



# Planning & Development Services

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

## Memorandum

To: **Planning Commission**

From: Michael Cerbone, Assistant Director  
Nick Schmeck, Long Range Planning Intern

Date: October 15, 2019

Re: **Planning Commission Workshop – Docket Items P-1 and P-2**

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### Summary:

Planning and Development Services (PDS) is providing this staff report in advance of the October 22, 2019 Planning Commission workshop on docket items P-1 and P-2. The proposals seeks clarification about how existing code is interpreted and seeks to amend Skagit County's Critical Areas Ordinance (Skagit County Code 14.24) to require development review prior to approval to drill a well in seawater intrusion areas. Docketed item P-1 pertains to Rainwater Catchment and item P-2 pertains to regulation of Wells on Guemes Island. The requests are interconnected which is why staff elected to produce one staff report for both items.

### Action Requested of the Planning Commission:

Action requested from the Planning Commission is a recorded motion approving docket item P-1 and P-2 to be accepted as a 2019 Comprehensive Plan amendment.

### Background/Discussion:

RCW 36.70A.130 – Comprehensive Plans – Review procedures and schedules – Amendments (GMA), authorizes the County to make revisions to the Comprehensive Plan no more than once per year through the Docket. On March 19, 2019 the 2019 Docket for amendments to the Comprehensive Plan, Zoning Map, and/or Development Regulations was voted into action by Skagit County's Board of County Commissioners (BOCC) via approval of Resolution R20190052. SCC 14.08.080(6) and (7) requires that revisions be reviewed by the Planning Commission.

The Guemes Island Planning Advisory Committee (GIPAC) is the applicant for both requests. GIPAC has proposed P-1 to make "...rainwater catchment a welcome and viable alternative to drilled wells". GIPAC has proposed P-2 to make "sure that new wells are subject to full impact assessment before drilling wells."

Guemes Island is designated a Seawater Intrusion Area (SCC 14.24.380(1)(b)) and a Sole Source Aquifer. According to GIPAC there are at least 64 residences on the island that have been impacted by well failure. Most of the island is dependent upon groundwater for potable water.

#### P-1 Rainwater Catchment:

GIPAC notes “Our goal is to make rainwater catchment an economical and viable source of potable water for Guemes Island. To do this, we want to see catchment as easily permitted by the county as drilled wells and as inexpensive as possible.”

During conversation with staff and their testimony at public meetings GIPAC has identified concerns about how current code is interpreted and what could be done to make the code language more clear, as well as what type of information that staff can provide to assist community members with designing, permitting, and constructing a rainwater catchment system.

#### P-2 Wells on Guemes Island:

GIPAC notes that with P-2 their “...goal is ensure that new wells do not undermine the senior water rights of the 360 existing wells on Guemes Island that [they] are aware of.” They specifically identify three (3) things that P-2 should do:

1. Require the county to review and approve of all new wells prior to drilling, not just new wells that linked to a development permit;
2. Require assessment of hydrogeological impacts of any new well as part of the review process; and
3. Clarify that rainwater catchment can be permitted on Guemes Island without first drilling a well to prove that using a well is not feasible.

#### Approaches to addressing concerns raised by P-1 and P-2:

Over the past few months staff has reviewed code language, discussed the proposal in detail with GIPAC and coordinated internally with staff and legal counsel.

The concerns raised by GIPAC can be addressed in several ways. Staff sought to identify concerns raised by GIPAC that could be clarified via an Administrative Official Interpretation (AOI) without the need for a development code text amendment. Staff also examined concerns that could be addressed by providing better guidance to an applicant. Those concerns that were raised that could not be addressed via an AOI or a guidance document are proposed for consideration as code amendments.

Many of the concerns that GIPAC has raised can be addressed through an Administrative Official Interpretation (AOI) pursuant to SCC 14.06.040(3). Based on the history of the concerns raised by GIPAC staff will be preparing an AOI. The AOI is essentially a land use a decision, if GIPAC or another party does not agree with the interpretation set forth in the AOI an appeal can be submitted and the AOI would be reviewed by the Hearings Examiner. Specific concerns

raised by GIPAC that can be addressed in AOI include whether rainwater collection is “discouraged” on Guemes island; whether a well needs to be drilled prior to the ability to permit a rainwater catchment system; who is authorized to design a rainwater catchment system; whether all new wells require County review on Guemes Island; and whether a covenant is required to be recorded on the title.

Other items could be addressed through a guidance documents that can be produced by Planning and Development Services, this documents is often referred to as a “template” by GIPAC. This is a document that could be completed over the next year to provide additional guidance for applicants. GIPAC has suggested that this document could be mandated to be created through a proposed text amendment. Staff is proposing to include this on the 2020 Work Plan commit to having it completed and implemented by the end of 2020. Specific concerns raised by GIPAC that can be addressed in a guidance document include; what constitutes “adequate supply of water”; and administrative design standards for systems (acceptable materials for roof, gutters, storage; water filtration and treatment guidelines; reservoir connections and storage; and maintenance).

Other concerns that GIPAC has raised would need to be addressed through a series of code amendments which are included as attachment A. However, staff is not recommending that the code be amended to mandate the completion of a guidance document by a specific time.

#### **Next Steps:**

After the Planning Commission Workshop on October 22, 2019:

- Planning Commission may task PDS with next steps such as research and development
- Planning Commission will host a public hearing prior to deliberating and deciding on a recommendation
- The recommendation will then be passed onto the BOCC’s who will host a public hearing and consider the recommendation
- If approved, the comprehensive plan will be updated to reflect the most accurate project information

#### **Applicable County Policies:**

Skagit County Comprehensive Plan

#### Plan Implementation

Goal 12A      Create opportunities for citizens to participate in developing community plans at a local level that protect and conserve community character while ensuring consistency and compatibility with the comprehensive plan.

Goal 12A-4 Implement and maintain an ongoing program of community planning to address the specific issues and concerns of Skagit County communities.

policy 12A-4.1 The adopted Alger, Bayview Ridge, Guemes Island, and Hamilton Subarea Plans, which are part of this Comprehensive Plan, will help to guide growth and development within those subareas.

#### Guemes Island Subarea Plan

The Guemes Island Subarea Plan is a component of the Comprehensive Plan. A link to the full plan and supporting documents is here:

<https://www.skagitcounty.net/departments/planningandpermit/guemesplanmain.htm>

Staff has identified the following relevant policies from the Guemes Island Subarea Plan:

Policy 2.2 An island-wide critical areas education program should be developed to alert the Guemes Island community to the functions and hazards associated with critical areas.

Policy 2.6 There shall be no density bonus for CaRD developments on Guemes Island except if the development is to be served by an approved public water system utilizing seawater with mitigation to further protect the freshwater aquifer. SCC 14.24.310 (2) should be amended to reflect this intent.

Policy 2.7: Guemes Island is designated as a Category I Critical Recharge Area under SCC 14.24.310, therefore all applications for single-family residential building permits, including Accessory Dwelling Units and Accessory Buildings as well as residential short plats, shall comply with the Site Assessment Requirements as outlined in SCC 14.24.330 . GIPAC recommends that SCC 14.24.330 (1) be amended to reflect that initial project review by the Skagit County Planning and Development Services Department will include staff from the County Health Department and a County Staff Hydrogeologist to evaluate likely impacts to groundwater quality or quantity.

Policy 4.2: Potential prime aquifer recharge areas on the island need to be identified and evaluated.

Policy 4.3: The Skagit County Interim Seawater Intrusion Policy, adopted by the Board of Commissioners/ Health by Resolution #15570, should be updated and codified, if necessary, by the Skagit County Department of Health with guidance from the County Hydrogeologist

Policy 4.4: The preliminary groundwater budget, as presented by the USGS in the 1995 report entitled Hydrogeology and Quantity of Ground Water on Guemes Island, Skagit County, WA, should be further evaluated by the County Hydrogeologist, and the issue of groundwater availability needs to be addressed.

- Policy 4.15: Seawater Intrusion Mitigation. Mitigation for a single-family residence shall be in conformance with the “Current Seawater Intrusion Policy or Code.” The Policy should be updated and/or codified by the Skagit County Health Department with guidance from the County Hydrogeologist.
- Policy 4.16: Building permits in areas susceptible to seawater intrusion should be conditioned upon the restriction of ground water to use in the home only. This requirement should be included in an updated Seawater Intrusion Code.
- Policy 4.18: Land elevation shall be determined prior to the drilling of a new water well in order to provide necessary information about the depth to mean sea level. This requirement should be included in an updated Seawater Intrusion Code.
- Policy 4.22: The Skagit County Planning and Development Services Department’s Critical Areas Checklist should include the question whether the property is located on a Sole Source Aquifer Area, or if the property is located on an island.
- Policy 4.30: The County Public Health Department and other departments should cooperate with island organizations to provide islanders with information on the Sole Source Aquifer System; groundwater recharge; and groundwater and surface water quality issues; care of private wells and septic systems; and conservation of water usage. Islanders shall be encouraged to be water resource stewards through participation in decision-making, volunteer activities and educational programs.
- Policy 4.31: The County should encourage private participation in water conservation strategies, including best management practices and reuse of water.
- Policy 5.24: Appropriate provisions should be made to protect groundwater supplies, including the encouragement of roof catchments systems for irrigation use and storage ponds to augment aquifer storage.
- Policy 7.1: A permanent Guemes Island Planning Advisory Committee (GIPAC) should be formed to provide communications between Guemes Island property owners/residents and government agencies regarding the sub-area plan. GIPAC should consist of nine members, elected by Guemes Island property owners and residents, and serve in accordance with the State law RCW 36.70.060.070 which governs the actions of planning advisory committees.
- Policy 7.4: GIPAC will hold public meetings to gather input on resolving problems or proposed changes and submit comments on behalf of the island.

**List of Attachments:**

Attachment A: Proposed Code Amendments

## Attachment A

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

### Chapter 14.24 Critical Areas Ordinance

#### 14.24.380 Seawater intrusion areas.

(1) Applicability. This Section applies prior to drilling any well; and to wells and applications for building permits; special use permits; shoreline substantial development, variance, and conditional use permits; and land divisions in the following areas:

- (a) Areas within one-half mile of a marine shoreline; and
- (b) The entirety of Guemes, Sinclair, Cypress, and Vendovi Islands.

(2) Application Requirements.

(a) For Wells. An application proposing to drill or use of a well must include all of the following, which must be submitted for review prior to drilling any new well:

- (i) A site plan, including:
  - (A) A dedicated inland well site location;
  - (B) Estimated depth of proposed well;
  - (C) An estimated land elevation of the well, except that if the well is within 250 feet of the shoreline, or if determined by the County Hydrogeologist, the elevation of the well must be surveyed by a licensed surveyor;
  - (D) Depth and chloride levels of surrounding wells;
- (ii) A drilling plan;
- (iii) Payment of applicable fees.

(b) For Alternative Water Sources. An application proposing use of an alternative water source must include the following:

(i) Documentation of system design consistent with this Section and SCC 12.48.250;

(ii) Payment of applicable fees.