

Skagit County Board of County Commissioners
Discussion: 2021 Docket: Planning Commission Recommendations
April 18, 2022

Commissioners: **Ron Wesen (District 1)**
 Peter Browning (District 2) – Chair
 Lisa Janicki (District 3)

PDS Staff: **Hal Hart, Planning Director**
 Peter Gill, Senior Planner/Planning Manager
 Jack Moore, Building Official

Chair Peter Browning: Good morning, I'm Chair Browning. It's now 10:30 on Monday, April 18th, and I'd like to reconvene the Board of County Commissioners. Before we begin, please rise and join me in saluting our flag.

(All recite the Pledge of Allegiance.)

Chair Browning: Thank you. We're here with the Planning and Development Services, Hal Hart, director, and this is a discussion of the Planning Docket and Planning Commission Recommendations. So, Hal?

Hal Hart: Thank you, Commissioners. My name's Hal Hart, the Planning and Development Services director. We're here today to discuss the Planning Docket. That is our annual process by which we make changes to code, and today to give this report will be Peter Gill, our planning manager. Thank you.

Peter Gill: Good morning, Commissioners. My name is Peter Gill with Planning and Development Services. Today we are here to discuss a second work session on the 2021 Docket of Comprehensive Plan Amendments and Development Regulations. The first one was March 28th and a third meeting has been scheduled for next week, next Monday the 25th – just so you know our schedule.

Today we are here to discuss a couple of the petitions. On the 28th we went through the whole list of the 12 petitions that were docketed and discussed the Planning Commission's recommendations on each of those. There's two petitions that stood out for further discussion. One was on accessory dwelling units and the second was on public notice for mineral resource activities.

So as a reminder, the Planning Commission approved the recorded motion on February 22nd, 2022. We will be discussing a memo today that was distributed to the Board of Commissioners. It is also found on our website under skagitcounty.net/2021cpa. If people out there would like to follow along with the memo, it is posted on our website.

Before we go on, I do want to correct for the record something I said at the last meeting on the 28th about temporary events in the Small-Scale Business zone. I believe I said there was a public hearing is required for those. In the Small-Scale Business zone, public notice is required of all the property owners, including posting on the site, but a public hearing is *only* required in the Small-Scale Business Zone for temporary events if the decision is appealed. So I just want to set the

record straight for temporary events in that Small-Scale Business zone it is an administrative special use permit.

Commissioner Ron Wesen: And once again, temporary events is 24 a year?

Mr. Gill: Twenty-four events per year, yeah. Actually 24 *calendar days* per year. So if the event is over more than one day, it's the days not the events.

Commissioner Lisa Janicki: And is it 24 versus two per month? I've heard it described as two per month. Can those 24 be blocked?

Mr. Gill: Maybe if you put it all in the summer.

Commissioner Janicki: Yeah, that's what – that's exactly the question. Yeah, okay, so that is allowed – 24, not necessarily two per month.

Mr. Gill: Not necessarily two per month.

Commissioner Janicki: Okay.

Mr. Gill: Twenty-four, correct.

Chair Browning: But I think it's actually misunderstood that it is the *days*, not the *events*, and so that's really important for us to keep in mind.

Mr. Gill: Yes, the calendar days. Yes.

Chair Browning: Thank you.

Mr. Gill: And I do have some slides to share here as we get going. So here are the petitions that were considered. There is 12 of them in all that were docketed. There were four that were recommended for denial from the Planning Commission and seven for approval by the Planning Commission and one that was not considered. LR20-04 was not considered by the Planning Commission.

Today I will focus at least my comments on LR20-05, which is the Public Notice for Mineral Resource Extraction Activities, and 20-07, which is the Accessory Dwelling Units Code Amendment.

In the meeting materials that were distributed for today, we have a bit of a dialogue or analysis of those two petitions, as well as the specific code amendments that would be considered.

So the first one is regarding Public Notice for Mineral Resource Extraction Activities. The original petition was to request an amendment for mineral resource extraction activities notice to be provided within one mile and be posted at post offices in nearby communities. And so just to let you know where we are right now in regards to this public notice: Currently permitting of mineral resource activities is a hearing examiner special use. It's considered a Level II review and it requires notice be sent to property owners within 300 feet. This distance can be expanded to 500 feet administratively and it's also posted onsite, in the paper, and does require a public hearing.

The Department recommendation is to amend 14.06.150, Public Notice Requirements, to add a mineral resource extraction activities notice is provided within 1320 feet of all the subject property lines. And this, if you're following along in the memo, is Option C of the actual code amendments.

The Planning Commission recommended denial of the original petition altogether.

So a little bit more about where we got the 1320 feet: The mineral resource buffer for Mineral Resource Overlay areas is a quarter-mile. So within that quarter-mile of all MROs the density cannot exceed one per ten for residential units. In other places it can be quite a bit smaller, especially under a CaRD subdivision.

A little bit more on the 1320 feet: In our County Comprehensive Plan, we recognize the disturbance potential in our right to manage natural resource lands disclosure policy. Under Comp Plan Policy 4E-1.3, it says "Recording with property deed. A standard disclosure form shall be recorded with deeds for all real estate transactions involving development on or within one-quarter mile of natural resource lands." So in that statement we recognize that there is potential within a quarter-mile of mineral resource activities as well.

And then following – bigger picture: Growth Management Act goals, one of the main goals is citizen participation and coordination, and this is to encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts.

More discussion: Looking at areas/other counties and their notification requirements: Snohomish, 2000 feet; Whatcom, 1000 feet; King County, 1320; Chelan County, 500 feet; Lewis County, 1320. So I think our recommendation is in line with many of those.

So that is all I had on Mineral Resource discussion, if anyone has any questions or comments on that.

Commissioner Wesen: On the – your recommendation of an extra thousand feet: So what – they get a notice, and then what? What's the notice say and what does that allow that property owner in that end of the little area?

Mr. Gill: So that notice goes out to any of the property owners adjacent within 1320 feet – the letter. It's actually a mailed letter that would go to those individual property owners, and it would describe how to comment on the proposal, how to review the proposal, and when the public hearing was.

Commissioner Wesen: Which currently is the 300 feet but it's also listed on your website and also there's a notice in the paper –

Mr. Gill: Published, yes.

Commissioner Wesen: – all that information there. So you're adding the thousand feet away from the site is what you're recommending.

Mr. Gill: That's right. That's right.

Commissioner Wesen: but it doesn't give them any more rights or anything. It's just gives them a notice that this is going on. If you lived closer you would have gotten a letter but now –

Mr. Gill: That's correct. Right. It doesn't change the process. It just provides a letter that informs folks of those processes.

Commissioner Wesen: Thank you.

Commissioner Janicki: Just a clarifying question. So the quarter-mile measurement – we're currently using a quarter-of-a-mile for that residential density notification proximity to an MRO.

Mr. Gill: That's right.

Commissioner Janicki: So I like the fact that it's a consistent distance. That makes sense. But is the notification – what if there's a 40-acre parcel all under an MRO but they're only going to disturb 3 acres of the 40? Do I measure 1300 feet from the disturbance area or from the boundaries of the 40 acres?

Mr. Gill: It is the latter, so we'd be looking at everything from the outer boundary of where that activity were to take place. That would be the 300 feet or 1320 feet. That would be the distance, yeah, from the outer boundary.

Commissioner Janicki: The 40 acres, so it gets – okay. And that's how I understood it too, and I think there have been some notification issues that have come up in the past, but I just want to make sure that as we're discussing this publicly – great. I think it's a logical place, I mean, to land. One mile was just too much and post office, but I understand that people want to know when activity is starting up. That's the group that would most likely be impacted.

Mr. Gill: Yeah. And in the past you all probably have heard, but we often get the public coming out after there's not much that the County can do about it, and so at least this would provide everyone or anyone within a quarter-mile a better chance to be informed.

Commissioner Janicki: Thank you.

Commissioner Wesen: But the other thing, some of these larger projects have many parcels on them, and so is it *that* parcel, 1300 feet away from *that* parcel, or all the adjoining property owned by that company or whatever and 1300 from that? Does that make sense what I'm saying?

Mr. Gill: Yes. That would be a – that's a good question and I think we have to look at all the properties that that landowner owns, but I would have to check with that unless Jack or Hal, if Hal knows the answer to that question. I would have to check with Brandon to be sure. That's a good question.

Okay, anything else on that one? We can keep rolling?

Chair Browning: Let's keep it rolling.

Mr. Gill: Okay.

Chair Browning: Great. Thank you.

Mr. Gill: Okay. So the second one on the list has to do with accessory dwelling units. This is LR20-07. Currently the County Code allows ADUs as an accessory to single-family residential

use when the owner occupies one of the units on the property. No more than one family occupies the ADU; it cannot be subdivided from the principal unit; and it cannot exceed 50% of the principal unit or max size of 900 square feet. And so that's where we stand currently.

The petition that we received from the public amends the section to remove the owner occupancy requirement and remove the size restrictions for ADUs if using an existing structure, so an existing barn or a garage or something like that to remove that. The Planning Commission recommended denial of the petition, but they also recommended that the Board of County Commissioners direct the Planning Department to increase the size to a maximum of 1200 square feet and remove the condition that a dwelling unit is limited to 50% of the residential unit. So that is the recommendation from the Planning Commission.

And the Department recommendation is to amend this section on accessory dwelling units to remove the additional sizing criteria that limits the ADU to 50% of the primary residential unit but retain that 900 square feet. And that's what's in our original staff report. We do recommend retaining that property owner/landowner occupancy requirement as well.

And a little discussion on that: Skagit County's ADU size restrictions are designed that ADUs remain subordinate in size to the primary residence. But the majority of residences in these rural areas are already greater than 900 square feet; therefore, the 50% of the primary unit doesn't necessarily – isn't really needed at this point.

Second item, size limits are aimed at minimizing the visual impacts of residences on rural character. Nine hundred square feet is still a small footprint on the landscape and doesn't look like we're popping up large homes all over the landscape, so that's another reason for the 900 square feet. Maintaining a 900-square-foot max size does not put additional pressure on septic systems, infrastructure, transportation infrastructure, et cetera.

So a little bit of analysis showed that we do permit about 30 ADUs a year, at least that's what we have been typically doing over the last decade. So that adds up to, you know, 300 new ADUs over the next 10 years. And really the difference between what the Department is recommending and what the Planning Commission recommended is only 300 square feet. That is really the only difference.

There's Comprehensive Plan policies that support increasing housing opportunities, but there's also policies that would limit population growth in rural areas and further developing service and infrastructure before more population does happen out there. Many Washington counties surrounding us do have more liberal ADU sizing policies than Skagit currently.

So that is all I have on ADUs. Is there any questions or comments?

Commissioner Wesen: On the ADUs, that's just square footage of living space? It doesn't include the garages –

Mr. Gill: It does not.

Commissioner Wesen: – or overhangs or porches or any of that kind of stuff?

Mr. Gill: Interior dimensions of the building space.

Commissioner Wesen: Modular homes – is a singlewide, doublewide, triplewide – I mean, what? I don't have any idea what the square footage on some of those are.

Mr. Gill: A singlewide is under 900 square feet typically and maybe Jack has more information. But doublewides are usually 15 or 1800 square feet, which would be outside of what's proposed.

Commissioner Janicki: It looks like Jack's moving to a microphone.

Chair Browning: Oh, great. Sorry, Jack.

Jack Moore: No worries. Good morning, Commissioners. Jack Moore, Building Official. I just have one bit of information pertaining to your question there. Singlewides, of course, would primarily meet the size limitations of 900. Currently doublewides, they're quite a bit more difficult to obtain a doublewide that is less than 900. The industry *has* responded, or at least *some* manufacturers have responded and now it's not impossible to special order something that's under 900, but generally you have to special order it and have it custom-modified to get under the 900 square feet for a doublewide manufactured home.

Commissioner Wesen: And then a triplewide is generally –

Commissioner Janicki: Bigger.

Mr. Moore: That'll definitely be – it wouldn't fit in this parameter.

Commissioner Wesen: And that's what I was wondering. The 1200 square feet, is that an easier thing to get a doublewide under the 1200, or at 1200?

Mr. Moore: Yes, definitely.

Commissioner Wesen: So that's more of a commercially available or –

Mr. Moore: It is.

Commissioner Wesen: Thank you.

Mr. Moore: You're welcome.

Mr. Gill: So our next step is basically, you know, we'll take feedback that you all have on these and any of the other petitions that we've presented before you the last couple meetings. We'll develop a resolution, working with Jason, and we'll have that available for you next Monday, the 25th, for your consideration and possible action.

Commissioner Wesen: Going back to the ADUs, your one comment on there was a smaller ADU would have less traffic and less – and that's just assuming you'd have less drivers or less cars? I'm just trying to understand that.

Mr. Gill: Yeah, so the three – you know, adding size to the ADU would potentially add people – right? – and so that is looking at potential impacts to things like septic systems and potentially traffic – right? If you hadn't had the extra bedroom...maybe you've got a two-bedroom instead of a one-bedroom. You're looking at potentially more population, and so all the potential impacts that go along with that.

Commissioner Wesen: With the septic systems are designed based on the number of bedrooms, right?

Mr. Gill: Right.

Commissioner Wesen: And so – okay. Thank you.

Chair Browning: Commissioner Wesen asked about garages and I'm still concerned about garages because they could easily become a living area and stress out the septic system and everything else. Are there places where garage size is also limited to one-car garage or –

Mr. Gill: Generally outbuildings are not necessarily restricted in size. It is more about the use in terms of the zoning and the location of it, more or less. But, you know, often people do build quite a fair size garage and put the living space above that, and that's typically what we see and those often are the ADUs, the accessory dwelling units.

Chair Browning: But there's still the concern that people could live in the –

Mr. Gill: Yeah. I mean, they're – you know, whether it's called a bedroom or not on our building plans. You know, we trust what people bring to us as what they're doing so that's the way we operate.

Chair Browning: Yeah, that came up the other day during the agricultural group meeting and I think it's going to be one thing that's going to come back and at least have to be discussed and make sure that we're not creating a loophole opportunity.

Mr. Gill: Mm-hmm, yeah.

Commissioner Janicki: I like the staff's recommendation. I think it makes sense. You know, my hesitancy and my struggle is on 900 square feet is a pretty modest space. But the fact that it's being – the whole idea is that we don't want big houses built out in rural county is the whole reason for it, but it gives a family that flexibility to have either their starter home and parents still here, or parents in a smaller home and family with kids moving in, or caretaker and, you know, whatever. There's a lot of different scenarios that make sense. The family requirement has been – is currently in place, has been in place for the ADUs, correct?

Mr. Gill: Yes, and I should explain. There has been some public confusion about the familial requirement and it has to do with how the original petition was written. There is no requirement that the people in the ADU are related to the people in the primary unit. It is simply that a landowner lives in one of the two units. And so we do have a separate rule, which is a temporary manufactured home where you *do* have to have a familial relationship to do that, but that is on a kind of a special needs/dependency condition. So that's a separate issue, but not being considered here.

Commissioner Janicki: Okay, yeah. That – hey, I understand the confusion. I was confused about that too, so I appreciate (you) clarifying that – so that the rural landscape isn't just being populated by a bunch of little rentals.

Mr. Gill: Mm-hmm.

Commissioner Janicki: So that part is good. And then have we ever enforced the family rule, the family ownership rule? I don't even know how you would go about that, or is that really a thing?

Mr. Gill: Hal, do you want to –

Commissioner Janicki: Or it's fair because that's the intent, and whether or not we – all right. We're not enforcing it. I can tell by the reaction. But until it becomes a problem –

Mr. Gill: Right.

Commissioner Janicki: – is really probably what the answer is – that if there was a complaint by some neighbor who saw –

Mr. Gill: If someone is abusing the ADU property or ADU and we are notified of it, certainly that landowner occupancy is part of the question in what we look at.

Commissioner Janicki: Okay.

Commissioner Wesen: But it's definitely looked at when they get the initial permit.

Mr. Gill: It definitely is. That is correct. And just so I don't miss this – my image – since it is Flag Day, I have a flag on the ADU.

(laughter)

Commissioner Janicki: I thought Flag Day was *June 14th*. No? Today's some other Flag Day?

Mr. Gill: No. It is.

Mr. Moore: (inaudible)

Commissioner Janicki: Nine-hundred square feet of living space is what –

Mr. Gill: It is the interior living space. That is correct.

Chair Browning: All right?

Commissioner Janicki: Yeah.

Mr. Gill: Good distinction.

Chair Browning: Great, thank you. Is that it or do you have –

Mr. Gill: That is all I have. Thank you.

Chair Browning: Okay. If we have no other questions –

Commissioner Wesen: No questions for me.

Chair Browning: All right, then we can go ahead and recess...and thank you, Planning and Development Services. I appreciate you keeping us up to date on all of this. This is great. This is good. So thank you, Peter. All right, we are (gavel) adjourned.