code Amendment Proposals. As you know I and others spoke before the BoCC during their Public Comment Period and asked to extend the comment period for the Proposals. This was granted, and I thank you for that. However, the Land Use Committee of the AAB still is grappling with the language. We feel inordinately pressured to offer the sections that we would like to review. We had a productive meeting with Planning officials that was very helpful and would like to continue with further discussions at one or more meetings with them.

The Land Use Committee formally requests the Planning Commission hold off on ruling of the Amendments in its entirety for 45-60 days for closer scrutiny by the Agriculture Advisory Board and the Forestry Advisory Boards. Reasons:

- a. Many of the Amendment Proposals can affect Natural Recourse zones and have not yet been identified.
- b. There is a consensus among both Boards that the procedure for Public Participation may not have been properly followed, in reference to Resolution # 16852 and Exhibit A.
- c. The members of these Boards are excellent concerned citizens, perhaps without the keen savvy of County Code language, that are truly trying to function as Skagit County citizens, in an effort to be part of the process.
- d. The members of these Boards feel this document should have been part of our meeting's discussions more in depth in preceding months prior to the date it was released for Public Comment. This would have kept the process on course.
- e. The members of these Boards are hard working citizens with tremendous workloads, long hours, fully engrossed lives with families. By removing the hardship of a deadline of July 21, the Boards can facilitate Committee meetings and meet with County Staff and Planning Officials to sort out our concerns.
- f. Extension of the deadline will give an opportunity to the citizens of the AAB and FAB to fulfill their duties to a greater satisfaction that they have dedicated so much of their lives to.

Sincerely,

Kim Mower
Kim Mower, Chair Agriculture Advisory Board

Mike Hulbert
Mike Hulbert, AAB Chair Land Use Committee

Skagit County Agricultural Advisory Board Members: Kim Mower (Chair), Mike Hulbert (Vice Chair), Murray Benjamin, Randy Good, Bob Hughes, Kraig Knutzen, Nels Lagerlund, Greg Lee, Bill McMoran, Lyle Wesen, Carly Ruacho, Ex-Officio, Planning & Development Services, Don McMoran, WSU Extension.



Skagit Conservation District

2021 East College Way, Suite 203, Mount Vernon, WA 98273-2373
Phone: (360) 428-4313 - Fax: (360) 424-6172 - E-mail: skagitcd@skagitcd.org

July 20, 2009

Skagit County Planning and Development Services
Carly Raucho, Senior Planner
1800 Continental Place
Mount Vernon, WA 98273

SKAGIT COUNTY
PERMIT CLERK

JUL 21 2009

RECEIVED

1:14 p.m.
CSY

Reference: 2009 Skagit County Code Amendment Recommendations

Dear Ms. Raucho,

The Skagit Conservation District (SCD) appreciates the opportunity to comment on the proposed 2009 Skagit County Code Amendments. We also appreciate the extended comment period. We have some general comments about the process, and some more specific comments.

We were disappointed in the Code Amendments Concepts Table, and found it to be a poor substitute for a detailed staff report, which has been Planning and Development Services process in the past. The Table did not provide enough detail for most of the proposed amendments, and further, did not provide the background, or rationale of the changes.

Given that there were over a hundred suggested amendments, this meant review was difficult at best, as the reader had to locate sections in the current County Code to determine the context of the proposed changes. This proved to be a long and arduous process, and meant that we were unable, even in the extended comment period, to give all of the amendments the consideration deserved.

We are also very concerned that **Section 14.08.070 Public Participation Requirements, and Section 14.08.080 Review by Planning Commission** were not followed during this amendment process. If input from the Forestry and Agricultural Advisory Boards, agencies, and special districts would have been considered prior to a draft proposal, along with the requisite staff report, being submitted to the Planning Commission, confusion and conflict could have been minimized. Further, the very document that details public involvement, Resolution # 16852, "Amending the Public Participation Program Adopted under the Growth Management Act" is recommended to be struck from Code. This appears to be a high risk action for the County to take as it undermines the very



public involvement process developed as a compliance measure as per the Western Washington Growth Management Hearings Board ruling. We recognize that the County is under time and budget constraints. However, Skagit County Code is a legal document, and by not following Code, it could be inferred that the entire process has been conducted illegally. Even more troublesome, if the County does not follow Code, what example does that set for the citizens of Skagit County?

Throughout the document deadlines for County processes, i.e. examples of within so many days, have been deleted. What is the rationale? It appears that issues and projects could linger indefinitely, with no certainty for a time of resolution for the public. There are also some deadlines imposed by the Growth Management Act, and we do not have the time and/or resources to determine if any of these proposed amendments would be in conflict with that requirement of GMA.

Having said the above, we also have some more specific comments and questions regarding the proposed amendments:

14.04 Definitions: Many are listed as obsolete. Why? We are concerned with the lack of specification regarding professional abilities for natural resource assessments. Also, many of the critical areas and species definitions are proposed for deletion. Many of these terms are still in use by other natural resource agencies, and we did not see notice if the definitions could be located somewhere else in the document.

14.06.050(1)(a) Who needs a permit for a Notice and Order to Abate? Does this mean the County needs a permit to issue an Order? Or is it the landowner, in order to fulfill required activities? As the SCD assists landowners with critical areas compliance issues, it would be helpful to know who is required to get this permit.

14.06.050(1)(c)(i)-(ii) What is the rationale for the transfer of project level review from the Planning Commission to the Hearing Examiner?

14.06.150(2)(a) What is the rationale for the removal of the exemptions to public notice requirements for forest practice conversions? This will place an extra burden on forestland owners.

14.08.020(3) lines 31-37 (new) We would recommend the replacement of will with shall. It's a more definitive word. In addition, the section limits review of any given property only once every seven years – but then allows exceptions if a sufficient change in circumstance exist. What would these circumstances be? This is a loophole that would allow properties to be reviewed more frequently than once every seven years. We would recommend striking the change in circumstance language.

14.08.020(5) At a minimum, strike (a) (v), (vi), (vii) – Although this is a good process as a way to limit requests for expansions of Urban Growth boundaries, the list of exceptions is too broad. With thoughtful planning, the need for these “exceptions”



should not arise more frequently than every seven years. Too many exceptions nullify the entire intent of attempting to limit proposed revisions to the UGA.

14.08.020(5)(b)(iii) (B) There needs to be less reductions allowed from the buildable lands capacity. Cities already have the ability to perform on and off site mitigation for wetlands, so they should not need any major reductions. Land held off the market because of market or other factors – this is speculative in nature.

14.08.020(7) (c) (iii) line 15 – replace should with shall. Should is a wimpy word.

14.08.070 Public participation requirements
(2) Leave shall in. May is another wimpy word.

14.08.080 Review by Planning Commission
Reinsert reference to public participation program as it is a reference to a resolution.
Section (4) further deletes public process.

14.08.090 (2) and (3) This all appears new, although some of it is not identified (underlined) as new. Also, is 4© new as well? If so, it is not indicated as such.

14.16.150 Rural Business
(2)(d) New section regarding outdoor working area. How is this defined? Will it have to be shown on a site plan?

14.16.160 Natural Resource Industrial
(3) (e) May limit normal business activities in the NRI zone. Would the County consider a pile of sawdust next to a mill as an accessory use? Same concern of similar language in the Hamilton Industrial Zone Section.
(BTW - need to reletter as d and e are followed by d-h no change.)

14.16.400 (6)©(iii) Concur that this increased specificity will limit sprawl onto working lands. However, sometimes wells and septic systems are harder to locate, so this may prove to be limiting.

14.18.000 Land Divisions, General
(5) (h) While the SCD wholehearted supports fire protection as a prerequisite for growth in the wildland urban interface, we see no rationale for an arbitrary date to be set by which landowners were to have been included in any such fire protection district. It would appear that a whole lot of landowners are set to lose a whole lot of development rights – with no compensation, adequate discussion, or specific public hearing.

14.18.310 CaRD (5)(b)(i) and 14.24.070 Activities allowed without standard review (13)
This is a positive example of how County staff worked (for months) with the forestry Advisory Board to develop a positive solution to a natural resource land issue, and we support these amendments.



14.24.520 Fish and wildlife habitat conservation area

(2) What are the criteria for determining if an activity will have an adverse effect on any fish and wildlife conservation areas? Does current PDS staff have this expertise? In addition, the definition of habitats and species of local importance was recommended for deletion in the definition section, which may cause further confusion.

14.34.190 Standards for development in floodways

We understand the need to further limit development in floodways. However, this proposed amendment is too far reaching, and places undue hardship on current landowners, especially agricultural producers, as it does not differentiate between houses and accessory buildings, such as barns. The proposed amendment would limit rebuilding all structures. Further, it also places an arbitrary limit on the value of such improvements, which should be among the landowner, their insurance carrier, and their pocketbook.

If you have any questions, please do not hesitate to contact the SCD. Thank you again for an opportunity to comment.

Sincerely,

Carolyn Kelly
Manager



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JUL 21 2009

SKAGIT COUNTY
PDS

July 21, 2009

Skagit County Planning Commission
1800 Continental Place
Mount Vernon, WA 98273

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VIA Hand Delivery

RE: Proposed 2009 Miscellaneous Code Amendments

Dear members of the Planning Commission:

Thank you for the extension of the public comment period on the proposed miscellaneous code amendments. SPF applauds the Planning Commission for granting an additional three weeks for public review. However, given the fact that there are over 100 code changes proposed and the given fact that the public participation requirements found in SCC 14.08.070 and SCC 14.08.080 were not adhered to, SPF would like to encourage the Planning Commission to grant another extension of the public comment period to allow the time necessary for groups and individuals to work with County staff to identify what are substantial changes and what are house keeping issues so that non- substantive changes can move forward in a timely manner.

Based on our limited review, SPF is submitting the following comments for your review and consideration.

Proposed Section 14.08.020(5)(a)(v)

SPF recommends striking subsection (v) from this section as being superfluous at best and a loophole at worst. This subsection does not constitute a legal or technical correction to an existing UGA but rather allows UGA expansion outside the proposed seven (7) year cycle into areas that really should not be subject to growth pressures by the very wording of the section (rivers, water bodies, unique wildlife habitat, etc). Additionally, the sentence "... *Provided that the boundary adjustment does not result in a significant increase to population or employment capacity . . .*" implies that municipalities can expand their UGAs to accommodate population, commercial and industrial growth outside the seven (7) year cycle by evoking this subsection.

32

Proposed Section 14.08.020(5)(a)(vii)

SPF recommends deleting this section in its entirety as it appears to be superfluous when reviewed against proposed Section 14.08.020(3)

“ . . . Comprehensive Plan amendments and/or rezones will only be considered once in every seven (7) year period for any given property . . . In no case, even in separate seven (7) year periods, shall a proposal on the same property be reviewed in consecutive years. . . . ” (emphasis added)

and proposed Section 14.08.020(5)

“Each UGA boundary may be considered for modification once in every seven year period. The seven (7) year period shall begin the year immediately following the County’s completion of its GMA mandated seven (7) year update of its Comprehensive Plan.” (emphasis added)

Considering all UGA expansion request will be subject to proposed Section 14.08.020(5)(b) and given that the seven (7) year requirement will start at the end of the County’s comprehensive plan update and given that a UGA expansion request on the same property will not be reviewed in consecutive years, it stands to reason that any scenario described in 14.08.020(5)(a)(vii)(A)(B) and (C) cannot occur unless there was a complete failure by the municipality and County to follow existing state GMA requirements and proposed Section 14.08.020(5)(b) (technical and legal adjustments detailed in proposed section 14.08.020(5)(a)(i)(ii)(iii)(iv) and (vi) notwithstanding). If municipalities need to adjust their boundaries more than three (3) times in a 20-year comprehensive planning horizon then it can be challenged they are not complying with established GMA mandates and requirements.

Proposed code amendment for Section 14.08.070 (2)

“The Board may establish one (1) or more CACs or TACs, as appropriate, to participate and assist in the development of Comprehensive Plan elements, subarea plans, functional plans and development regulations. The Board shall seek to have a variety of interests represented on such committees” (emphasis added).

SPF has a concern with the replacement of the word “shall” with the word “may.” The proposed change to “may” appears to conflict with County Resolutions 16469 and 16852, which established the public participation requirements as result of a Western Washington Growth Hearings Board challenge in 1997 (Cause No. 97-2-0024).

This proposed change also weakens established CACs and TACs such as the Agricultural Advisory Board and Forest Advisory Board and degrades their advisory role to be optional instead of required. SPF finds this a major shift in County policy towards protection of our natural resource lands. SPF respectfully requests the Planning Commission keep the word “shall” and reject the recommendation to weaken the public participation process.

House Bill 1967

During this past 2009 Washington State legislative session House Bill 1967 passed both the House and the Senate with overwhelming support. House Bill 1967 prohibits expansion of UGA's onto the 100-year floodplain with limited exceptions. SPF recommends adding language to Section 14.08.020 that recognizes and embodies the purpose and intent of HB 1967 and reinforces the protection of Skagit County's floodplains by directing growth to more appropriate areas.

SPF Proposed Code Amendments

In our limited review of the proposed code amendments and the discovery that the public participation requirements were not adhered to, SPF would like to offer the following proposed code amendments in the spirit of cooperation to strengthen the ability of the public to participate in its government.

Section 14.08.070(9)

"Public Notice – General Legislative Proposals. Where public notice is otherwise required by this Chapter, information regarding any legislative proposal shall also be broadly disseminated to the public using 1 or more of the following methods as determined appropriate for the specific proposal by the Administrative Official or Board:"

SPF recommends this section be amended to recognize and legitimize the County's practice of posting public notices on the County's website. SPF respectfully submits the following proposed change:

" Public Notice – General Legislative Proposals. Where public notice is otherwise required by this Chapter, information regarding any legislative proposal, in addition to being posted on Skagit County's website, shall also be broadly disseminated to the public using 1 or more of the following methods as determined appropriate for the specific proposal by the Administrative Official or Board:"

SPF further recommends adding a new subsection (f) to **Section 14.08.070(9)** in order to address the use of technology available such as Really Simple Syndication (RSS) News Feeds, Ning and Twitter, etc. as an alternative tool to send out public notices and/or to keep the public well informed:

(f) Allowing individuals or groups to subscribe to Planning and Development Services for public notices and updates through web based information services such as RSS, Ning, Twitter or similar technology, as it becomes available, as appropriate.

Section 14.08.070(9)(a)

" . . .Publishing an additional paid public notice sufficient to inform the public of the nature of the proposal, the date and time of the public hearing, the appropriate contact name and number, and the availability of relevant draft documents; . . ."

This section is unclear as to how many times a paid public notice can or will be published. The current language implies that a minimum of two (2) paid public notices could be published. SPF respectfully submits the following proposed code change:

" . . .Publishing an ~~additional~~ paid public notice, in addition to public notices that are otherwise required, as sufficient to inform the public of the nature of the proposal, the date and time of the public hearing, the appropriate contact name and number, and the availability of relevant draft documents; . . ."

Thank you again for allowing us this opportunity to provide public comment. If you have any questions about our comments please do not hesitate to contact my by phone at 360-336-3974 or by e-mail at allenr@skagitonians.org.

Sincerely,

A handwritten signature in dark ink, appearing to be 'AR', followed by a long horizontal line extending to the right.

Allen Rozema
Executive Director



July 21, 2009

SKAGIT COUNTY
JUL 21 2009

JUL 21 2009

RECEIVED

Skagit County Planning Commission
c/o Carly Ruacho
Skagit County
Planning and Development Services
1800 Continental Place
Mount Vernon, Washington, 98273

Subject: 2009 Skagit County Code Amendment Recommendations

Dear Skagit County Planning Commission:

The Department of Natural Resources (DNR) presents these comments on Skagit County Planning and Development Services proposed recommendations to the Skagit County Planning Commission for your consideration. **DNR supports the Planning Department's recommended changes to the "Land Divisions"(14.18.000 5h SCC) chapter to include a requirement that for proposed land divisions in Industrial Forest-Natural Resource Lands (IF-NRL), Secondary Forest - Natural Resource Lands (SF-NRL), and Rural Resource- Natural Resource Lands (RRc-NRL) zones, parcels must have been located within the boundaries of a fire district as of July 26, 2005.** Thank you for the opportunity to provide comments on the proposed changes.

Background

As you may know, DNR balances a broad array of responsibilities and experience relating to managing natural resources in the State of Washington as well as in Skagit County. The DNR manages these natural resources in four primary capacities, as: land manager, conservator, regulator, and wild lands fire fighter. Out of the estimated 363,000 acres of non-federal commercial forest lands in Skagit County, DNR manages over one third of this area (131,206 acres) as working forest trust lands. Statewide, DNR also protects 83,200 acres as natural resource conservation areas and 27,700 acres as natural area preserves. In addition, the DNR regulates forest practices on non-federal public and private lands, provides wild lands fire protection on private and non-federal public lands, and assists small natural resource land owners on private lands.

As a steward of the State's natural resources, we are interested in both the longevity of state forest lands for our beneficiaries and the viability of private forest lands for large and small, private forest land managers. DNR manages its state lands sustainably, providing a wide range of benefits to our beneficiaries and to the public, in perpetuity. In order to fulfill its legal obligations and internal policy mandates, the DNR must balance the environmental, economic and social benefits that state forest land provides. The result is that DNR lands provide a wide range of environmental services including protection of wildlife habitat, riparian ecosystems, wetlands, and unstable slopes. They provide many opportunities for a spectrum of recreational activities. At the same time, DNR-managed lands provide non-tax revenue to our beneficiaries, which include Skagit County, as well as other Counties, K-12 Schools, Universities, Colleges and other state institutions. DNR assists small private forest landowners with stewardship of their natural resources. In DNR's capacity as regulator, it strives to enforce responsible forest management through regulating the Forest Practices Act on private and non-federal public lands. In addition, the agency provides education and training on forest health and responsible management to family forest land owners, a sector of the population that manages approximately 15 percent of the forest land in Washington. Finally DNR serves as the wild lands fire-fighting agency for state and private forest lands. In balancing this array of responsibilities, the DNR offers a uniquely long-term perspective on natural resource stewardship in the State of Washington.

DNR has been managing commercial forest lands adjacent to neighborhoods since the inception of the agency in 1958. Based on this experience, we have found that greater numbers of neighbors equate to increased management costs. These costs come from increasing the number of contacts the agency needs to make, relationships that need to be fostered, and most importantly potential demands from each neighbor. We have instances where in spite of disclosure letters and buffers, neighbors abutting state forest land have treated DNR trust lands as if they were parks, creating conflict when DNR initiated harvesting activities. In addition, greater populations near commercial forest land increase the cost of managing for a wide array of recreational uses enjoyed by the public. Public abuse of state lands also rises, increasing the need for the DNR to address dumping of trash, vandalism, and theft. Incidents of trespass on state lands grow, either with fences, outbuildings or residences. Finally, fire risk heightens with growing numbers of residences adjacent to DNR, for both homeowners and the State, thereby increasing costs to both parties.

These impacts of increased development, in particular public abuse and trespassing, are also experienced by small family forest land owners increasing their management costs. Small family forest land owners represent 15% of the forested land base in the state. These forests tend to be located in the lowlands, closer in proximity to urban growth areas, creating even greater pressure on these managers to convert their lands for development. Skagit County needs to provide

incentives, or at least reduce disincentives, for these families to maintain their lands as working forests.

In order to manage for adverse impacts brought about by increasing adjacent residences, the DNR has taken many approaches to mitigate for the reduced ability to manage these lands. In some situations, DNR has given up on its ability to actively manage its parcels for forestry at all. In these situations where we are left unable to meet our trust obligations, we consider the possibility of selling the unmanageable property in order to invest the proceeds in purchasing forest land that we have a higher likelihood of being able to successfully manage. In some cases that sale may not be politically feasible, placing DNR in an impossible situation. In most cases, DNR has been forced to manage for less revenue than it is legally entitled to. In spite of our attempts to minimize this as much as possible, there have been numerous instances, depending on a wide range of concerns raised by increasing numbers of neighbors, where we have increased the size of buffers, established buffers where none were required, redesigned our harvest strategy, or left behind more trees. Although we strive to balance environmental stewardship, fiduciary responsibility to our beneficiaries, and allowing for multiple uses, with a spirit of being a good neighbor, the cumulative effect of these concessions significantly impacts our ability to strike that balance and manage working forests.

DNR Supports Planning Department's Recommended Changes to Land Division Chapter


DNR supports the Planning Department's recommended changes to the "Land Divisions" (14.18.000 5h SCC) chapter to include a requirement that for proposed land divisions in Industrial Forest-Natural Resource Lands (IF-NRL), Secondary Forest – Natural Resource Lands (SF-NRL), and Rural Resource- Natural Resource Lands (RRc-NRL) zones, parcels must have been located within the boundaries of a fire district as of July 26, 2005. Under the Skagit County Zoning Code for IF-NRL, residences are only permitted if built within 200 feet of a county road and within existing fire district boundaries as of July 26, 2005. The changes to the Land Divisions chapter that are proposed by the Planning Department, as they relate to IF-NRL lands, create explicit consistency between the IF-NRL zoning and general requirements for land divisions on IF-NRL lands. We support the Planning Department's efforts to make requirements for building on IF-NRL lands as clear as possible. We also support the requirement that all development in IF, SF, and RRc-NRL lands occur within fire districts. This is because wild lands fire fighting agencies, such as the DNR, provide fire protection for undeveloped wild land forests. Structural fire fighting agencies, such as local fire departments, provide fire protection for structures, such as houses and other buildings. Dwellings that are located on or adjacent to designated industrial forest land sit at the interface between the two and require support from both agencies. Therefore, new dwellings proposed in such locations should also be required to be located within fire district boundaries, providing those residences with the assurance of local fire district support.

The Planning Department's recommendation represents greater restrictions to SF-NRL and RRc-NRL lands. We also support limiting land divisions on these lands to fire district boundaries *as of July 26, 2005* because it reduces opportunities for excessive development on resource lands. In Skagit County, as well as in other counties, fire district boundaries that sit adjacent to undeveloped wild land forests, have the potential to expand, if approved by the Skagit County Boundary Review Board, further into resource lands. If that expansion takes place, more resource lands become available for development, which creates greater conflicts for long-term forest managers and impedes the County's ability to reach its goals for forest resource lands stated in its comprehensive plan, to "ensure that forest lands of long-term commercial significance are conserved and managed to provide for sustainable forest yields, job stability, ecological values and the continuation of a viable commercial forest industry in Skagit County." By restricting land divisions to the 2005 fire district boundaries, the County would still allow fire districts to expand their boundaries, in cases where it is deemed necessary and has been approved the Skagit County Boundary Review Board, without increasing the potential for development on those resource lands included in the areas annexed into the fire district.

As the State of Washington's natural resource agency, our long-term perspective on natural resource management lends a critical point of view to the discussion about development and its impact on working forests. We make these comments to Skagit County on land use in the county as a whole, regardless of land ownership. We recognize that the county, in its role as land use authority, must balance a wide array of interests in making decisions about such issues, in the face of increasing population pressures and global climate change. However, commercial forest land management provides enormous benefits to the county and the decisions that the county makes regarding these issues will greatly affect the longevity of such resource lands.

Thank you for the opportunity to comment.

Sincerely,



Candace Johnson
Assistant Northwest Region Manager

cc: Bill Wallace, Region Manager

July 21, 2009

Skagit County Planning Commission

SKAGIT COUNTY
PLANNING COMMISSION

JUL 21 2009

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Dear Commission Members,

Great Western Lumber Company own two parcels of timberland in Skagit County, which are under three different zoning classifications. We are concerned that changes to these classifications could affect our future use of that property and without use being able to comment to you about our concerns. I am contacting you regarding the package of 119 proposed changes to the Skagit County Code. While it appears that many of the changes fit in the category of minor corrections and clarifications, the list also includes code modifications that have potentially far reaching implications.

My primary interest is with code changes that involve resource lands, yet my greatest concern overall relates to the lack of adherence with the public review process. The Forestry Advisory Board and the Agricultural Advisory Board should have been engaged at the front end of the review process so that you would have had the benefit of a more refined product. As an absentee landowner we rely heavily on the FAB to keep our interest in mind.

While it is regrettable that the Public Participation Program under Resolution No. 16852 has not been followed, you can postpone further deliberations on the proposed amendments and require full adherence to the legally established protocols. A proper vetting of the numerous proposals will insure that any future challenges will be limited to the merits of the proposal and not the manner of the process.

I would request that this issue be given more time and thought, instead of being rushed through without more public input.

Sincerely,

Tom Westergreen, Resource Manager
Great Western Lumber Company
P O Box 159
Everson, WA 98247

(360) 966-3062

July 21, 2009

SKAGIT COUNTY
PERMIT OFFICE

JUL 21 2009

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Skagit County Planning Commission

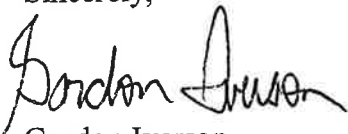
Dear Commission Members,

I am contacting you regarding the package of 119 proposed changes to the Skagit County Code. While it appears that many of the changes fit in the category of minor corrections and clarifications, the list also includes code modifications that have potentially far reaching implications.

My primary interest is with code changes that involve resource lands, yet my greatest concern overall relates to the lack of adherence with the public review process. The Forestry Advisory Board and the Agricultural Advisory Board should have been engaged at the front end of the review process so that you would have had the benefit of a more refined product.

While it is regrettable that the Public Participation Program under Resolution No. 16852 has not been followed, you can postpone further deliberations on the proposed amendments and require full adherence to the legally established protocols. A proper vetting of the numerous proposals will insure that any future challenges will be limited to the merits of the proposal and not the manner of the process.

Sincerely,



Gordon Iverson
Member, Forest Advisory Board
C&G Timber, Inc.
501 B South 2nd
Mt. Vernon, WA 98273



**SKAGIT COUNTY FOREST
ADVISORY BOARD**

Dave Chamberlain, Chairman
Lisa Cassidy Ken Osborn
Al Craney Chuck Parker
Gordon Iverson Tom Nelson
Paul Kriegel Aubrey Stargell
Tim Raschko Fred Loffer

Kendra Smith, Staff

July 20, 2009

Skagit County Planning Commission

SKAGIT COUNTY
PERMIT SYSTEM

JUL 21 2009

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Dear Commission Members,

As you begin to deliberate on the matter of 119 proposed changes to Skagit County Code I want to first thank you for extending the comment period and allowing more time to review the package presented by the Planning Department. While the time allotted did provide the opportunity for additional review, it has likewise become apparent that the extent of the changes and their possible ramifications has made the process seem all too short.

My original intention was to identify specific code changes believed to be of some concern by the Forestry Advisory Board. The idea would be to produce a list of proposed code changes that could be sidelined and addressed separately. Certainly such a list would include #104 which is described as "Add date certain for fire district inclusion for IF, SF & RRc". Substantively this provision has little to do with dates and fire districts, but mostly involves taking a landowners option to subdivide under current zoning regulations. The stated "Effect of Change" for code amendment #45 does not include any reference to proposed changes involving *Public participation requirements* (14.08.070) or provisions to modify the *Review by Planning Commission* (14.08.080). In each case the amended language serves to limit public involvement. These are but a few examples of significant actions that do not fit within the stated purpose of the miscellaneous code amendments. A short list of potentially troubling amendments would also have to include #41 and #65. A complete list would likely include many other proposed amendments as the "Effect of Change" descriptions do not work as a reliable filter to determine potential issues of concern. Even though the extended time frame allowed for a more careful examination, there has been a growing sense of frustration with the inability to fully assess the reasoning for and implications of many of the proposed changes.

Prior to this stage, it seems that the advisory boards could have contributed to the process in a very meaningful fashion. By engaging the Agriculture Advisory Board and

the Forestry Advisory Board the Planning Department could have gained valuable insight about proposed actions and used the input to produce a more refined product. The boards would much prefer to be in a position of supporting a vetted proposal than be reeling from lack of information.

The idea of tapping into advisory groups is not just a good idea; it is part of the prescribed public participation program under Resolution No. 16852. This resolution was passed in 1998 in response to a petition filed with the Western Washington Growth Management Hearings Board and relates to *Citizens Advisory and Technical Advisory Committee Input and Public Review, Comment and Hearing Procedures*. This program was established to enable a more robust public process, and given the complexity of land use issues, the adherence to this resolution is crucial to good governance.

Even with the extended comment period the proposals you are reviewing have not had the benefit of the intended process, and therefore you do not have a complete product. The boards have not been able to function as intended; to the contrary valuable time has been devoted to grasping the nature of the proposals being forwarded.

In light of this circumstance and with the understanding that none of the proposed amendments are under a time constraint, thoughtful consideration should be afforded to tabling the entire package until such time that the public participation program under Resolution 16852 is fully engaged. We have time, let's do it right.

Cordially,



Dave Chamberlain
Chair Forestry Advisory Board

P.S. Submitted with this letter are additional documents for the record relating to and supporting code amendment #106 and #109.



**SKAGIT COUNTY FOREST
ADVISORY BOARD**

Dave Chamberlain, Chairman
Lisa Cassidy Ken Osborn
Al Craney Chuck Parker
Gordon Iverson Tom Nelson
Paul Kriegel Aubrey Stargell
Tim Raschko Fred Loffer

Kendra Smith, Staff

July 20, 2009

Skagit County Planning Commission

Dear Commission Members,

Please submit to the record the Forest Practices Habitat Conservation Plan in its entirety. I am including the Table of Contents and the Introduction Chapter. Chapters 2-5 are to also be included as well as Appendices A-N.

FOREST PRACTICES HCP SECTIONS

[Forest Practices HCP Cover](#) (62KB PDF)
[Forest Practices HCP Acknowledgements](#) (20KB PDF)
[Forest Practices HCP Cover Letter](#) (474KB PDF)
[Forest Practices HCP Errata](#) (523KB PDF)
[Forest Practices HCP Title Page](#) (1,094KB PDF)
[Forest Practices HCP Table of Contents](#) (517KB PDF)
[Forest Practices HCP Executive Summary](#) (549KB PDF)
[Forest Practices HCP Chapter 1 - Introduction](#) (2,326KB PDF)
[Forest Practices HCP Chapter 2 - Planning Context](#) (821KB PDF)
[Forest Practices HCP Chapter 3 - Biological Data On and Factors Affecting Covered Species](#) (1,361KB PDF)
[Forest Practices HCP Chapter 4 - The Plan](#) (551KB PDF)
[Forest Practices HCP Chapter 4a - Forest Practices Administrative Framework](#) (770KB PDF)
[Forest Practices HCP Chapter 4b - Riparian Strategy](#) (752KB PDF)
[Forest Practices HCP Chapter 4c - Upland Strategy](#) (547KB PDF)
[Forest Practices HCP Chapter 4d - Rationale for the Plan](#) (775KB PDF)
[Forest Practices HCP Chapter 4e - Direct and Indirect Effects of Activities Covered by the Plan](#) (557KB PDF)
[Forest Practices HCP Chapter 5 - Alternatives](#) (551KB PDF)
[Forest Practices HCP Appendix A - Implementation Agreement](#) (562KB PDF)
[Forest Practices HCP Appendix B - Forests and Fish Report](#) (24,810KB PDF)
[Forest Practices HCP Appendix C - 1999 Forests and Fish Law \(ESHB 2091\)](#) (654KB PDF)
[Forest Practices HCP Appendix D - Forests and Fish Report - Federal Assurances \(HB 2570\)](#) (533KB PDF)
[Forest Practices HCP Appendix E - Chapter 76.09 \(Forest Practices\)](#) (541KB PDF)
[Forest Practices HCP Appendix F - Forest Practices Board Manual](#) (529KB PDF)
[Forest Practices HCP Appendix G - Road Maintenance and Abandonment Plans \(HB 1095\)](#) (663KB PDF)
[Forest Practices HCP Appendix H - Cooperative Monitoring, Evaluation and Research Committee Work Plan](#) (747KB PDF)
[Forest Practices HCP Appendix I - Timber, Fish and Wildlife Cultural Resources Committee, FFR Addendum, Cultural Resources and Protection Management Plan](#) (880KB PDF)
[Forest Practices HCP Appendix J1 - Small Forest Landowner Database](#) (1,848KB PDF)
[Forest Practices HCP Appendix J2 - Exempt 20-Acre Parcel Riparian Management Zones: An Assessment of Riparian Function](#) (528KB PDF)
[Forest Practices HCP Appendix K - Critical Area Calculations](#) (536KB PDF)
[Forest Practices HCP Appendix L - Timber, Fish & Wildlife Agreement](#) (6,734KB PDF)
[Forest Practices HCP Appendix M - Rain on Snow](#) (12,433KB PDF)
[Forest Practices HCP Appendix N - Schedule L-1 Key Questions, Resource Objectives, and Performance Targets for Adaptive Management](#) (580KB PDF)
[Forest Practices HCP Acronyms](#) (529KB PDF)
[Forest Practices HCP References](#) (588KB PDF)
[Forest Practices HCP Back Cover](#) (20KB PDF)

Cordially,

Dave Chamberlain
Chair Forestry Advisory Committee



**SKAGIT COUNTY FOREST
ADVISORY BOARD**

Dave Chamberlain, Chairman
Lisa Cassidy Ken Osborn
Al Craney Chuck Parker
Gordon Iverson Tom Nelson
Paul Kriegel Aubrey Stargell
Tim Raschko Fred Loffer

Kendra Smith, Staff

July 20, 2009

Skagit County Planning Commission

Dear Commission Members,

Please submit to the record the Forest Practice Rules WAC 222 in its entirety. I am including the following Chapters: Table of Contents, Practice and Procedures, SEPA Guidelines and Policy and Organization.

Forest Practices Rule Book Cover and Table of Contents (26KB PDF)
Chapter 222-08 WAC - Practices and Procedures (effective 12/22/08) (272KB PDF)
Chapter 222-10 WAC - State Environmental Policy Act Guidelines (effective 12/22/08) (246KB PDF)
Chapter 222-12 WAC - Policy and Organization (effective 12/22/08) (256KB PDF)
Chapter 222-16 WAC - Definitions (effective 12/22/08) (2,810KB PDF)
Chapter 222-20 WAC - Application and Notification (effective 10/27/07) (45KB PDF)
Chapter 222-21 WAC - Small Forest Landowner Forestry Riparian Easement Program (effective 12/22/08) (238KB PDF)
Chapter 222-22 WAC - Watershed Analysis (effective 12/22/08) (203KB PDF)
Chapter 222-23 WAC - Riparian Open Space Program (effective 7/1/05) (35KB PDF)
Chapter 222-24 WAC - Road Construction and Maintenance (effective 6/18/06) (58KB PDF)
Chapter 222-30 WAC - Timber Harvesting (effective 12/22/08) (372KB PDF)
Chapter 222-34 WAC - Reforestation (effective 12/22/08) (135KB PDF)
Chapter 222-38 WAC - Forest Chemicals (57KB PDF)
Chapter 222-42 WAC - Supplemental Directives (effective 12/22/08) (40KB PDF)
Chapter 222-46 WAC - Consultation and Enforcement (effective 12/22/08) (154KB PDF)
Chapter 222-50 WAC - Relationship to Other Laws and Regulations (effective 12/22/08) (56KB PDF)
Rule book Index (189KB PDF)

Cordially,

Dave Chamberlain
Chair Forestry Advisory Committee

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www.TupperMackBrower.com

SKAGIT COUNTY
JUL 21 2009

RECEIVED

BRADFORD DOLL
Direct (206) 493-2324
doll@TupperMackBrower.com

July 20, 2009

Via U.S. Mail and E-Mail to pds@co.skagit.wa.us

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

RE: Comment on Skagit County 2009 Miscellaneous Code Amendments

Dear Mr. Christensen,

The Skagit County Planning & Development Services Department ("Department") has proposed Code Amendments to Skagit County's development code. On behalf of Scott Waldal and Skagit Hill Recycling, Inc., I wish to bring to your attention problems with the amendments, including potential violations of the Growth Management Act ("GMA"), and other provisions of state and federal law.

Furthermore, the County should reconsider these amendments because, as a policy matter, they do not advance the County's recycling goals. Specifically, the amendments will discourage the establishment of businesses that provide recycling of construction and demolition materials. These facilities are needed to address the County's problem with illegal dumping.

1. The County Is Proposing A Substantial Change in Siting Policy for Solid Waste Facilities.

Under the County's amendments to SCC 14.44.020, all facilities handling solid waste, including small recycling facilities, would apparently be subject to an intensive permitting process that is appropriate only for major regional facilities like transfer stations. This is inconsistent with the purpose of SCC 14.44.600, which is reserved only for "major, regional facilities with potential significant built and natural environmental impacts on the surrounding area."

46

The Department has proposed to change the definition of utility in SCC 14.04.020, adding a category for "major regional utility development." All such facilities would be subject to permitting under SCC 14.44.600 ("Unclassified Use Permit"). The definition of major regional utility development includes "solid waste handling facilities." Recycling facilities are solid waste facilities, WAC 173-304-100(74), WAC 173-350-100 ("solid waste handling" means the . . . recycling of materials from solid wastes . . ."); SCC 12.16.050.¹

But the amendments to SCC 14.04.020 make no distinction among types of recycling facilities. Small recycling operations would apparently be considered "major, regional utility developments" and subject to the same intensive permitting process as a transfer station. Existing recycling facilities in Skagit County include a number of small facilities, such as Larry's Auto and Truck Parts. See Skagit County Comprehensive Solid Waste Management Plan at 4-1, 4-2.

Small recycling facilities are very different for land use purposes than a major, regional utility development like a transfer station. The new definition is therefore inconsistent with SCC 14.44.600, which states that it provides "a siting and review process for major, regional facilities with potential significant built and natural environmental impacts on the surrounding area."

This change will have real consequences on the availability of recycling in Skagit County. Facilities that must obtain land use permits through SCC 14.44.600 can operate only in four small zoning districts.² Solid waste facilities will no longer be permitted in any other district in the County. The County has historically allowed recycling facilities to operate outside these four zoning districts, including T&T Recycling and the County's Clear Lake Compactor facility.

Furthermore, the County has not indicated how it will regard existing solid waste handling facilities that do not have land use permits currently. T&T Recycling operates partly in the Rural Reserve zoning district. Also, the County's Clear Lake Compactor facility is located on Rural Reserve and Agricultural-Natural Resource lands. It does not appear that either of these facilities have land use permits.³ These facilities will be

¹ See also SCC 12.16.060: "'Solid waste' means . . . demolition and construction wastes, . . . waste tires, . . . and recyclable materials." "'Solid waste facility' means a facility that handles solid waste and is approved by the Health Department." "'Solid waste handling' means the storage, collection, transportation, treatment, utilization, processing, and final disposal of solid wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from such wastes or the conversion of the energy in such wastes to more useful forms or combinations thereof."

² Bayview Ridge Heavy Industrial, Bayview Ridge Light Industrial, Rural Resource-Natural Resource, and Secondary Forest-Natural Resource

³ Six solid waste handling facilities operate in Skagit County: T&T Recycling, Skagit River Steel, Environmental Waste of Skagit County, and the three County facilities.

operating in zones not permitted under the County Code. As rural solid waste facilities operating without land use permits, the County should explain whether it intends to continue allowing these facilities to operate in rural areas.

The County's existing process is adequate for the County's purposes. Under Skagit County's existing development regulations, these facilities could apply for land use permits. Solid waste handling facilities are permitted as special uses in areas zoned RRv. Under SCC 14.44.320, major and minor utilities are permitted in the RRv district, and solid waste handling facilities are currently considered utilities under the definition of utility in SCC 14.04.020.

2. Vastly Reducing Land for Recycling Facilities Does Not Advance the County's Recycling Goals And Is In Conflict With The County Comprehensive Plan.

The County has not examined the impact that these amendments will have on recycling of construction and demolition ("C & D") materials in Skagit County. According to the Skagit County Comprehensive Solid Waste Management Plan ("CSWMP"), recycling of C & D materials is a "service gap" in Skagit County. Attachment 11 at 9-10. Addressing the shortage of C & D recycling would "have a significant impact in reducing the County's waste stream." Attachment 11 at 4-9.

The CSWMP also states that the County needs additional material recovery facilities and collection of C & D waste. In the words of the plan, "more could be done to promote recycling of [C & D] waste." Attachment 11 at 4-9. The CSWMP also indicates that the lack of C & D recycling facilities leads to unpermitted and illegal dumping in the County. Attachment 11 at 9-10.

Despite the County's obvious need for C & D recycling, the County is proposing to drastically limit the locations where a business can engage in recycling. The County has not indicated how many acres would be left for such businesses in the four remaining zoning districts. What is clear is that the County is removing at least 80,000 acres from what is currently available for these facilities. Rural Reserve lands alone constitute 70,378 of 81,907 acres that are deemed rural in Skagit County. In addition, the unclassified use process potentially imposes additional barriers to new recycling businesses in Skagit County (discussed below). The County's plan is in conflict with the recycling and land use policies in its Comprehensive Plan as well as the needs described in its CSWMP.

3. The County's Code Amendments Do Not Comply with GMA Protections for Recycling Facilities.

The state protects essential public facilities because they are difficult to site, WAC 365-195-340(1)(a), usually due to local opposition. Solid waste facilities are essential public facilities. RCW 36.70A.200(1); WAC 365-195-340(1)(a); *see also* SCC 14.04.020 (utilizing same definition).

These protections include a prohibition on preclusion of essential public facilities by counties. RCW 36.70A.020. Preclusion can take the form of outright prohibition, impracticable permit conditions like restrictive zoning, or EPF permit processes that are fundamentally untimely, unfair and unpredictable. *King County v. Snohomish County*, CPSGMHB No. 03-3-0011, FDO (Oct. 13, 2003).

The County's proposed amendments impose impracticable permit conditions by restricting the zones in which recycling facilities can operate and eliminating the special use permit process as a means of obtaining a permit. The Unclassified Use process, in contrast, is fundamentally impracticable for several reasons.

1. Under the Unclassified Use process in SCC 14.44.600, a prospective recycling business must provide an "alternative site analysis evaluating at least 3 other alternative sites for the proposed facility." SCC 14.44.600(4). A solid waste handling facility must also meet extensive siting criteria in the Skagit County CSWMP. These criteria include consideration of groundwater, surface water, flooding, slope, cover and liner materials, capacity, and air emissions. See Ch. 2, CSWMP. In addition, a siting proposal must satisfy thirteen approval criteria. SCC 14.16.600(5). The combination of these criteria and zoning restrictions means that it will likely be impossible to find four sites for a proposed facility.
2. The process is also impracticable because unclassified use permit applications are reviewed under the same process as a Comprehensive Plan amendment. SCC 14.16.600(3). This means the Board of County Commissioners ("BOCC") rules on the application.

Members of the BOCC regard facilities that reduce the County's waste stream as adverse to County's interests. Attachment 1. Addressing the County's shortage of C & D recycling would "have a significant impact in reducing the County's waste stream." Attachment 11 at 4-9.

Furthermore, Chairman Dahlstedt has an interest in preserving or enhancing the value of lands owned by Dahlstedt Family Properties, LLC. Among these are properties that are uniquely close to the Skagit County Transfer station and zoned for solid waste purposes. Attachments 2, 13. Mr. Dahlstedt's personal pecuniary interest in these lands is not specified in his public filings, but exceeds \$75,000. Attachment 15 at 4-5. It does not enhance the value of these properties to permit solid waste facilities on other lands.

3. The process is also impracticable because its requirements reserve complete discretion to the County. If an applicant could find four alternative sites, the County has discretion to reject the application because it regards another "feasible" site as better meeting its criteria. See SCC 14.16.600(5)(i) ("No feasible alternative sites

which better meet the requirements of these criteria;”). The County does not define “feasible,” leaving substantial discretion to the BOCC.

The County could even determine that none of the sites are feasible. The County reserves to itself discretion to deny a permit for a specific use in a given location even if the Code otherwise allows the use in that zone. SCC 14.16.600(1) (“The listing of possible zones for unclassified uses to be located in, as in Subsection (2) of this Section, does not presume that a specific use in a given location will be determined to be appropriate through the unclassified use permit process.”).

4. By funneling all solid waste facilities through the Unclassified Use process, the County can prevent competition with existing facilities. Under SCC 14.16.600(5)(j), the BOCC is entitled to consider whether “[t]he need for the unclassified use at a specific location is necessary, taking into account region-wide distribution of facilities and the capacity and location of equivalent facilities.”

New facilities are disadvantaged under this provision because they apparently must convince the County that a market opportunity exists, even as they are forced to locate alongside their competitors by the County’s zoning restrictions.

In addition, the amendments violate the GMA by precluding essential public facilities from the County’s rural areas. *See* RCW 36.70A.070(5)(b). The only rural zone in which solid waste handling facilities might be able to obtain a permit is the Rural Resource-Natural Resource zone. The County cannot satisfy its duty to provide rural lands for essential public facilities while precluding those facilities from nearly all rural lands.

Furthermore, the amendments would constitute outright preclusion. The County has historically allowed recycling facilities to operate in rural areas. The County, however, enacted a moratorium⁴ on processing solid waste permits for operations in the Rural Reserve zone after Skagit Hill Recycling approached the County regarding plans to seek a permit for a recycling facility. The County’s proposed code amendments are the County’s means of making that preclusion permanent.

It appears that the County enacted that moratorium and has proposed these amendments for reasons other than the public health and safety. There are several indications that the County is pursuing mixed motives through these amendments:

1. Skagit County is a competitor of and adverse to private recycling of C & D materials in Skagit County. Skagit County currently provides no means for recycling C & D materials, only disposal at the Skagit County Transfer Station. Skagit County uses tipping fees from “trash” brought to the Transfer Station to fund its own solid waste programs, including paying down debt incurred in closing a Skagit County landfill

⁴ Ordinance O20090003

and constructing the County's incinerator. Attachment 1. Addressing the County's shortage of C & D recycling would "have a significant impact in reducing the County's waste stream." Attachment 11 at 4-9.

2. As noted above, the Chairman of the County Commissioners has an interest in limiting the land in Skagit County on which solid waste handling can occur. The value of the Dahlstedt Family Trust, LLC, properties is enhanced by directing "solid waste" to the Transfer Station, as well as by limited competition with those businesses leasing lands from the Dahlstedt Family Trust, LLC.

Skagit Hill Recycling would operate on lands not owned by Dahlstedt Family Properties, LLC, would compete with companies leasing land from the Dahlstedt family, and would reduce the solid waste stream sent to the County Transfer Station. All of this stands to reduce the earnings through leasing these lands.

A County consultant hired to evaluate Mr. Dahlstedt's potential conflict of interest, considered only the size of Mr. Dahlstedt's annual earnings. Attachment 3. No consideration was given to the value of Mr. Dahlstedt's entire stake, or potential for conflict based on protecting the Dahlstedt Family Trust, LLC. These conflicts of interest are discussed in Attachment 4 to this letter.

3. The County has stated that it is pursuing action against Skagit Hill Recycling in part to assuage the complaints of competitors who want to charge more for their services. Attachment 5.
4. The County has acted in several ways to prevent Skagit Hill Recycling from engaging in C & D recycling.
 - a. During the summer of 2008, in order to address Skagit County's concerns about non-inert materials at the site, Skagit Hill Recycling approached a lender to obtain a line of credit. The County Department of Planning and Development wrote a letter to Skagit Hill Recycling's lender on September 5, 2008. Attachment 6. The County had no evidence that asbestos was on the property. Attachment 7 at 38-39:25-8. Nonetheless, the County referred to asbestos on the property because it knew that the Bank would react to that allegation. Attachment 7 at 40:10-15.

The County's purpose was to put "pressure" on Skagit Hill Recycling. Attachment 7 at 19:11-14. The County had never before contacted a business' lender for this purpose. Attachment 7 at 20-21:25-5. The County Planning & Development Services Department contacted the lender after waiting just two weeks for a response to a single letter. Attachment 7 at 17:7-12; 21:6-22; 8.

- b. In February 2009, Skagit Hill Recycling approached the County with extensive materials describing its plans for a state of the art recycling facility. Skagit Hill Recycling scheduled the meeting in order to learn precisely the County's permitting requirements. The County staff at that meeting did not indicate that Skagit Hill Recycling's intended uses were not permitted in the RRv zone.

Shortly after that meeting, apparently in order to prevent Skagit Hill Recycling from submitting a permit request, the County enacted a moratorium on solid waste facility permit applications. Ordinance number O20090002 bars receipt and processing of solid waste handling facility permit applications for locations in the County's rural areas, including the RRv district where Skagit Hill Recycling is located. Additional detail regarding these events is contained in Attachment 4.

Skagit Hill Recycling filed a petition for review with the Growth Management Hearings Board alleging violations of the GMA based on Ordinance number O20090002. Attachments 9, 10, 14.

5. The public health, safety, and welfare of Skagit County citizens is protected by an extensive set of state and local regulations on solid waste handling, including Chapter 70.05 RCW, Local Health Departments, Boards, Officers—Regulations, Chapter 70.95 RCW, Solid Waste Management—Reduction and Recycling, and Chapter 64.44 RCW, Contaminated Properties, and Chapter 246-203 WAC, General Sanitation, Chapter 173-304 WAC, Minimum Functional Standards for Solid Waste Handling, and Chapter 173-350 WAC, Solid Waste Handling Standards; and Chapter 12.16 SCC (Solid Waste Handling and Facilities).
6. In addition, the County already subjects solid waste facilities that want to operate in the Rural Reserve zone to the special use permit process. Under this process, a proposed facility would have to demonstrate compliance with eight criteria that protect existing land uses. Skagit County Code 14.16.900(1)(b)(v)(A)–(H). If the facility adversely affected existing land uses, it would not be permitted. The proponent “must demonstrate that the proposed activity will not adversely affect or prevent those uses normally allowed within the respective district.” SCC 14.16.900(1)(a).
7. Use of the SHR site for a recycling facility is consistent with the County's Comprehensive Plan and Comprehensive Solid Waste Management Plan. Recyclable materials identified in the County's Comprehensive Solid Waste Management Plan include tires, asphalt, wood, drywall, concrete, metals, asphalt roofing, plastics, and other C&D wastes. Attachment 11.
8. The County has no water quality sampling that indicates any hazard to surface or groundwater from the activities at the Skagit Hill Recycling site.

9. The County appears to selectively apply its regulations.
 - a. The County has apparently never required any of the County's existing solid waste facilities to obtain a land use permit through its unclassified use permit process or otherwise.
 - b. The County demanded that Skagit Hill Recycling obtain a solid waste permit to engage in activities that the County regards as permit exempt elsewhere. Attachment 4 at ¶2.20. One of these permit exempt facilities agreed to send its non-recyclables to the County Transfer Station.
10. The SHR site has historically been used as a sand and gravel pit and for receiving, storing, and processing inert materials for recycling, on-site fill, or resale. Also, the SHR site has historically been used for landfilling material including concrete, branches, and leaves. The SHR site was operated for these purposes prior to and at the time that the County adopted planning policies and development regulations requiring a special use permit to manage solid waste. Attachment 4.
11. Will Honea, Skagit County's Chief Civil Deputy, threatened litigation against Sedro-Woolley in response to Sedro-Woolley's processing of a permit application for a facility that would recycle C & D materials. The Chief Civil Deputy accused Sedro-Woolley's City Attorney of "getting into bed" with the permit applicant, and threatened "extensive subpoena and discovery" regarding "questionable extensive involvement" by the City in the recycling proposal. Attachment 12.

Mr. Honea has pursued this same course of action against Skagit Hill Recycling.

- Mr. Honea stated that counsel for Skagit Hill Recycling was "fabricating scintillating nonsense," made "asinine" and "scurrilous" allegations, was profiting from "ill-gotten gains," lied to the County, had "ethical myopia," and implied that counsel was engaged in a conspiracy. He also accused counsel for Skagit Hill Recycling of violations of the legal rules of professional conduct. Attachment 19.
- Mr. Honea has gone so far, reportedly, as to ask a third party to "join forces with the county to get" Skagit Hill Recycling, Inc.
- Mr. Honea demanded access to years of the Waldals' private bank records. Attachment 20.
- Mr. Honea demanded that Skagit Hill Recycling either amend its allegations or face legal sanctions directed against counsel for Skagit Hill Recycling. Attachment 21.

Gary Christensen
Director, Skagit County Planning & Development Services
July 20, 2009
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12. Skagit Hill Recycling approached the County with a detailed plan to make significant investments in a modern recycling facility. These investments and the facility itself would have advanced the County's interests and protected the public health, safety, and welfare. The moratorium and these proposed amendments do not advance the interests of the citizens of Skagit County.

These actions are evidence that the County used its police power to target and preclude a prospective recycling facility, in violation of the GMA. The use of County moratoria authority to preclude the facility is a violation of several provisions of the GMA, including RCW 36.70A.200 (siting essential public facilities); RCW 36.70A.020(7) (setting GMA goal of timely and fair permit processing "to ensure predictability"), (5) (encouraging retention and development of businesses), and (11) (GMA goal of encouraging citizen involvement and community coordination). This misuse of police power is also potentially a violation of due process. Attachment 4.

Finally, the comment period for the miscellaneous code amendments ends July 21, 2009. Skagit Hill Recycling filed Public Records Act requests with the County on May 15, 2009 and June 15, 2009. Skagit Hill Recycling is still awaiting a complete response to these requests. These requests concern the code amendments and without the records a complete comment cannot be made. The County should keep the comment period open until after it has completed production of those records.

Sincerely,

TUPPER MACK BROWER PLLC



BRADFORD DOLL

Enclosures

cc: Arne Denny
Will Honea