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2021 Planning Docket Memo #1

To: Skagit County Planning Commission
From: Peter Gill, Planning and Development Services
Date: July 2, 2021
Re: Petitions for 2021 Docket of Comprehensive Plan Policy, Map, and Code Amendments

Summary

This memo provides the public information on the upcoming planning commission work session. The memo includes a subset of petitions that were docketed by the Board of County Commissioners for consideration with the annual Comprehensive Plan and development code amendments. The petitions included in this memo are:

- LR20-02: Small Scale Business Zone Use Modification
- LR20-05: Public Amendment for Mineral Resource Extraction area
- LR20-07: Accessory Dwelling Unit code Amendment
- LR21-04: Agricultural processing facilities in BR-Light Industrial
- C21-2: SEPA Determination Review Timing
- C21-3: Hamilton Zoning & Comprehensive Plan Text Amendment

Background

The Growth Management Act (GMA) provides that “each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation” and requires Skagit County to periodically accept petitions for amendments or revisions to the Comprehensive Plan policies or land use map. Skagit County implements this requirement through Skagit County Code Chapter 14.08, which describes the process for annual amendments.

Skagit County received eighteen timely petitions for consideration through the annual Comprehensive Plan, Map, and Development Regulation Docket. Following a public comment period, petitioner presentations, a public hearing, and consideration of nearly 800 comments the Board of County Commissioners established a docket. This was established by resolution [R20210084¹](#), on May 11, 2021, to include twelve petitions for further review.

A public comment period on the docketing of petitions was open from April 15 – May 5, 2021. Those comments can be located listed by petition number and name on our project webpage. The previous staff reports, draft maps, citizen comments, public noticing documents, and other supporting materials

¹ <http://www.skagitcounty.net/Common/Documents/LFDocs/COMMISSIONERS000017/00/00/4d/00004d49.pdf>



concerning this year’s Docket are available at the following project webpage:
www.skagitcounty.net/2021cpa.

Additional review, specific code and policy language, and Department recommendations will be provided in the staff report prior to the public hearing.

LR20-02 Small Scale Business Zone Use Amendment

Summary

The proposed amendment aims to modify the Small Scale Business zone (SSB) to allow restaurants. The Small Scale Business zone is defined under SCC 14.16.140, this amendment would include restaurants as an “accessory” use. The petitioner states that, by allowing restaurants at a small scale, job opportunities for rural residents would increase. The petitioner has a business situated in the SSB zone at Edison Slough in Edison, WA. This petition requires an amendment to the permitted use section of SSBs in SCC 14.16.140 and the Comprehensive Plan Policies under 3C-9.

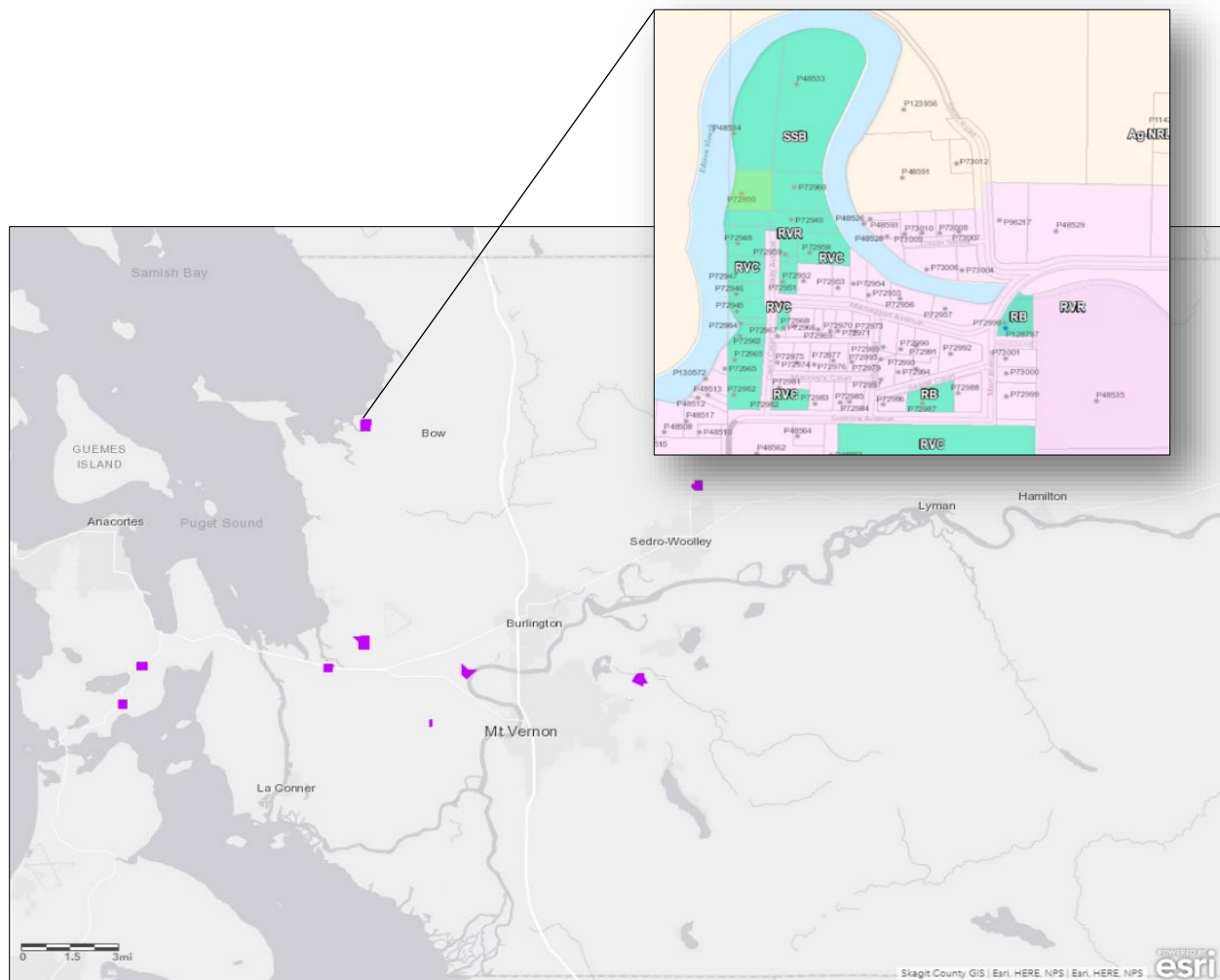


Figure 1: All Small Scale Business zoning in the County (purple) with insert of Edison, the primary concern for petitioner.

Analysis

Expanding the permitted uses allowed in the Small Scale Business (SSB) zone would not only affect the primary area of concern, but would apply countywide, wherever the SSB zone is found (eight other sites zoned SSB). Primarily in areas considered Limited Areas of More Intensive Rural Development (LAMRID) per the State Growth Management Act. Analysis of the Small Scale Business Zones throughout the county has shown that the majority of these SSB zones are adjacent to areas zoned Rural Residential Village (RRV) and Agriculture – Non-Residential Land (Ag-NRL). The majority of the parcels within the SSB zone have existing service oriented businesses currently, some of those uses include: commercial, construction, vehicle repair, residences, and one fire district.

The Small Scale Business zone is a Rural Commercial and Industrial Designation in the Comprehensive Plan. Currently restaurants are allowed in other commercial zones of similar scale: Rural Marine Industrial and Urban Reserve Commercial-Industrial. In Rural Marine Industrial zone it is only allowed as an accessory use. Accessory, as applied to a use, building or structure, means customarily subordinate or incidental to, and located on the same lot with a principal use, building, or structure.

The Small Scale Business zone is defined in the Skagit County Code as:

SCC 14.16.140(1): Purpose. The Small Scale [Business](#) zoning district supports existing and new small scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential [uses](#), but that do enhance rural economic [development](#) opportunities and job opportunities for rural residents.

Uses currently included in the Small Scale Business zone:

Permitted:

- Business/professional offices;
- Historic sites open to the public;
- Small retail and service businesses; provided, that retail sales are limited to products produced primarily on site or which are accessory to products produced on site;
- Small-scale production or manufacture of products and goods, including food products, furniture, apparel, artwork, metal products, and wood products;
- Wholesale nurseries/greenhouses;
- Maintenance, drainage;
- Net metering system, solar;
- Repair, replacement and maintenance of water lines with an inside diameter of 12 inches or less;
- Recycling drop box facility; and
- Vehicle charging station.

Accessory:

- Owner operator/caretaker quarters

Administrative Special:

- Expansion of existing public uses up to 3,000 square ft.

- Kennel, day-use, if accessory to an existing commercial use and only if use is secondary and incidental to primary SSB use.
- Minor public uses.
- Minor utility developments.
- Retail nurseries/greenhouses.
- Temporary events.
- Trails and primary and secondary trailheads.

Eight other sites in the County have this zoning designation. An overview of what exists on each site is provided here.

- Specifically at the Edison Slough, all parcels in the SSB zone is owned by the same LLC. The RVC zone directly south of the SSB zone has retail spaces, restaurants, and bars currently operating.
 - Rural Village Residential (RVR) surrounding area
- The other SSB zones within Skagit County are isolated with only a couple parcels within the zone. There are eight in total.
 - These zones are surrounded by either Agriculture (Ag-NRL) or Rural Residential land (RRv) and one outlier as Rural Intermediate (RI).
- The properties within SSB zones are occupied and being used for non-Food production purposes as indicated in Table 1 below.

Site	Current Use(s)	Surrounding Site Zoning
SR-09	Commercial/Construction	RRv, Ag-NRL
Beaver Marsh x McClean	Commercial	Ag-NRL, RC, RB
SR-20 (E)	Vacant	RRv, RB
Farm to Market Rd. x Ovenell	Vehicle Repair Shop	Ag- NRL, BR-HI
SR-20 x Tibbles Lane	House	RRv
SR-20 x Deception	Fire District #11	RI, RC
Fruitdale x Brandon Lane	Vacant, House	RRv, ORSI, City, URR

Public Comments

There are a significant number of comments from Edison residents against the docketing of this petition. Many of these center around factors related to the outdoor events on the premises. Another complaint is that the permitting of the business has transitioned from its original intent.



There are comments in favor of this change, among them the Economic Development Alliance of Skagit County and Friends of Skagit County. The proponent has provided a public petition with signatures from over 400 people.

LR20-05 Public Notice Amendment for Mineral Resource Extraction Area

Summary

This citizen-initiated request proposes the addition of this statement: “For mineral extraction activities, notice must be provided within one mile and be posted at any post offices of nearby communities” be added to SCC 14.06.150 Public Notice Requirements.

Analysis

Requirements of approval for mining operations are set out in **SCC 14.16.440**. Mining operations in a Mineral Resource Overlay require a Hearings Examiner Special Use permit. This is a Level II permit requiring a public hearing (SCC 14.06.050). Currently, notification of 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). This petition would extend the notification area to one mile and require posting of notices at Post Offices, affecting areas adjacent to Mineral Resource Overlays.

Proposed mining activity requires a SEPA analysis and determination. Notification for SEPA includes legal notice in the local newspaper. Also, **SCC 14.06.150(iii)** “Public Notice Requirements” allows the Department to extend the notice

“...when the Administrative Official finds that a need exists, and so informs the applicant at the pre-application 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.”

Comprehensive Plan criteria (**Policy 4D-1.3**) for establishing a Mineral Resource Overlay requires the boundary be set back ¼ mile from Rural Villages, Rural Intermediate, and Urban Growth Areas. The one mile notification could include a significant population.

LR20-07 Accessory Dwelling Unit Code Amendment

Summary

This is a citizen-initiated proposal seeking to amend the family member occupancy requirement and current Accessory Dwelling Unit (ADU) size restrictions for existing structures. This proposal would eliminate the family member occupancy requirements and would increase the allowable ADU square footage not to exceed the primary residence for existing structures. This would retain the existing code for new construction of ADUs.

Analysis

The applicant notes that property owners may have an existing shop or barn onsite that could be converted to a dwelling unit if the size restriction was lifted. This change would provide an opportunity for the owner to create an affordable living space from an existing building. Removing the family

member restriction (**SCC 14.16.710 (1)(a)**) as the petitioners suggest, may help to increase the number of houses available for rent and provide an additional revenue source for property owners. This is consistent with **Comprehensive Plan goals and policies**:

Goal 7A-1: Maintain a progressive program of financial, regulatory, and development measures that will produce opportunities for a full range of housing affordability.

Policy 7A-1.1 Work with housing producers and stakeholders in urban and rural areas to apply creative solutions to infill and development using techniques such as attached dwelling units, co-housing, home-sharing, accessory dwelling units, clustering, planned unit developments and lot size averaging, consistent with the community’s vision for urban growth areas and rural character.

The two code sections proposed to be changed would occur in the following Skagit County Code sections:

SCC 14.16.710 (1)(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.” The petitioners would like to repeal this code.

SCC 14.16.710 (1) (d): “Size and Scale. The square footage of the 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.”

The petitioners would like to include additional wording in SCC 14.16.710 (1) (d): “The square footage of a **newly constructed** accessory dwelling unit shall be the minimum...” The petitioners would add, “**An existing structure may be converted to an ADU with a 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**”.

LR21-04 Agricultural Processing Facilities in BR-Light Industrial

Summary

Petitioners are requesting adding a use to the Bayview Ridge -- Light Industrial (BR-LI) zone. Island Grown Farmers’ Cooperative would like to add of Agricultural slaughtering facilities as an accessory use incidental to Agriculture and food processing, storage and transportation facilities.

Analysis

The petitioners would like to see Agricultural slaughtering facilities added as an accessory use to the Bayview Ridge – Light Industrial (BR-LI) zone. This is a very specific zone located near the Skagit Airport, and would impact only this area and no other areas within Skagit County. The proposal includes language to limit conflicts with neighbors and the size of the facility, “Agricultural slaughtering facilities as an accessory use incidental to Agricultural and food processing, storage and transportation facilities,

provided that the portion of the premise dedicated to slaughtering is (1) entirely enclosed within the interior of the facility, and (2) occupies less than 5,000 square feet of the total processing facility.”

Currently, agricultural slaughtering facilities are allowed as permitted uses in Natural Resource Industrial (NRI) SCC14.16.160(2)(iii). Agricultural slaughtering facilities are also permitted as Administrative Special Use in Agricultural – Natural Resource Lands (Ag-NRL) SCC 14.16.400(3)(a) zones.

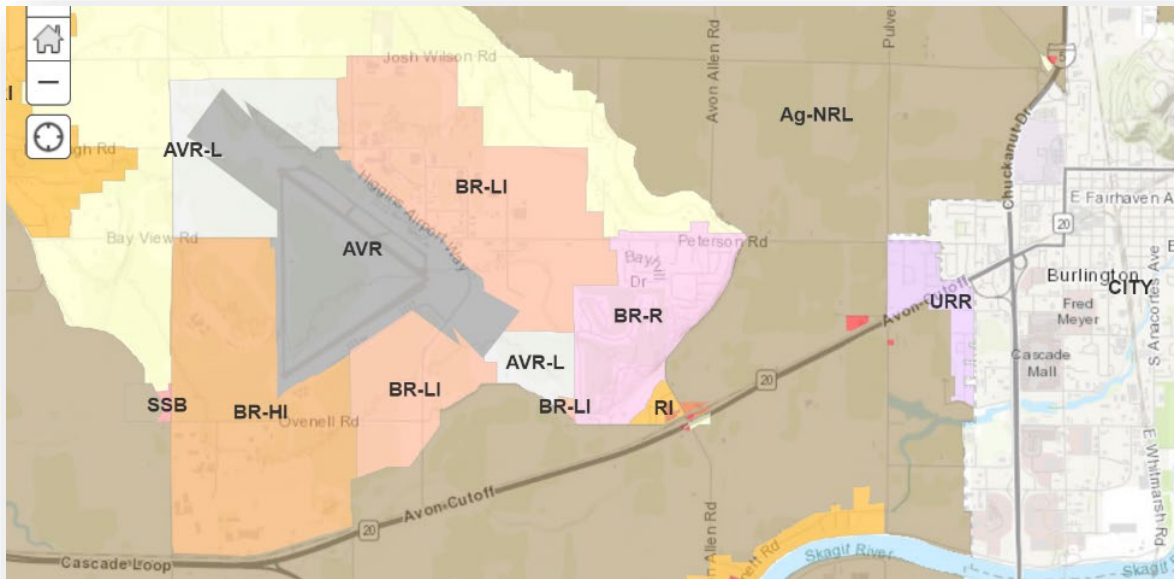


Figure 2: Map of the two Bayview Light Industrial (BR-LI) zones, location of proposed change, in Skagit County

Allowing this use within the BR-LI zone supports local agriculture and keeps farmable soils within the AG-NRL zone from being permanently removed from agriculture with the construction of slaughtering facility. Expanding this type of use within the BR-LI zone is consistent with major visions and policies within the Comprehensive Plan including:

“Support economic opportunities: This plan strives to promote a strong and diverse economy for Skagit County residents through policies and programs that promote new business opportunities, increase family wage jobs and create a predictable regulatory environment for businesses and citizens. Sustainable economic development efforts will focus on providing all communities with a balance of jobs and housing and helping communities with redevelopment or new economic initiatives.”

The Light Industrial (BR-LI) zone provides for light manufacturing and related uses, encompasses the majority of the Port of Skagit ownership and additional properties east and south of the airport. This zone is designed for compatibility with the Skagit Regional Airport and establishes performance standards, including restrictions on building height and particulate and smoke emissions. Where the BR-LI zone abuts residential properties, buffers are required to protect the residential development. The Island Grown Farmers Cooperative project site is within Port of Skagit County Boundaries and does not

border residential property. The following objectives and policies from the [Bayview Ridge Subarea Plan](#) are consistent with the change:

Objective 3A-2 “Sustain the economic utilization of Skagit County’s natural resources and attract a more diversified base of non-resource industries consistent with local quality of life and environmental values.”

Policy 3A-1.2 “Encourage diverse job options and entrepreneurial opportunities for persons interested in full-time and part-time employment or desiring to own their own business” and

Policy 3A-1.3 “Actively encourage business investments that provide economic and employment opportunities to meet the employment needs of all county residents.” This proposal would foster more economic growth and employment opportunity in Bayview Ridge, which would work toward the Bayview Ridge Subarea Plan Objective 3A-1 “Create and maintain diverse employment opportunities that meeting changing income needs of Skagit County residents.”

Public Comments

There are comments from Port of Skagit County, Agricultural Advisory Board, and Friends of Skagit County in support of the proposal, one noting the importance of “opportunities for locally produced value added agricultural products that will reinforce the diverse capabilities of Skagit County Agriculture.”

C21-2 SEPA Determination Review Timing

Summary

This amendment would clarify that a SEPA threshold determination can be appealed prior to the underlying development permit review, when the principal features of a proposal and its environmental impacts can be reasonably identified.

Analysis

Independent SEPA reviews do not require the submittal of a development permit in order to issue a threshold determination and begin the appeal process. Currently, SEPA review of projects in the feasibility stage can be held up by appellants requesting an application of a development permit. This is due to portions of Skagit County Code favoring a single consolidated public comment period of the environmental review, land use permits, and development permit, SCC 14.06.070(2)(a).

The proposed changes would allow for a consolidated review, but amend the code to clarify that it is not required. State and portions of local code encourage environmental review at the earliest stages of development. Title 16 of Skagit County Code (State Environmental Policy Act), reinforces the availability of early and independent SEPA review under, SCC 16.12.060 **Additional timing considerations,**

- (1) For nonexempt proposals, the DNS or draft EIS for the proposal shall accompany the County’s staff recommendation to any appropriate advisory body, such as the Planning Commission.

(2) **If the County's only action on a proposal is a decision on a building permit or other license that requires detailed project plans and specifications, the applicant may request, in writing, that the County conduct environmental review prior to submission of the detailed plans and specifications.**

State Rules encourage environmental review at the earliest stage:

WAC 197-11-055, *Timing of the SEPA Process*

(2) **Timing of review of proposals.** The lead agency shall prepare its threshold determination and environmental impact statement (EIS), **if required, at the earliest possible point in the planning and decision-making process, when the principal features of a proposal and its environmental impacts can be reasonably identified.**

(a) A proposal exists when an agency is presented with an application or has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the environmental effects can be meaningfully evaluated.

(i) The fact that proposals may require future agency approvals or environmental review shall not preclude current consideration, as long as proposed future activities are specific enough to allow some evaluation of their probable environmental impacts.

(ii) Preliminary steps or decisions are sometimes needed before an action is sufficiently definite to allow meaningful environmental analysis.

(4) **Applicant review at conceptual stage.** In general, **agencies should adopt procedures for environmental review and for preparation of EISs on private proposals at the conceptual stage rather than the final detailed design stage.**

(a) If an agency's only action is a decision on a building permit or other license that requires detailed project plans and specifications, **agencies shall provide applicants with the opportunity for environmental review under SEPA prior to requiring applicants to submit such detailed project plans and specifications.**

(b) Agencies may specify the amount of detail needed from applicants for such early environmental review, consistent with WAC [197-11-100](#) and [197-11-335](#), in their SEPA or permit procedures.

(c) This subsection does not preclude agencies or applicants from preliminary discussions or exploration of ideas and options prior to commencing formal environmental review.

C21-3 Hamilton Zoning & Comprehensive Plan updates

Summary

Changes to the County Comprehensive Plan are needed to reflect the 2019 Hamilton annexation. This change will clean up code references for zones that do not exist anymore. Code citations include: SCC 14.16.175, 14.16.380, and 14.16.385 Hamilton Urban Reserve is maintained, while the other sections are no longer needed.

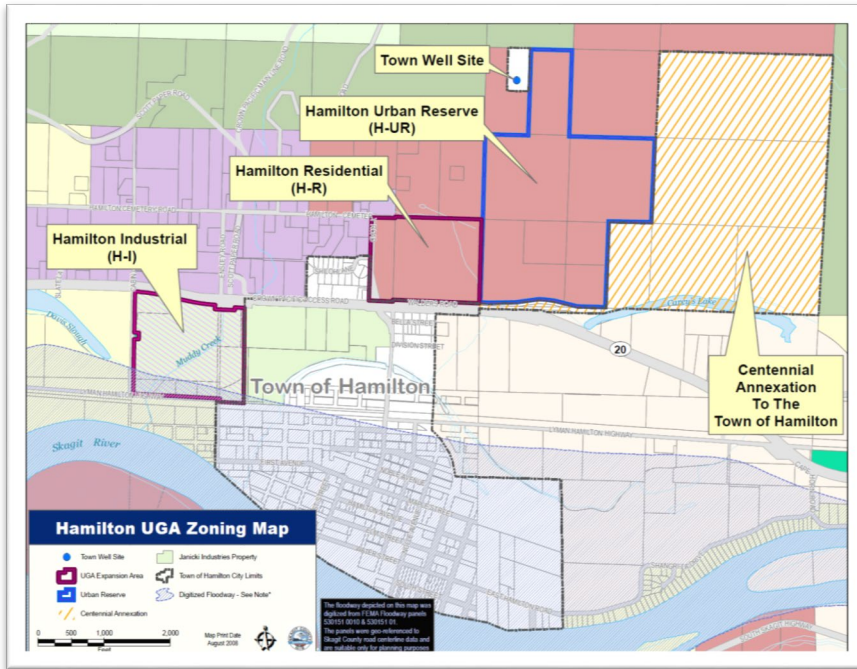


Figure 3. Hamilton Subarea Plan 2008 Zoning Map

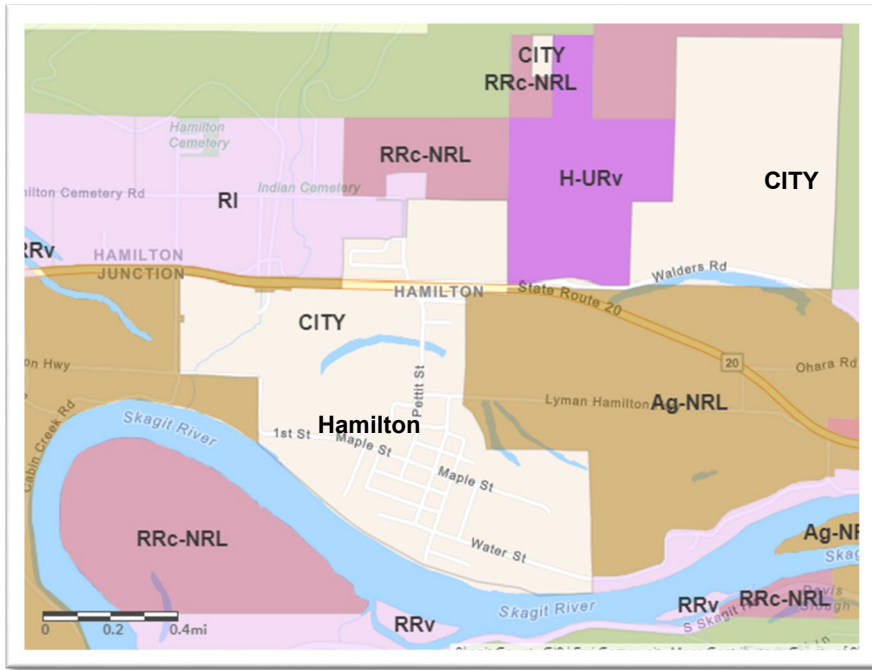


Figure 4. Hamilton Current Zoning Map

Analysis

Due to the Hamilton annexation, several zones are no longer in use or needed and references to them should be removed from Skagit County Code. The zones being removed are: **Hamilton Industrial (H-I)** and **Hamilton Residential (H-R)**, while **Hamilton Urban Reserve (H-URv)** is being maintained.

The majority of references to these two zones are in Chapter 14.16 of Skagit County Code. Codes referencing outdated zones include: SCC 14.16.175 Hamilton Industrial (H-I), and 14.16.380 Hamilton Residential (H-R), while SCC 14.16.385 Hamilton Urban Reserve (H-URv) is still in use. There is also a reference to the Hamilton Industrial zone which is no longer in use in SCC 14.16.720.

Chapter 14.18 includes references to the Hamilton Residential zone in sections SCC 14.18.300, 14.18.310 and 14.18.330. Any mentions of these obsolete zones should be removed to avoid confusion.

Next Steps

Additional work sessions with the Planning Commission to consider the remaining petitions in the docket are expected in the summer and fall. This is followed by a staff report with a department recommendation on specific code and policy amendments.

The proposal will get environmental review of these actions through SEPA and State review from the Department of Commerce.

Public comment opportunity on proposed amendments and a determination of Environmental impacts are expected in the fall of 2021.

For more information on the docket see www.skagitcounty.net/2021CPA