



Planning & Development Services

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Supplemental Staff Report 2021 Docket

To: Skagit County Planning Commissioners
From: Peter Gill, Long Range Planning Manager
Date: February 16, 2022
Re: 2021 Docket of Proposed Policy, Code, and Map Amendments

Summary

Planning and Development Services (PDS) is providing this staff report in advance of the February 22, 2022 Planning Commission meeting. This report supplements the December 23, 2021 and January 25, 2022 staff reports by providing additional information regarding development of a recorded motion and petitions on Accessory Dwelling Units and CaRD land divisions.

Docket Deliberation

On February 8, 2022 the Planning Commission began deliberation on the 2021 Docket of Proposed Policy, Code, and Map Amendments. Staff provided a review of petitions related to the Small Scale Business zone, Accessory Dwelling Units, and the Mineral Resource Extraction noticing requirements. This was followed by deliberation on the docketed petitions based on a draft recorded motion developed by staff.

Significant progress was made by the Planning Commission on recommendations as well as Findings and Reason for Action. The Planning Commission did not vote on LR20-07, Accessory Dwelling Unit Code Amendment or on LR21-02, Clarify CaRD Land Divisions and the "Reserve" Function. The remainder of this report will provide additional information on these two petitions.

LR20-07 Accessory Dwelling Unit Code Amendment

This is a citizen-initiated proposal seeking to amend the owner occupancy requirement and current Accessory Dwelling Unit (ADU) size restrictions for existing structures. The petitioner believes increasing the size limitation for existing structures and removing the land owner occupancy requirement would add to the housing stock available in Skagit County. The Agricultural Advisory Board opposes this amendment as it will fuel growth and allow for increased development in Ag-NRL zones.

Issue 1. Land owner Occupancy.

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.

Having a land owner on the property is a common requirement in ADU regulations. The thought is that owner occupied units are better maintained because they have to live next to the ADU (or primary residence). It is also believed that land owner occupancy requirements minimize housing speculators from purchasing multiple units and therefore keeping housing out of the market. More information on owner occupancy can be found in the MRSC publication, [ADU Issues and Options paper](#) (1995) Page 26.

Snohomish and Whatcom Counties have similar owner occupancy requirements.

Issue 2. ADU Size

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.”

Skagit County’s ADU size restrictions are designed to ensure that ADUs remain subordinate in size to the primary residence. Size limits are also aimed at minimizing visual impacts of additions or alterations to the residence. Many of the original size limits in 2000, when the ADU codes were developed are consistent with 900 square feet. See the examples on page 7 or the 1994 WA [Department of Commerce ADU Ordinance Recommendations](#). Another size consideration specific to rural areas is infrastructure. Rural sanitary systems are usually sized for a primary house with regard to the number of bedrooms. Addition of larger ADUs (more occupants) may require new sanitary systems or overloading existing system.

Other Counties have similar restrictions: In Whatcom County Floor area shall not exceed 1,248 square feet unless a density credit is used and then can be expanded to 1,748 square feet. In Snohomish County Floor area shall not exceed 1,200 square feet (does not include garages, porches, or unfinished basements).

Issue 3. Zoning

ADUs are an accessory residential use, and allowed in all zones where residential is permitted, except where specifically prohibited. Whatcom County restricts ADUs in environmentally sensitive watersheds, and on parcels less than 4.5 acres. Snohomish limits detached ADUs to parcels that meet the minimum lot size of the zone.

LR21-02 Clarify CaRD Land Divisions and the “Reserve” Function

Summary

This citizen-initiated petition requests a clarification of the intent of Conservation and Reserve Developments (CaRD) within the Comprehensive Plan. The petitioner requests that the definition in the Comprehensive Plan and the Skagit County Code be made consistent and their function clarified so the public can fully understand the intent of CaRD land divisions. More specifically, the petitioner is requesting changes to the Comprehensive Plan definition of CaRD and clarification of when the “reserve” function is used for future development and when it is for conservation.

This includes reviewing the ability to further develop the open space reserve tracts. There are two open space designations in the code that allow for future development of the open space lot:

1. Open Space Reserve, (OS-RSV) this is used only when the development rights of the parent parcel are not extinguished in the development of the CaRD.
2. The second instance is when the Open Space Urban Reserve (OS-UR) is applied, which allows future development when the area is rezoned. This designation is only allowed on lands zoned Rural Village Residential, Rural Intermediate, or Rural Reserve, and only if these areas are located on a parcel of which 50% or greater is located within one-quarter mile of urban growth areas or Rural Villages.

The staff analysis of 155 CaRDs reveals that the code is silent regarding when an open space tract can be redeveloped in the Open Space Urban Reserve (OS-UR) designation. The only way to get additional density is to rezone to Rural Village Residential, Rural Intermediate, or be annexed by a city. None of these changes can be initiated by individuals. All lands designated Rural Intermediate and Rural Village Residential are considered to be part of a LAMIRD (limited areas of more intense rural development) that was predominantly developed by 1990 and contained by a logical outer boundary consisting of the “built environment.” This essentially eliminates the option to rezone to a higher density for areas adjacent to rural villages. Our analysis of existing CaRD’s show that there are only 3 existing Open Space Urban Reserve (OS-UR) tracts, of a total of 61 acres.

Appendix 1 contains slides describing CaRD land divisions and more information on the OS-Urban Reserve designation.

Staff Recommendation remains

- Option A: Remove the proximity to Rural Villages from the criteria to designate the reserve parcel as Open Space Urban Reserve (Os-UR) for plats approved after 2021.

This approach would remove the implication that a lot or tract designated as Os-UR could be rezoned for additional units in the future.

- Option B: Amend the code to so a rezone of the reserve tract could only be done as part of the Comprehensive Plan periodic update cycle, instead of through an annual Comprehensive Plan amendment.

This would allow a rezone in the case it was supported through a change in the State GMA regarding LAMIRDs and was supported by the County as part of a 20 year growth needs analysis.

Next Steps

The next Planning Commission work session is scheduled for February 22, 2022. Pursuant to SCC 14.08.080(4) and (5), the Planning Commission shall consider public comments and deliberate on any proposed plan, plan amendment, or development regulation. At the completion of its deliberations, the Planning Commission shall vote to recommend adopting, not adopting, or amending the proposed amendments. Recommendations shall be by a recorded motion which shall incorporate findings of fact and the reasons for the recommendations.

Following approval of a recorded motion, the Skagit County Board of Commissioners will consider the proposal and take action to adopt, defer, or deny each petition.

Attached:

- Appendix 1, CaRD land division petition slides, 12/14/2021

Appendix 1 - CaRD land division petition slides, 12/14/2021

Clarify CaRD land divisions and the “reserve” function

LR21-02: (Friends of Skagit County)

Clarify the definition and function of the Conservation and Reserve Developments (CaRD) within the Comprehensive Plan and code.

- Definitions
- Relationship to zoning
- Redevelopment of the Reserve Tract



Definitions

COMPREHENSIVE PLAN

A technique of land division characterized by the placement of dwellings and accessory buildings in a pattern of development which reduces impervious surface area, lowers costs of development and maintenance and retains larger expanses of property available for agriculture, forestry, or continuity of ecological functions characteristic of the property to be developed.

DEVELOPMENT CODE

A technique of residential land development characterized by the placement of lots, dwellings and accessory buildings in a pattern of development which reduces impervious surface area, lowers costs of development and maintenance, and retains larger expanses of property available for agriculture, forestry, recreation, future development or continuity of open space or ecological functions characteristic of the property to be developed. A CaRD, in some cases, allows higher densities than normally permitted in the zone, but also has greater design requirements. A CaRD may also modify certain requirements of the zone, as specifically allowed by this Code. When the creation of lots is desired, a CaRD is done in conjunction with a land division.



Relationship to Zoning

CaRDs are land divisions and located in SCC 14.18. This section states that CaRDs are “an overlay permit that allows for variations in the underlying zoning regulations but are not intended as and do not constitute rezoning.”

Zoning establishes the allowed density, permitted uses, and with respect to CaRDs – Open Space designation of reserve tract. Examples:

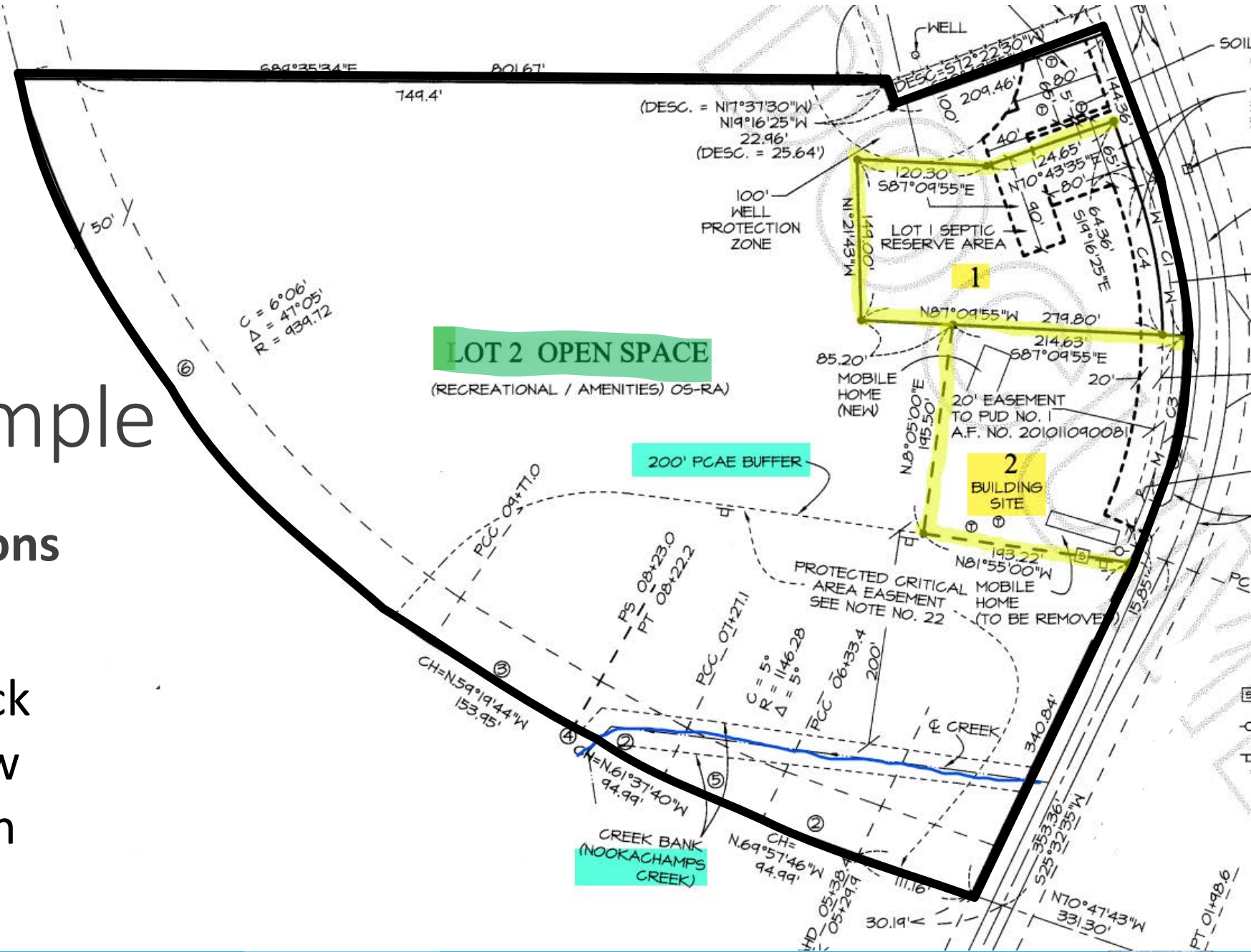
- Rural zones – Open Space Rural Open, Open Space Urban Reserve, Open Space Reserve, Open Space Recreational/Amenities
- Natural Resource zones – Open Space Natural Resource Lands, Open Space – Protection Areas, Open Space Reserve



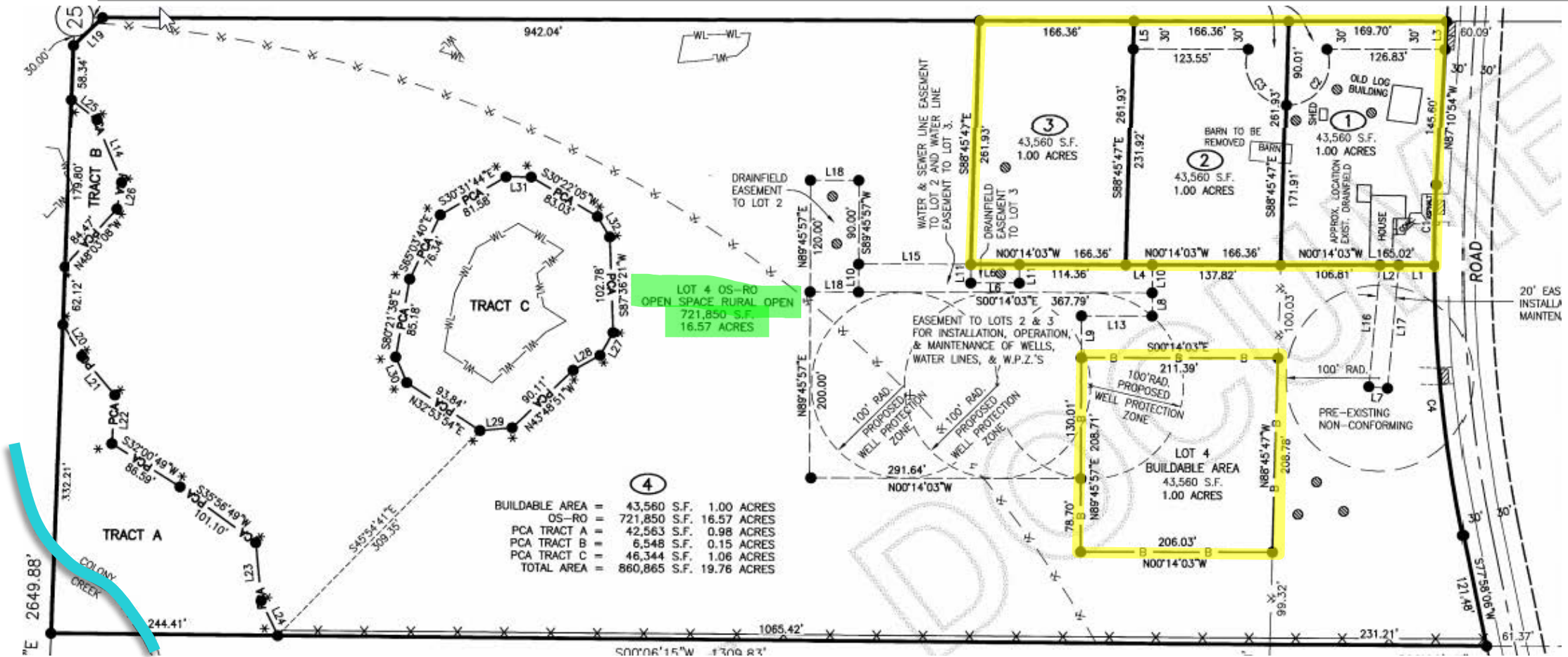
CaRD Land Division Example

14.18. CaRD provisions

Original Parcel – Black
Building Lots – Yellow
Reserve Tract - Green



14.18. General approval provisions—CaRD.



OS-Designation	Sum of Open Space (ac)	Building lots
OS-NRL	1357.54	59
OS-ProtectiveArea	1133.47	116
OS-RecreationalAmenity	617.33	179
OS-RuralOpen	734.45	197
OS-Reserve (RSV)	134.01	24
OS-UrbanReserve	61.6	16
PCA	166.56	1
Grand Total	4204.96	592

CaRD Analysis

In order to better understand the historical use and intention of CaRD land divisions an analysis of 155 of the 182 total CaRDs since 2000 was completed.

Redevelopment of Reserve Tract

There are two open space designations in the code that allow for future development of the open space lot:

Open Space Reserve, (OS-RSV) this is used only when the development rights of the parent parcel are not extinguished in the development of the CaRD.

Open Space Urban Reserve (OS-UR) allows future development when the area is rezoned. This designation is only allowed on lands zoned Rural Village Residential, Rural Intermediate, or Rural Reserve, and only if these areas are located on a parcel of which 50% or greater is located within one-quarter mile of urban growth areas or Rural Villages.

- Focus of review is on OS-UR



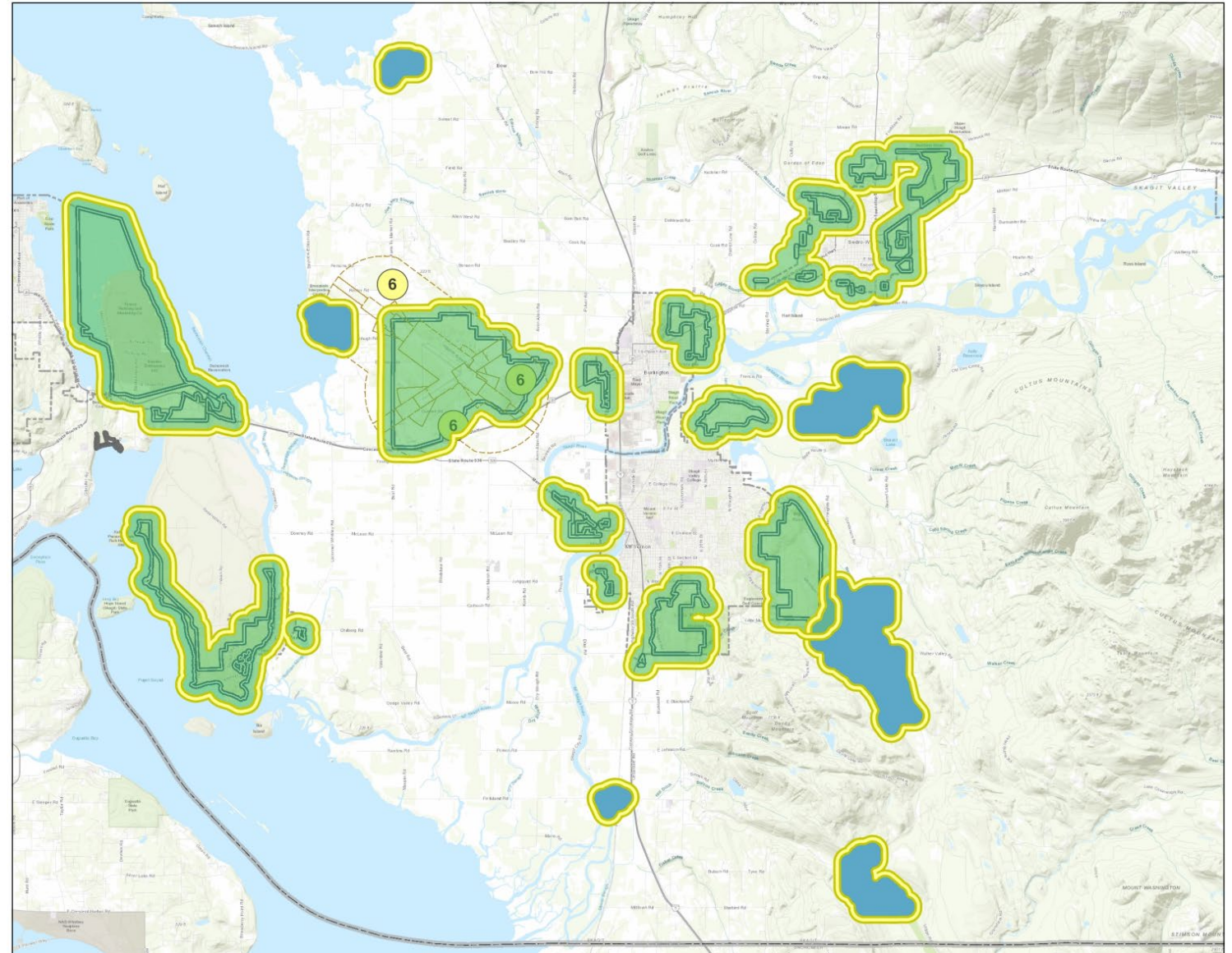
Open Space – Urban Reserve (OS-UR)

According to [SCC 14.18.310](#), this designation is to retain areas of open space until such time that urban development is deemed appropriate for that area and then to continue to require a portion of that original space to be preserved.

There are currently 3 OS-UR reserve tracts in Skagit County



Appropriate areas for Open Space - Urban Reserve designation



6.05 0 3.02 6.05 Miles

Scale 1: 191,538

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11/6/2021

Rezone of the Reserve Tract

Should the OS-Urban Reserve designation be allowed adjacent to Rural Villages?

In OS – UR the ability to redevelop the reserve portion of the CaRD rests with the ability to become part of the Rural Village or the Urban Growth Area. The only way to do this is to rezone the reserve tract to Rural Village Residential, Rural Intermediate, or be annexed by a city. None of these changes can be initiated by individuals:

- Rural Village Residential and Rural Intermediate are considered to be part of a LAMIRD (limited areas of more intense rural development) that was predominantly developed by 1990 cannot be added outside the boundary without a change to state laws.
- Additional density through annexation is initiated with a municipality.



OS-Designation	Zoning	Open Space Area (ac)	Tracts
OS-RSV	RRc-NRL	11.71	1
	RRv	122.3	8
OS-RSV Total		134.01	9
OS-UR	RRv	61.6	3
OS-UR Total		61.6	3

Open Space Reserved for **Future Development** in CaRDs

Out of the 182 total CaRDs (Conservation and Reserve Developments) in Skagit County since 2000, 155 were analyzed.

There were a total of 12 open space designations reserved for future development, with 9 being Open Space – Reserve; and 3 being Open Space – Urban Reserve designations