



# Planning & Development Services

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## Memorandum

To: Skagit County Board of County Commissioners

From: Peter Gill

Re: Planning Commission's Recorded Motion on the 2021 Planning Docket

Date: April 14, 2022

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### Background

The Washington State Growth Management Act (GMA) allows the County to amend its Comprehensive Plan and land use/zoning map once per year, with a few exceptions, through an annual docket process. The Skagit Board of County Commissioners (Board) established the 2021 Docket based on petitions received in 2019 and 2020. Resolution, #R2021084 was adopted following a public hearing on May 3, 2021.

Skagit County Planning & Development Services (PDS) analyzed the docketed proposals under the State Environmental Policy Act (SEPA) and for consistency with the existing comprehensive plan, the adopted land use/zoning map, and the unified development regulations. A full proposal was released for public review and comment on December 23, 2021. A public hearing was held with the Skagit County Planning Commission on January 11, 2022, and supplemental staff reports were provided to give a synopsis of public comments and answer Planning Commission questions.

This memo is provided in advance of an April 18, 2022 Board of Commissioners meeting to continue discussion of the 2021 Docket. It follows and builds upon [meeting materials](#)<sup>1</sup> provided for the March 28, 2022 meeting.

### Summary of Planning Commission's Recorded Motion

The Planning Commission recorded motion was approved on February 22, 2022. The recorded motion was presented to the Board on March 28, 2022. The various staff reports, memos, public noticing documents, and public comments are available to view on the County's project webpage at the following address: <http://www.skagitcounty.net/2021CPA>.

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<sup>1</sup> <https://www.skagitcounty.net/PlanningAndPermit/Documents/2021CPA/PCRecommendation-BoCCTransmittalMemoandAttachments-2022-0310.pdf>

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## Planning and Development Services (PDS) Department Recommendation

PDS staff provided recommendations in staff reports to the Planning Commission. These were provided in the [December 23, 2021, Staff Report](#)<sup>2</sup> and supported in supplemental staff reports. The department is supportive of each of the Planning Commission's recommendations, but staff do have additional analysis of LR20-07, Accessory Dwelling Unit Code Amendment, and LR20-05, Public Notice Amendment for Mineral Resource Extraction Area. Specific code amendments related to these petitions can be found as **Attachment 1** to this memo.

### LR20-07 Accessory Dwelling Unit (ADU) Code Amendment

The PDS recommendation is consistent with that found in the Planning Commission Staff Report without removing the land owner occupancy requirement. This recommendation retains the current max size of the ADU as 900 square feet but removes the additional sizing criteria that limit the ADU to 50% of the primary residential unit. See Attachment 1 for code amendments.

A rough analysis of permitted ADU's in Skagit County over the last decade shows approximately 30 per year, or 300 additional units per decade. The Planning Commission recommendation to increase the max size to 1,200 square feet and remove the condition that the dwelling unit is limited to 50% of the primary residential unit, has the potential to add pressure to transportation infrastructure, parking, and utilities.

According to WAC 246-272A, residents may expand an existing drain field when building an accessory dwelling unit to connect to an existing septic system if capacity allows. According to Skagit County Health Department, the majority of the ADUs built in Skagit County connect to the existing system, but a new tank and expanded drain field can be added to the system to account for the increased capacity needs. New houses typically have larger systems, for five or six bedrooms, designed in preparation for a future ADU.

Increasing a drainage field and adding new septic systems also eliminates portions of land from being used for other uses. Drainage fields cannot be farmed or built upon. If a new ADU is built and it requires a second drainage field, this removes more land from production.

Increased residential living space in rural areas can result in additional automobiles. This has impacts on transportation infrastructure and parking. The latest Transportation Concurrency Assessment report (2020) indicates there is available capacity in the system without impacting levels of service, "As of December 31, 2020 all Skagit County road segments and signalized intersections meet the current LOS standards as adopted in the Comprehensive Plan of Skagit

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<sup>2</sup> [https://www.skagitcounty.net/PlanningAndPermit/Documents/2021CPA/StaffReport\\_2021docket\\_PC\\_2021-1223.pdf](https://www.skagitcounty.net/PlanningAndPermit/Documents/2021CPA/StaffReport_2021docket_PC_2021-1223.pdf)

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County.” Additional parking spaces can usually be accommodated on rural lots, but this can increase the developed area.

Overall Staff finds that the changes between the Planning Commission recommendation and the staff recommendation is 300 square feet of additional space in ADU’s. There are comprehensive Plan policies that support increased housing opportunities as well as policies limiting growth in rural areas and developing services and infrastructure. Many Washington counties have more liberal ADU sizing policies than in Skagit, as indicated in supplemental staff reports. These changes have been made available for the public to consider during the comment periods.

#### LR20-05 Public Notice Amendment for Mineral Resource Extraction Area

Currently, notification or mining activity requires that a notice be sent to property owners within 300 feet of the boundary of the proposed mining property (14.06.150 Public Notice Requirements). The original petition would extend the notification requirement to 5,280 feet and require posting of notices at local Post Offices. The Planning Commission recommended the petition be denied.

PDS recommends extending the required public notification distance to one-quarter mile, or 1,320 feet. This distance is consistent with buffer sizes set to limit residential density adjacent to the Mineral Resource Overlay (see Figure 1 below), and “Right-to Manage Natural Resource Lands” disclosure policies. From Comprehensive Plan policy 4E-1.3:

*“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 (1/4) mile of Natural Resource Lands. ...”*

Additionally, the Mineral Resource Overlay areas in the County are in rural areas with large lot sizes (see Figure 1). The existing notification distance of 300 feet from the boundary of the proposed mining activity in these rural areas means that few citizens other than direct neighbors are notified of the new mining activity.

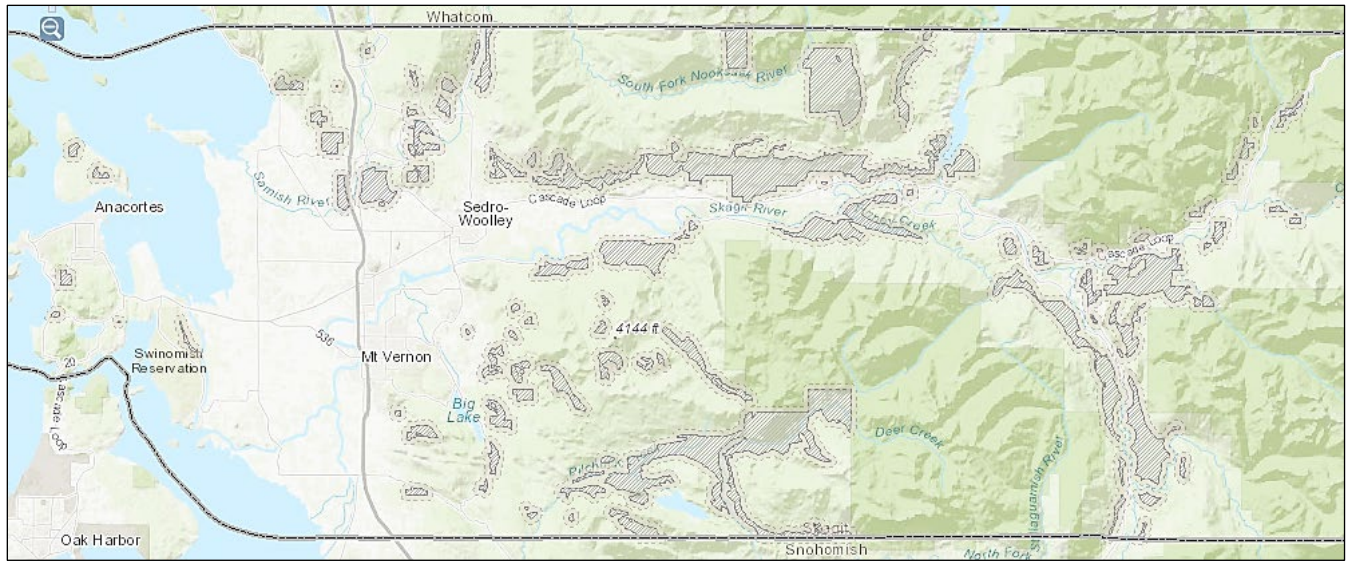


Figure 1. Mineral Resource Overlay Areas (Outlined hatched areas)

### Requested Board Action

The Department will present this memo to the Board on Monday, April 18, 2022. Based on feedback on from the Board an ordinance will be prepared to for possible action on April 25, 2022. The BoCC is authorized by SCC 14.08.090 to take the following actions to address the Docket:

1. Adopt the docketed proposals.
2. Adopt the docketed proposals with modifications. Per SCC 14.08.090(2)(b)(i-v), substantial changes to any of the proposals shall require an additional opportunity for public review prior to final action.
3. Decline to adopt any of the docketed proposals.
4. Remand the issue(s) to the Department or the Planning Commission for additional work, study, review, or refinement;
5. Defer action on any of the docketed proposals.

### Attachment 1: LR20-05, LR20-07, Amendments to 2021 Comprehensive Plan, Map, and Development Regulations

# ATTACHMENT 1: LR20-05, LR20-07, Amendments to 2021 Comprehensive Plan, Map, and Development Regulations

<p><u>Key to changes:</u></p> <p>Plain text = existing writing with no changes</p> <p><del>Strikethrough</del> = existing writing to be deleted</p> <p><u>Underlined</u> = new writing to be added</p> <p><del>Double Strikethrough</del> = existing writing moved to another location</p> <p><u>Double Underline</u> = existing writing moved from another location</p> <p><i>Italics</i> = instructions to writing reviser</p>
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## **LR20-05 Public Notice Amendment for Mineral Resource Extraction Area**

*Planning Commission recommended to **deny** the petition*

### **OPTION A:**

#### **14.06.150 Public notice requirements.**

(1) *no change*

(2) Notice of Development Application Requirements.

(a) Exemption. A Notice of Development Application pursuant to this Section shall not be required for:

(i) Boundary line adjustments.

(ii) Short subdivisions.

(iii) Building permits, flood area development permits or similar construction permits that are categorically exempt from SEPA, or for which SEPA review has previously been completed in connection with other development permits.

(iv) Forest Practice Act waivers for single-family residential development where the initial critical area review and site visit concludes that no critical areas have been impacted, or do not exist.

(b) Within 14 days of issuing a letter of completeness under SCC 14.06.100, the County shall issue a Notice of Development Application for Level I, II, III and IV Applications not exempt under Subsection (2)(a) of this Section. The notice shall be dated and shall include, but not be limited to, the following information:

(i) The name of the applicant.

(ii) The date of application.

(iii) The date of the letter of completeness.

(iv) The location of the project.

(v) A project description.

(vi) Identification of other required permits not included in the application to the extent known by the County.

(vii) A list of development permits included in the application and, if applicable, a list of studies requested in the letter of completeness or final decision.

(viii) A public comment period which shall be not less than 15 days nor greater than 30 days following the date of the Notice of Development Application, and a statement of the right of any person to comment on the application, receive notice of and participate in any hearings,

request a copy of the decision once made, and any appeal rights. The Notice of Development Application shall also state that failure to submit such comment or request during the comment period or at the public hearing could result in loss of right to appeal; provided, however, that there exists a 21-day comment period for administrative long plats, under SCC 14.06.110(15).

(ix) An identification of existing environmental documents used to evaluate the proposed application and where they can be reviewed. The Notice of Development Application may be combined with the notice of SEPA threshold determination as described in SCC 14.06.070 and SCC Chapter 16.12, State Environmental Policy Act.

(x) A preliminary determination, if one has been made at the time of the notice, of development regulations that will be used for the project mitigation and consistency with appropriate provisions of the Comprehensive Plan and development regulations and the adequacy of public facilities and services as described in SCC 14.06.100(6).

(xi) A County staff contact and phone number.

(xii) The date, time and place of a public hearing if one has been scheduled.

(xiii) A statement that the decision on the application will be made within 120 days of the date of the letter of completeness unless such time period is extended consistent with SCC 14.06.210.

(c) The Notice of Development Application shall be issued prior to, and is not a substitute for, the required notice of a public hearing.

(d) Notice of development application shall be made as follows:

(i) Published in the official newspaper of the County.

(ii) Posted with an identification sign provided by Skagit County in one or more locations on the project site that is visible from the access road giving the name and general description of the proposed project and a contact name and phone number for more information. The posted sign may be removed no earlier than 14 days after the decision on the application.

(iii) Mailed to all physical addresses and owners of record located within 300 feet of all subject property lines, or, if the applicant owns property adjacent to the subject property, notice shall be given to all physical addresses and all owners of real property within 300 feet of any portion of the boundaries of such adjacent properties owned by the applicant. Further provided, however, when the Administrative Official finds that a need exists, and so informs the applicant at the preapplication meeting, notice shall be given to all physical addresses and all owners of real property within 500 feet of any portion of the applicable boundaries. For marijuana facilities, notice must be provided within 1,000 feet. [For mineral extraction activities, notice must be provided within 1,000 feet of all subject property lines.](#)

(iv) Sent to all County departments and agencies with jurisdiction.

(v) For all development permit applications submitted on lands located in the URR, URC-I, URP-OS, A-UD and MV-UD zoning districts not otherwise exempt from these notice requirements, a copy of the notice of development application shall also be mailed to the city in whose UGA the proposed development is located.

(e) The County will not issue a decision or a recommendation on a project until the expiration of the public comment period on the Notice of Development Application and expiration of the appeal period on any threshold determination.

### **OPTION B – Petitioners Proposal**

#### **14.06.150**

(1) *no change*

(2)(a) – (c) *no change*

(2)(d)(i)-(ii) *no change*

(iii) Mailed to all physical addresses and owners of record located within 300 feet of all subject property lines, or, if the applicant owns property adjacent to the subject property, notice shall be given to all physical addresses and all owners of real property within 300 feet of any portion of the boundaries of such adjacent properties owned by the applicant. Further provided, however, when the Administrative Official finds that a need exists, and so informs the applicant at the preapplication meeting, notice shall be given to all physical addresses and all owners of real property within 500 feet of any portion of the applicable boundaries. For marijuana facilities, notice must be provided within 1,000 feet. [For mineral extraction activities, notice must be provided within 5,280 feet of all subject property lines and be posted at any post offices or central information boards of nearby communities.](#)

### **OPTION C: PDS RECOMMENDATION**

#### **14.06.150**

(1) *no change*

(2)(a) – (c) *no change*

(2)(d)(i)-(ii) *no change*

(iii) Mailed to all physical addresses and owners of record located within 300 feet of all subject property lines, or, if the applicant owns property adjacent to the subject property, notice shall be given to all physical addresses and all owners of real property within 300 feet of any portion of the boundaries of such adjacent properties owned by the applicant. Further provided, however, when the Administrative Official finds that a need exists, and so informs the applicant at the preapplication meeting, notice shall be given to all physical addresses and all owners of real property within 500 feet of any portion of the applicable boundaries. For



marijuana facilities, notice must be provided within 1,000 feet. [For mineral extraction activities, notice must be provided within 1,320 feet of all subject property lines.](#)

*No further changes to this section*

## **LR20-07 Accessory Dwelling Unit Code Amendment**

*Planning Commission recommended to deny LR20-07, but recommended changes consistent with the amendments shown below.*

### **PC RECOMMENDED OPTION:**

#### **14.16.710 Accessory dwelling units.**

(1) Requirements for Accessory Dwelling Units. One accessory dwelling unit is permitted as accessory to an existing single-family dwelling; provided, that the following requirements are met, except as may be further restricted by the connection limitation in SCC 14.16.920, Similk Beach LAMIRD:

- (a) Owner Occupancy. Either the principal unit of the single-family dwelling or the accessory dwelling unit must be occupied by an owner of the property or an immediate family member of the property owner.
- (b) No more than 1 family shall be allowed to occupy an accessory dwelling unit.
- (c) Subdivision. Accessory dwelling units shall not be subdivided or otherwise segregated in ownership from the principal unit of the single-family dwelling, unless allowed by the zoning.
- (d) Size and Scale. The square footage of a newly constructed accessory dwelling unit shall be the minimum allowed by the building code and a maximum ~~of 900 square feet~~ [1,200 square feet](#), excluding any garage area. ~~; provided, however, the square footage of the accessory dwelling unit shall not exceed 50% of the total square footage of the principal unit of the single-family dwelling excluding the garage area as it exists or as it may be modified.~~

### **OPTION A: PDS RECOMMENDATION**

#### **14.16.710 Accessory dwelling units.**

(1) Requirements for Accessory Dwelling Units. One accessory dwelling unit is permitted as accessory to an existing single-family dwelling; provided, that the following requirements are met, except as may be further restricted by the connection limitation in SCC 14.16.920, Similk Beach LAMIRD:

- (a) Owner Occupancy. Either the principal unit of the single-family dwelling or the accessory dwelling unit must be occupied by an owner of the property or an immediate family member of the property owner.
- (b) No more than 1 family shall be allowed to occupy an accessory dwelling unit.

(c) Subdivision. Accessory dwelling units shall not be subdivided or otherwise segregated in ownership from the principal unit of the single-family dwelling, unless allowed by the zoning.

(d) Size and Scale. The square footage of a newly constructed accessory dwelling unit shall be the minimum allowed by the building code and a maximum of 900 square feet, excluding any garage area; ~~provided, however, the square footage of the accessory dwelling unit shall not exceed 50% of the total square footage of the principal unit of the single family dwelling excluding the garage area as it exists or as it may be modified.~~

## **OPTION B – Petitioners Proposal**

### **14.16.710 Accessory dwelling units.**

(1) Requirements for Accessory Dwelling Units. One accessory dwelling unit is permitted as accessory to an existing single-family dwelling; provided, that the following requirements are met, except as may be further restricted by the connection limitation in SCC 14.16.920, Similk Beach LAMIRD:

~~(a) Owner Occupancy. Either the principal unit of the single family dwelling or the accessory dwelling unit must be occupied by an owner of the property or an immediate family member of the property owner.~~

(ab) No more than 1 family shall be allowed to occupy an accessory dwelling unit.

(be) Subdivision. Accessory dwelling units shall not be subdivided or otherwise segregated in ownership from the principal unit of the single-family dwelling, unless allowed by the zoning.

(cd) Size and Scale. The square footage of a newly constructed accessory dwelling unit shall be the minimum allowed by the building code and a maximum ~~of 900 square feet~~ size that does not exceed the square footage of the primary residence structure, excluding any garage area; ~~provided, however, the square footage of the accessory dwelling unit shall not exceed 50% of the total square footage of the principal unit of the single family dwelling excluding the garage area as it exists or as it may be modified.~~ An existing detached structure may be converted to an accessory dwelling unit with square footage that shall not exceed the total square footage of the principal unit of the single-family dwelling excluding the garage area as it exists or as it may be modified.

## **OPTION C:**

### **14.16.710 Accessory dwelling units.**

(1) Requirements for Accessory Dwelling Units. One accessory dwelling unit is permitted as accessory to an existing single-family dwelling; provided, that the following requirements are met, except as may be further restricted by the connection limitation in SCC 14.16.920, Similk Beach LAMIRD:

~~(a) Owner Occupancy. Either the principal unit of the single family dwelling or the accessory dwelling unit must be occupied by an owner of the property or an immediate family member of the property owner.~~

- (~~a~~**b**) No more than 1 family shall be allowed to occupy an accessory dwelling unit.
- (~~b~~**e**) Subdivision. Accessory dwelling units shall not be subdivided or otherwise segregated in ownership from the principal unit of the single-family dwelling, unless allowed by the zoning.
- (~~c~~**d**) Size and Scale. The square footage of a newly constructed accessory dwelling unit shall be the minimum allowed by the building code and a maximum ~~of 900 square feet~~ 1200 square feet, excluding any garage area; provided, however, the square footage of the accessory dwelling unit shall not exceed 50% of the total square footage of the principal unit of the single-family dwelling excluding the garage area as it exists or as it may be modified. An existing detached structure may be converted to an accessory dwelling unit with square footage that shall not exceed the total square footage of the principal unit of the single-family dwelling excluding the garage area as it exists or as it may be modified.