Planning & Development Services

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2022 Planning Docket Memo #1

To: Skagit County Planning Commission
From: Jenn Rogers, Assistant Long Range Planner
Date: June 28, 2022
Re: Petitions for 2022 Docket of Comprehensive Plan Policy, Map, and Code Amendments

Summary

This memo provides the public with information on the upcoming Planning Commission work session regarding the 2022 docket. The memo includes petitions that were docketed by the Board of County Commissioners for consideration under the annual Comprehensive Plan and development code amendments. The petitions included in this memo are:

- LR22-01 Small Scale Recreation & Tourism Rezone
- LR22-05 Farmworker Housing Agricultural Accessory Use Amendment
- C22-1 Wind Turbine Use Amendment
- C22-2 Critical Areas Ordinance Correction
- C22-3 Guemes Island Overlay Side Setback 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 eight 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 over 170 comments, the Board of County Commissioners established a docket. This was established by resolution R20220119[1], on June 14, 2022, to include five petitions for further review.

A public comment period on the docketing of petitions was open from May 8, 2022 – May 26, 2022. Those comments can be located on our project webpage. The previous staff reports, draft maps, citizen

[1] http://www.skagitcounty.net/Common/Documents/LFDocs/COMMISSIONERS000022/00/00/3a/00003a7a.pdf

comments, public noticing documents, and other supporting materials concerning this year's Docket are available at the following project webpage: www.skagitcounty.net/2022CPA.

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

LR22-01 Small Scale Recreation & Tourism Rezone

Summary

This proposal seeks to rezone four parcels, a total of 69.02 acres, from its current zoning as Rural Reserve to Small Scale Recreation and Tourism. The parcels are part of the Bertelsen Winery in south Mount Vernon on Starbird Road just east of Interstate-5. On the south side of Starbird Road, two of the parcels, P17703 and P17715 are being used for a parking lot, buildings, outdoor use areas and grape vines. On the north side of Starbird Road, two more parcels of, P17700 and P17699, has one existing building and the rest as maintained pasture-grass condition. The petitioners will use the rezoned parcels on the southern side to construct additional buildings, expand the parking area, add overnight camping areas, and develop a dog park. The rezoned northern parcels will be used for a microbrewery in the existing building, build a general store, and use the remaining area to raise hops and bees to support amenities at the microbrewery and winery. The petitioners believe the rezone request would benefit Skagit County by increasing job and recreation opportunities in the community.

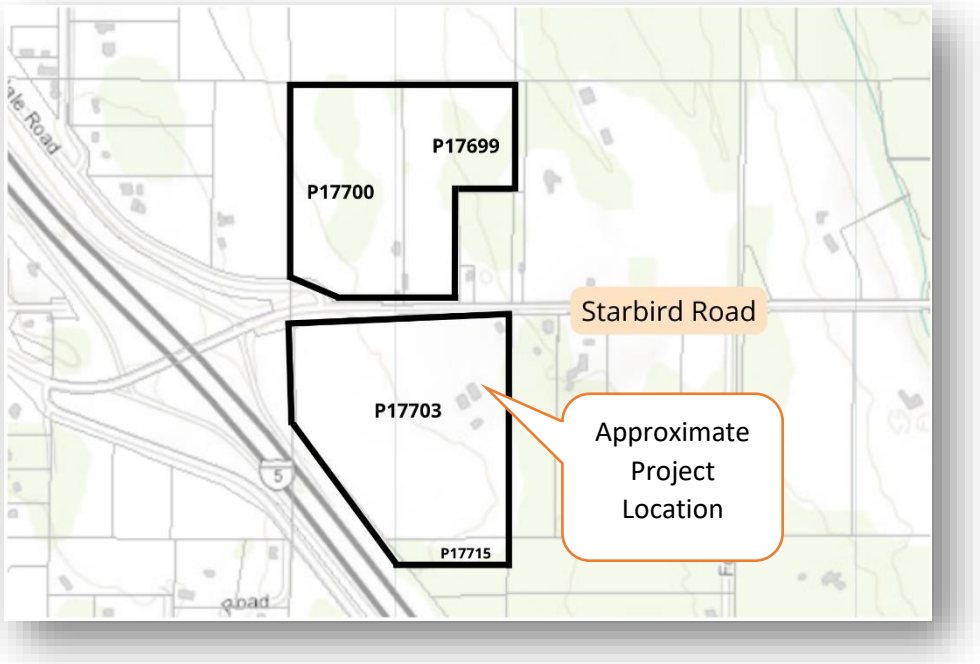


Figure 1: Bertelsen Winery rezone location, south of Mount Vernon

Analysis

The southern plats of the property are currently being used as a winery. The northern two plats have one existing, unused structure the petitioners would like to use as a microbrewery. The current uses are compatible with Rural Reserve but the petitioner has applied for a rezone to be eligible for uses allowed under Small Scale Recreation and Tourism such as: campgrounds, restaurants, and outdoor recreation facilities. The winery is currently being served with well water, but the petitioners intend to work with Skagit PUD to bring a water line to the Bertelsen properties to increase water capacity for the new activities.

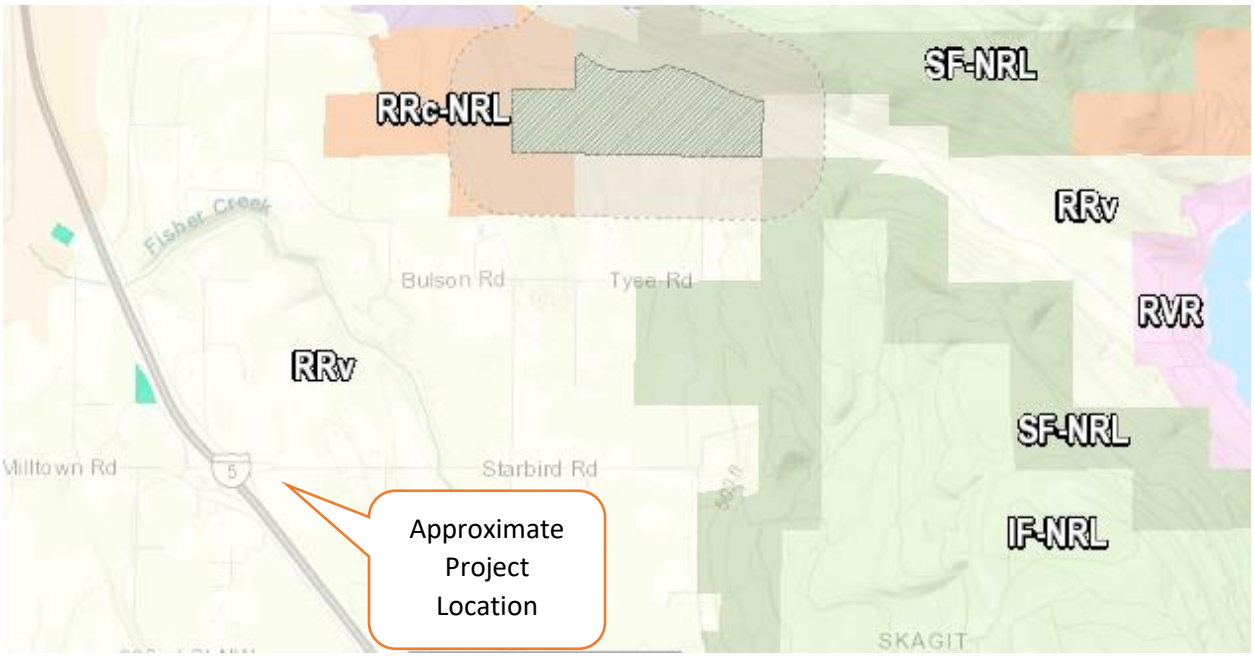


Figure 2 Zoning Map surrounding Bertelsen Farms

The purpose of the Rural Reserve zone is to allow low-density development and to preserve the open space character of those areas not designated as resource lands or as urban growth areas (SCC 14.16.320). These areas are meant to be transitional between resource lands and non-resource lands for uses that require moderate acreage. Areas near Bertelesen farms include Industrial Forest-NRL, Secondary Forest-NRL, and Rural Resource-NRL zones. Property uses just east of Bertelsen Winery are residential.

The Growth Management Act allows for "limited areas of more intensive rural development" (LAMIRD), to allow for some development in a rural area, provided that certain limitations are maintained to retain rural character and prevent sprawl. There are two types of commercial LAMIRDs that can be used for new development if it is consistent with surrounding rural character: Small Scale Recreation and Tourism and Small Scale Business. The Comprehensive Plan requires the submittal of a development proposal consistent with the designation criteria to rezone to one of these two LAMIRDs. The Small Scale Recreation and Tourism designation is intended to provide diverse economic development that is recreational or tourist-related, which relies on a rural location and setting. Under RCW 36.70(A).070(5)(d)(ii), the County's Small Scale Recreation and Tourism designation allows:

a) The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting, but that do not include residential development.
b) A small scale-recreation or tourist use is not required to be principally designed to serve the existing and projected population.
c) Public services and public facilities are limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl.[2]

Public Comments

The petitioners provided both verbal testimony and written comments for the rezone application. The petitioners stated the rezone would allow for new business ventures on the property, which would increase job and recreation opportunities for Skagit County. Commenters in opposition are concerned with the lack of water infrastructure available for the proposed new business developments. Friends of Skagit County wrote the GMA requires counties to ensure property uses are not impeding on neighboring farm activity. The organization is also concerned the rezone would not be appropriate in insolation from other recreational and scenic amenities.

LR22-05 Agriculture Accessory Use Amendment

Summary

This citizen-initiated request proposes adding permanent and/or seasonal farmworker housing as an allowed accessory use in zones which allow agricultural activity. The petitioner states the agricultural community needs affordable farmworker housing in Skagit County as the County and surrounding communities lack both available and affordable housing. This amendment could provide the necessary housing for farm workers in Skagit county.

Analysis

The petitioner has requested a broad allowance for either permanent or seasonal farmworker housing for any employee which supports agricultural activity on the farm. This request implies that they would like to house workers beyond just farmworkers to include any worker which supports the agricultural activity. Currently, the Ag-NRL and Rural Reserve zones allow one temporary manufactured unit as an administrative special use. A manufactured unit is defined as “the temporary placement of 1 manufacture home on a parcel with an existing residence to accommodate the housing needs or disable or elderly family members or to house 1 farm worker and his/her immediate family […] The second temporary dwelling unit must be removed from the property when the family member or farm employee is no longer using the manufactured home.”

Farmworker housing is regulated by both the state and federal government. Washington state law preempts local regulation on temporary farmworker housing. RCW 70.114A states, “applies to temporary housing that consists of five or more dwelling units, or any combination of dwelling units, dormitories, or spaces that house ten or more occupants.” Temporary housing is defined as “a place,

[2] Skagit County Comprehensive Plan Policy 3B-1.6

area or piece of land where sleeping places or housing sites are provided by an agricultural employer for his or her agricultural employees or by another person, including a temporary worker housing operator, who is providing such accommodations for employees, for temporary, seasonal occupancy." (RCW 70.114A.020(10)). RCW 70.114A.050 goes on to state, "temporary worker housing located on a rural worksite, and used for workers employed on the worksite, shall be considered a permitted use at the rural worksite for the purposes of zoning or other land use review processes, subject only to height, setback, and road access requirements of the underlying zone." The Skagit County Prosecuting Attorney's office believes Washington state law preempts any local zoning ordinances to restrict onsite seasonal farmworker housing beyond building heights, including health and safety requirements, except for requirements related to the height, setback, and road access.

Public Comments

The Department received written comments from the Friends of Skagit County regarding LR22-05. The organization did not provide a recommendation for docketing, but did suggest staff work with large farms which have had grandfathered farmworker housing and other organizations which have built farmworker housing within the cities. One citizen provided testimony during the public hearing in support of the petition as it provides a creative way to develop new housing to support the agricultural industry.

C22-1 Wind Turbine Use Amendment

Summary

The petition would add wind turbines as an allowed use in the code. Wind turbines are included by reference in the definition for net metering systems; however, wind turbines are not an allowed use in any zone in the code. Wind turbines would be an accessory use to a residential property, with only one wind turbine allowed per property. The wind energy consumed would only be for personal use by the property owner.

Analysis

Skagit County currently has wind turbines defined in SCC 14.04 as a net metering system that uses wind energy to generate power. Net metering system is defined in RCW 80.60.010, "a facility for production of electrical energy that generates renewable energy, and that: […] (4) is intended primarily to offset part or all of the customer-generator's requirements for electricity." Skagit County also permits solar net metering systems to generate electrical power. While the definition of net metering for wind is included in SCC14.04, there is no zone in Skagit County where wind turbines are listed as allowed use. Up until 2008, renewable energy systems of any size in Skagit County were considered a "major utility development" which required a special use permit that would cost more than $3,000. An Administrative Official Interpretation was released on July 1, 2008, to change Planning & Development Services policy to no longer consider such renewable energy systems to be Major Utility Developments, rather net metering systems would be considered an accessory use as defined in SCC 14.04, "a use, building or structure, which is dependent on and subordinate or incidental to, and located on the same lot with, a principal use, building, or structure." A copy of the AOI is included in this memo as Attachment A.

In a corresponding press release with the AOI, included as Attachment B, the Department stated its intent to amend the development code to allow for net metering renewable energy systems in the next few months. The Department intended to use the ongoing Whatcom County study on net metering

renewable energy systems to guide the new code regulations in Skagit County. In 2013, Skagit County received a grant from the Department of Energy via the Windpowering America program to study approaches to regulation of wind power in Skagit County. The study produced two alternatives for implementing wind turbines, which is included as Attachment C.

Public Comments

The Skagit Audubon Society wrote to support the overall goal of replacing fossil fuels with renewable energy, such as windmills, but cautions the County to consider impacts to birds when creating regulations for wind turbines. The organization states the failure to mitigate for birds could be considered a violation of the Migratory Bird Treaty Act. Friends of Skagit County wrote in support of the Department's recommendation to docket.

C22-2 Critical Areas Ordinance Correction

Summary

This amendment would correct a reference in Skagit County Code 14.24.080(4)(c)(vi). Currently, the code section refers to subsection (6)(b), the correct reference would be (5)(b).

Analysis

SCC 14.24.080(4)(c)(vi) states, "A description of efforts made to apply mitigation sequencing pursuant to Subsection (6)(b) of this Section; and." There is no subsection (6)(b) under SCC 14.24.080. The correct reference should be to subsection (5)(b) which states, "Mitigation Sequence. The sequence of mitigation is defined below:" and goes on to explain the description of efforts made to apply mitigation sequencing.

C22-3 Guemes Island Overlay Side Setback Amendment

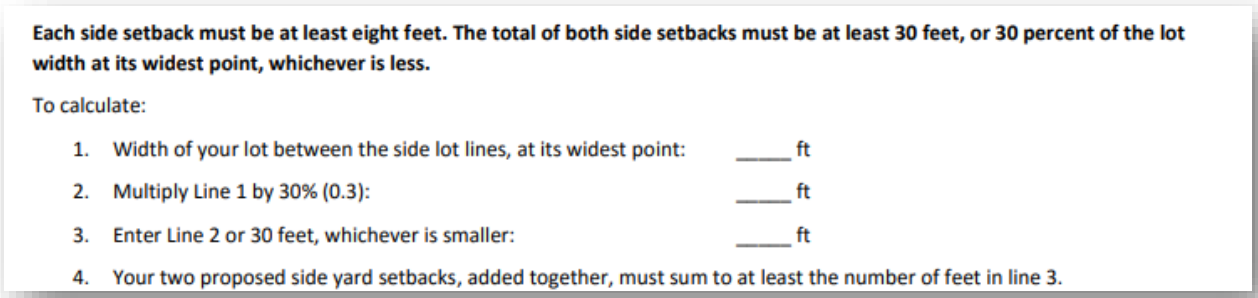
Summary

The petition would change the side setback requirements within the Guemes Island Overlay to keep the side setbacks more consistent with the rest of the county.

Analysis

The Guemes Island Overlay was adopted by the Skagit County Board of Commissioners in January 2011 with the purpose of regulating growth and protection of natural resources such as groundwater, shorelines, and wildlife. The entire island is considered a critical area due to its designation as both an aquifer recharge area and a seawater intrusion area. When the Skagit County Comprehensive Plan was updated in 2016, the Guemes Island Planning Advisory Committee (GIPAC) submitted several proposals for development code and shoreline protection in the Guemes Island Overlay. One of these proposals was for the current side setback requirements in the overlay:

> (ii) Side. Each side setback must be at least eight feet. The total of both side setbacks must be at least 30 feet, or 30 percent of the lot width at its widest point, whichever is less. SCC14.16.360(7)(a)(ii)



Each side setback must be at least eight feet. The total of both side setbacks must be at least 30 feet, or 30 percent of the lot width at its widest point, whichever is less.

To calculate:

1. Width of your lot between the side lot lines, at its widest point: _____ ft
2. Multiply Line 1 by 30% (0.3): _____ ft
3. Enter Line 2 or 30 feet, whichever is smaller: _____ ft
4. Your two proposed side yard setbacks, added together, must sum to at least the number of feet in line 3.

Figure 3 Guemes Island Setback Calculations from the Skagit County Dimensional Standards Worksheet

GIPAC noted, "the proposed setbacks and building envelope are intended to keep views open, avoid tall walls close to the property line and generally reduce incompatibility between smaller existing homes and larger new homes, particularly on small lots."[3] Other dimensional standards and requirements have also been implemented to maintain the rural character and landscape of Guemes Island.

Skagit County PDS staff have requested to change the overlay side setback requirements to "at least eight feet" to be consistent with other rural residential zones in the County such as Rural Intermediate, Rural Village Residential, Rural Reserve, and Urban Reserve Residential. The current side setback requirements on Guemes Island are burdensome for County planning staff to regulate and does not necessarily maintain viewsheds for neighboring properties.

Next Steps

The Planning Commission will host a second work session in July. Following the work session, a staff report with department recommendations on specific code and policy amendments will be released. The proposals will receive a SEPA and State Department of Commerce review.

The Planning Commission will then host a public hearing to receive written and verbal comments this summer. For more information on the docket see www.skagitcounty.net/2022CPA

Attachments

Attachment A AOI Wind Turbine Use

Attachment B Wind Turbine Press Release

Attachment C Wind Turbine Use Code Amendments

[3] "GIPAC Finalizes Comments on Skagit County Comprehensive Plan 2016 Update" http://gipac.octopia.us/pages/44866/GIPAC-Finalizes-Comments-on-Skagit-County-Comprehensive-Plan-2016-Update/

PLANNING & DEVELOPMENT SERVICES

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AOI Regarding Renewable Energy Systems and Major Utility Developments

July 1, 2008

This document serves as an Administrative Official Interpretation[1] for renewable energy systems, including solar panels and windmills, that the Department currently considers "major utility developments" under Skagit County Code 14.04.

BACKGROUND

In past years, Skagit County Planning & Development Services has issued permits for several windmills and "power towers" that serve individual homes and businesses. In processing applications for those permits, the Department determined that Skagit County Code classifies those installations that would feed electricity back to the electrical grid as Major Utility Developments. The Department based that determination on the definition of Major Utility Development found in SCC 14.04:

> **Major utility development:** utility developments designed to serve a broader community area, or are manned.
>
> …
>
> **Utilities:** include, but are not necessarily limited to, facilities and services that generate, transport, process, or store water, sewage, solid waste, electrical energy, communications and pipelines for fuel, oil, natural gas, and petroleum products.

Recently, several landowners have complained that the classification of windmills as Major Utility Developments is not justified by the language of the code, and unfair given that such developments require a special use permit in all zones. A special use permit in a residential zone currently requires a $3,000 non-refundable application fee. Additional related fees might raise the applicant's expense to more than $5,000. Moreover, under the Department's current interpretation, simple roof-attached solar panels could also require a $3,000 special use permit.

DISCUSSION

Many state-level policies support renewable energy. In 2006, Washington voters approved Initiative 937, which requires large utilities to obtain 15% of their electricity from renewable resources, not

[1] Administrative Official Interpretations are authorized by Skagit County Code 14.06.040(3).

including hydropower, by 2020.[2] Other states in our regional electrical grid, including California and Montana, passed similar legislation that will create additional demand for renewable energy sources in Washington State.

Most renewable energy generation systems appropriate for single-family homes generate much less energy than a normal home consumes. Even the largest such Skagit County installation, a 160-foot windmill tower recently installed by Highland Energy Systems at its facility north of Burlington, generates about 25 kWh of electricity per day, or 9,125 kWh per year.[3] A typical single-family dwelling in Washington State requires about 12,736 kWh per year.[4]

The goal of most household renewable energy systems is to be able to send electricity back to the grid, even though on average the household will still need to draw significant amounts from the grid. Renewable energy systems do not always generate electricity at the same time it is needed for household use, and battery systems are expensive. Most renewable energy customer-generators therefore use the "net-metering" provisions of RCW 80.60 to send the electricity to the electrical grid, where it can be used by other consumers and reduce demand on coal and other non-renewable systems. Washington State provides for a significant incentive payment for renewable electricity sent to the grid of up to 15¢ per kilowatt-hour, nearly double what a typical household pays for electricity from Puget Sound Energy.

CONCLUSION

There appears to be little justification, either as a matter of policy or as a matter of existing code, for considering renewable energy systems to be Major Utility Developments simply because they connect to the grid. A renewable energy system designed to generate less electricity than a typical single-family dwelling requires is not "designed to serve a broader community area," even if it is connected to the regional power grid. Therefore, this AOI changes Planning & Development Services policy to no longer consider such renewable energy systems to be Major Utility Developments.

A windmill, photovoltaic array, or other renewable energy system that constitutes a "net metering system" under RCW 80.60 shall be considered an Accessory Use. An Accessory Use is defined in SCC 14.04 as "a use, building or structure, which is dependent on and subordinate or incidental to, and located on the same lot with, a principal use, building, or structure." A special use permit will not be required.

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[2] Washington Secretary of State, Text of Initiative 937, at 3-5, http://www.secstate.wa.gov/elections/initiatives/text/I937.pdf.

[3] The first line on the Highland Energy Systems website indicates that "…our 'Power Tower' is now on-line at our shop facility in Burlington, Washington, and is currently delivering about 25 kWH of carbon-free energy per day to the local utility grid." http://www.highlandenergysystems.com (last visited Apr. 30, 2008).

[4] U.S. Department of Energy, Average Residential Monthly Use, Electricity Basic Statistics, http://www.eia.doe.gov/neic/quickfacts/quickelectric.html (last modified Nov. 2007).

RIGHT TO APPEAL

A notice of this Administrative Official Interpretation will be published in the *Skagit Valley Herald* on July 3, 2008. Administrative Interpretations may be appealed to the Skagit County Hearing Examiner, following the procedures of SCC 14.06.110(7)-(14). Standing to bring an appeal is limited to aggrieved parties. Parties with standing to appeal must submit the appeal form and appeal fees to the Planning & Development Services department within 14 calendar days of the publication of the notice of decision.

Gary R. Christensen, AICP
Director

July 1st, 2008

Skagit County Eliminates Special Use Permit Requirement for Renewable Energy Systems

SKAGIT COUNTY—Installing a windmill or solar electricity array in Skagit County just got a little bit easier.

Until today, renewable energy systems of any size that returned some of their energy to the electrical grid were deemed "major utility developments," which require a special use permit that can cost more than $3,000. In response to complaints about the cost of that fee, Skagit County Planning Director Gary Christensen today issued an Administrative Official Interpretation ("AOI") of the county development code.

That interpretation, which takes effect immediately, re-designates windmills, solar arrays, and other such small-scale systems as "accessory uses," which do not require special use permits. Small-scale renewable energy systems will still require a building permit and evaluation under the State Environmental Policy Act.

"We had a situation where some older provisions of our code weren't clear about how we should treat new technology," Director Christensen said. "Through the AOI process, we can formalize our revised interpretation of that code until we can update it."

The county intends to comprehensively amend the development code to specifically provide for renewable energy systems in the coming months. Whatcom County is currently engaged in a similar process and Skagit County expects to be able to learn from their experience. "We want to use our development code to support renewable energy and other environmentally-responsible land uses," Commissioner Ken Dahlstedt said. "As energy prices go through the roof, we want to reward innovation."

For more information, contact:

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360-336-9410

Related documents:(Pdf)

- AOI Regarding Renewable Energy Systems and Major Utility Developments
- Administrative Official Interpretation Regarding Renewable Energy Systems and Major Utility Developments
- Chapter 80.60 RCW Net metering of electricity

Draft: Potential Amendments to Skagit County Code to Streamline Permitting Requirements for Small Wind Energy Systems

Note: *This document has been prepared through a Windpowering America Grant. Windpowering America is a US Department of Energy program to advance wind development throughout America. This grant will be used to develop a model permitting ordinance for small wind projects in Skagit County that could be adopted for use by other Washington State Jurisdictions. Nothing in the grant may be construed to require Skagit County to adopt wind power regulations. (Grant – DE-FG36-08G048039)*

The following discussion should be reviewed in conjunction with the report associated with Task 1 of the Windpowering America Grant: Small Wind Energy Systems: A Review of Alternative Approaches to Regulation in Skagit County, WA (June 10, 2013. Task 1 resulted in identification of the following assumptions for improved small wind regulations.

- Federal and state incentives for development of alternative energy systems should be reflected in straightforward and practical regulations for would be developers of small wind systems.
- Interpreting small wind energy systems (when connected to the regional power grid) as a "major utility development" imposed an unreasonable burden on alterative energy developers by requiring a special use permit under the County Zoning Code (SCC 14.16).
- The review/processing time and expense associated with the special use permit requirement represented and obstacle to small wind energy system development which thwarted such efforts and undermined federal and state incentives.
- Skagit County issued an Administrative Official Interpretation (AOI) on July 1, 2008 that established windmills, photovoltaic arrays and other renewable energy systems that constitute a "net metering system" under RCW 80.60 as an accessory use, effectively removing the requirement of a special use permit.
- While the AOI removed the special use requirement it did not address a number of important considerations inherent in small wind development including "off grid"

systems, defining thresholds/dimensional standards, the safety of adjacent property owners and identification and mitigation of environmental impacts.
- The two potential approaches to regulation that follow are attempts to further federal and state policy incentives while addressing the deficiencies of the AOI.

Rationale: The guiding rationale for improved county regulations is elimination of ineffective and redundant permit requirements, reduction of artificial dimensional standards relating to total height and setbacks while providing sufficient consideration of impacts to the natural and built environment and assuring public notification and appeal procedures.

Approach 1

Develop a new section to the Zoning Code that would address small wind as a stand-alone section including: 1) key definitions, 2) thresholds and dimensional standards, 3) performance standards and 4) applicability by zoning district.

1) Key Definitions: Amend Definitions (SCC 14.04) to include the following terms:

Small wind energy system – a wind turbine with a nameplate capacity rating of up to 100 kW along with tower, supporting members and necessary electrical components. Small wind energy systems may be either "net metering systems" as defined in this chapter or off grid systems.

Wind turbine – the components of a wind generating system that convert the energy of wind into electrical power including the blades, generator and tail.

Tower (including meteorological tower) – the vertical structure that supports generator, rotor blades and tail assembly and/or equipment utilized to gather and assess wind energy resource data. Tower types include, but are not necessarily limited to lattice, freestanding, guy wired or monopole.

(**Note:** It may be possible to utilize the existing definition of tower included in SCC 14.04 definitions with minor modifications. Existing Definition is included below in italics)

Tower: any structure that is designed and constructed primarily for the purpose of supporting 1 or more antennas, including self supporting lattice towers, guy towers, or monopole towers. The term encompasses personal wireless service facilities towers, microwave towers, common carrier towers, cellular telephone towers, personal communications services towers, alternative tower structures, and the like.

Total height – the total height of the small wind energy system inclusive of the tower, turbine and highest arc of the rotor blades.

Rotor – a system of airfoils or blades that rotates around an axis or hub.

Rotor diameter – the diameter of the circle described by the outer tip of the rotating rotor blades.

Generator nameplate capacity – the maximum rated output of electrical power production of a generator under specified conditions designated by the manufacturer on a nameplate that is attached to the generator.

2) Establish Power Threshold, Dimensional Standard(s)/Setback Requirement

Power threshold for small wind energy systems: All small wind energy systems must maintain as maximum generator nameplate capacity of 100 kW or less.

Total height limit/setback requirement: All small wind energy systems must be set back a minimum of 1.2 times the total height measured from grade to top of blade arc provided that total height may not exceed 160 feet. Variances or administrative reductions from the total height/setback requirement are not permitted.

3) Performance Standards – Establish performance standards addressing visual, sound levels, safety and structural standards. These standards would be specific to small wind energy systems.

Visual Appearances, Lighting and Powerlines

- Turbines are required to be painted a non reflective non obtrusive color
- Towers are to be maintained in galvanized steel, brushed aluminum, white or gray finish
- All structures or components related to the facility must blend with natural setting
- Facilities are not to be artificially lighted
- Towers are not to be utilized for advertising except for identification of manufacturer
- Electrical controls, control wiring and power lines shall be wireless or underground

Sound Levels and Measurement

- Sound emanating from the facility must not exceed (50 – 60 dBA)
- Measured at closest property line (inhabited dwelling or parcel)
- Standard may be exceeded during short term events

Safety

- The rotor blade tip must maintain a minimum ground clearance of 15 feet
- Towers shall not be climbable up to 15 feet above ground level
- All electrical equipment must be protected from unintentional access
- All doors providing access to electrical equipment must be locked
- Appropriate warning signage must be provided
- Turbines must be equipped with overspeed controls to maintain blade speed within design standards

Other adopted Local Codes, State and Federal Regulations

- Locally adopted ordinances including building code (IBC), zoning, critical areas, shoreline management and environmental review (SEPA)
- Federal Aviation Administration (FAA) requirements including siting requirements for locations near airports
- National Electrical Code (NEC) requirements including permit requirements administered by the WA State Department of Labor and Industries
- Compliance with RCW 80.60 for small wind energy systems connected to utility grid

Abandonment and Remediation

- Provisions for abandonment of projects no longer in use
- Provisions for remediating hazardous conditions

4) Identify zoning designations in which small wind energy systems are allowed outright as a permitted use.

Approach 2
Develop a definition which encompasses the defining characteristics of small wind energy systems and key code amendments while utilizing existing code provisions to the maximum extent.

Amend Definitions (SCC 14.04) to include the following definition of "small wind energy system"

Small wind energy system - a wind turbine with a nameplate capacity rating not exceeding 100 kW along with tower, supporting members and necessary electrical components with a setback of not less than 1.2 times the total height measured from grade to top of blade arc provided that total height may not exceed 160 feet. Variances or administrative reductions from the total height/setback requirement are not permitted. Small wind energy systems may be either Net metering systems as defined in this chapter or off grid systems.

Amend Zoning Code (SCC 14.16) to allow small wind energy systems, defined above, as a permitted use in all zoning districts subject to:

Addition of small wind energy systems to height exemption in each zone
Compliance with Performance standards listed under (SCC 14.16.840)
Compliance with requirements of Critical Areas Ordinance (SCC 14.24)
Compliance with Shoreline Master Program (SCC 14.26)
Compliance with State Environmental Policy Act (SCC 14.12)

Comparison and Digest of Alternative Approaches 1 and 2
Overall, Approach 1 is similar to the methods other local jurisdictions in Washington State have utilized. This approach relies to a large degree upon demonstrated compliance with specific performance standards. The primary distinction between Approach 1 as described above and codes adopted by other jurisdictions is that the height limit is not limited to 60 feet. Instead, Approach 1 provides for a total height up to 160 feet provided that a setback of 1.2 times total height is maintained from property boundaries. As discussed in the background document (Small Wind Energy Systems: A Review of Alternative Approaches to Regulation in Skagit County, WA), height is the key to efficient power production. Limiting height to an arbitrary level may act as a de-facto prohibition to efficient small wind development. The fundamental benefits of Approach 1 are:

- Definition of small wind energy system is de-linked to definition of "major utility development"
- Special use permit requirement is eliminated in specified zoning designations
- Dimensional standards (setbacks) are tied to total tower height and height limit is increased to 160 feet

Approach 2 provides a definition that contains the defining elements of a small wind energy system including power threshold, height limit and setback requirements. The definition also specifies that a variance from the dimensional standards is not permitted. Approach 2 incorporates the existing performance standards contained in the Zoning Code. Provided that a proposed small wind project is consistent with the definition of "small wind energy system" and

is compliant with established performance standards it would be allowed outright in each zoning district. Submittal Requirements would include Critical Area/Shoreline Review, Building Permit Application and Environmental Checklist as required under SEPA. In addition to the fundamental benefits of Approach 1 Approach 2 includes the following benefits:

- Economizes on amendatory language which requires administrative interpretation
- Relies on existing provisions already utilized in conjunction with the zoning code
- Places the responsibility of compliance on the developer and encourages efficient utilization of wind resources

While both approaches would correct the deficiencies of past practices and the limitations of the AOI, Approach 2 would remove significant obstacles from permitting the development of efficient small wind projects while providing opportunities for agency and public involvement through environmental review, shoreline management and critical area requirements. Additionally Approach 2 would require little amendatory work on the existing code. It is important to recognize the limited scale of small wind and the need to provide a measured approach to future evaluation of community and utility scale wind projects.