



Planning & Development Services

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Staff Report 2022 Docket

To: Skagit County Planning Commission
From: Jenn Rogers, Long Range Planner
Date: October 20, 2022
Re: 2022 Docket of Proposed Policy, Code, and Map Amendments

Summary

Planning and Development Services (PDS) is providing this staff report in advance of the October 25, 2022, Planning Commission work session. This report describes the regulatory background for the yearly amendments; provides a synopsis of the public review process; analyzes the proposed changes pursuant to local and State requirements; and describes the Department’s (PDS) recommendations to the Planning Commission for deliberation. The previous staff reports, draft maps, citizen comments, public noticing documents, and other supporting materials concerning the 2022 docket are available at the following project webpage: www.skagitcounty.net/2022cpa.

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Introduction and Background

The Growth Management Act (GMA) provides that “each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation”¹ 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 five timely petitions for consideration through the annual Comprehensive Plan, Map, and Development Regulation Docket, another three petitions were proposed by the County. Following a public comment period, petitioner presentations, a public hearing, and consideration of public comments the Board of County Commissioners established a docket. The docket was approved by resolution #R20220119, on June 14, 2022, to include five petitions for further review. One petition, LR22-05 Agriculture Accessory Use Amendment, was rescinded by the applicant on July 29, 2022. The docket was revised to add two additional petitions, C22-4 and C22-5, on October 10, 2022, by resolution #R20220192.

Public comments can be located on our project webpage listed by petition number and name. The previous staff memos, public noticing documents, and other supporting materials concerning this year’s Docket are available at the following project webpage: www.skagitcounty.net/2022cpa.

Timeline of the Yearly Docketing Process.

Date	Hearing Body	Meeting Type	Actions
Spring 2022	BoCC	Public Hearing	Accepted testimony on which proposals merited inclusion in the Docket.
Spring 2022	BoCC	Deliberations	Docket established via Resolution.
Summer 2022	Planning Commission	Workshop(s)	Discussed upcoming Docket public hearing.
Fall 2022	Planning Commission	Public Hearing	Accept testimony on the proposals included in the Docket.
Fall 2022	Planning Commission	Deliberations	Recorded motion with recommendations to the BoCC.
Winter 2023	BoCC	Deliberations	Deliberate on whether to adopt, not adopt, or defer amendments on the Docket.

Table 1 Summarizes the review process with approximate timing of each action. RCW 36.70A.130(2)(a) states that the Comprehensive Plan, with few exceptions, may not be amended more than once per year.

This staff report includes an analysis of the proposals for consistency with county and state requirements, and the Department’s recommendations, as required by SCC 14.08.080. The Department’s recommendations are based on the proposals’ application materials, additional research,

¹ RCW 36.70A.130(1)(a).



and evaluation of the proposals' consistency with relevant policies and criteria in the Skagit County Comprehensive Plan and provisions in Skagit County Code.

Following the procedures described in SCC 14.08.070 through 14.08.090, the Planning Commission will deliberate and make recommendations on the various amendment proposals and transmit its recommendations to the Board in the form of a recorded motion. The Board will then meet to consider and take formal action in the form of an ordinance approving or denying the proposed amendments to the comprehensive plan, land-use/zoning map and development regulation.

The remainder of this memo describes the docketing criteria and process; summarizes the amendment proposals; and includes the Department's recommendations as required by SCC 14.08.080(1).

Findings of Fact

SEPA and Chapter 14.08 SCC

The following sections demonstrate the County's compliance with the procedural requirements for legislative actions pursuant to local and State requirements:

1. *Compliance with the State Environmental Policy Act (Chapter 97-11 WAC, SCC 14.08.050, and SCC 16.12):*
 - Staff prepared an environmental checklist for the proposed amendments, dated October 19, 2022.
 - Pursuant to 14.08.050, an environmental checklist for the Bertelsen Farms Comprehensive Plan & Zoning Map Amendment, item LR22-01, was provided by the petitioner and reviewed by staff.
 - Determinations of Nonsignificance were issued based on the environmental checklists on October 19, 2022.
 - Any comments received prior to the close of the comment period will be presented to the Planning Commission at the scheduled public hearing.

Conclusion – The proposed code amendment will satisfy local and State SEPA requirements at the conclusion of the comment period.

2. *Procedural Compliance with the Growth Management Act (RCW 36.70A.106):*
 - The County requested review from the Department of Commerce on October 20, 2022.
 - The County must notify the Department of Commerce, at least 60 days in advance, of its intent to adopt comprehensive plan and development regulation amendments.
 - Staff will file the ordinance with the Department of Commerce within 10 days of the County Commission's action.

Conclusion – The proposed code amendment will meet the Growth Management Act requirements.

3. *Public Notice and Comments*
 - The County published a Notice of Availability, Public Comment, and SEPA threshold determination in the Skagit Valley Herald on October 20, 2022.
 - The County mailed notices to the property owners within 300 feet of the Bertelsen Farms Comprehensive Plan & Zoning Map Amendment, item LR22-01, on October 19, 2022.
 - Any comments received prior to the close of the comment period will be presented to the Planning Commission at the scheduled public hearing.

Conclusion – The County has met the public notice requirements of SCC 14.08.070.

Citizen Petitions

Policy and Code

Skagit County Board of Commissioners docketed two citizen petitions to amend the Comprehensive Plan policies, map, or development regulations. One citizen petition, LR22-05 Agriculture Accessory Use Amendment, was rescinded by the applicant on July 29, 2022 and will not be evaluated further by the Planning Commission. The full text of each petition as originally submitted or proposed is available on the 2022 Comprehensive Plan Amendment webpage at www.skagitcounty.net/2022CPA. The following

section describes each proposed amendment, evaluates each petition according to the review criteria in SCC 14.08.060 and SCC 14.08.080, and provides PDS's recommendations for the Planning Commission's consideration. **Attachment 1** includes the proposed policy and code amendments for the docketed petitions.

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 additional parcels, P17700 and P17699, include one existing building with the remaining acreage maintained in a 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, a general store, and use the remaining area to raise hops and bees to support amenities at the microbrewery and winery. The petitioners state the rezone request would benefit Skagit County by increasing job and recreation opportunities in the community.

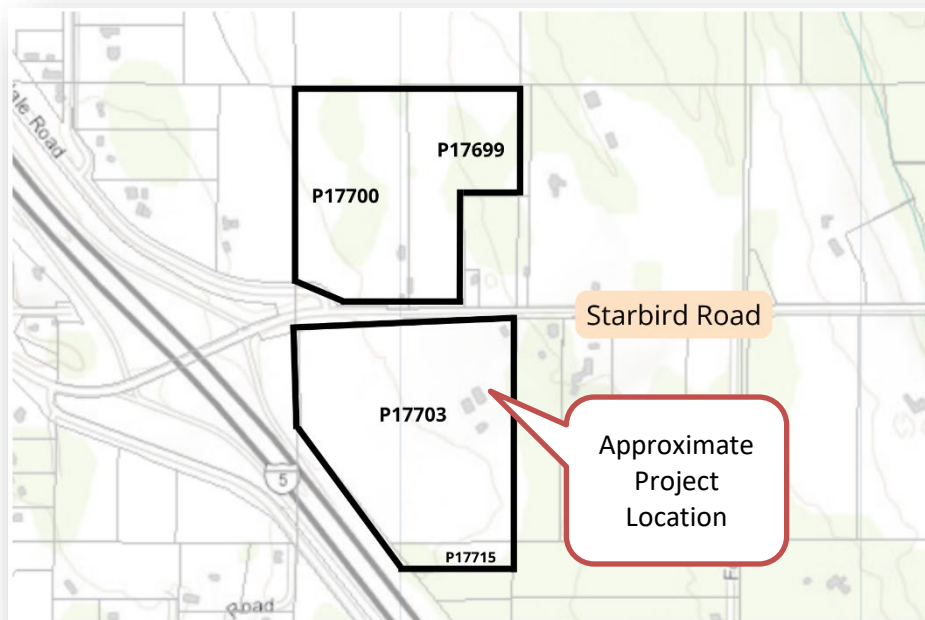


Figure 1: Bertelsen Winery rezone location, south of Mount Vernon

Recommendation

Staff recommends **approval** of this petition.

Analysis

The southern parcels of the property are currently used as a winery. The northern two parcels have one existing, unused structure the petitioners intend to use as a microbrewery. The current uses are compatible with the Rural Reserve zoning designation but the petitioner has applied for a rezone to be eligible for uses permitted under Small Scale Recreation and Tourism zone such as: campgrounds, restaurants, and outdoor recreation facilities. The winery is being served with well water. 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. The property is located within the [Skagit Instream Flow Rule Area](#), which means potable water can be limited for current property owners and new developments are not permitted without access to a public water source. As part of the permitting process for any future development the applicant would need to connect to a public water supply before Skagit County would issue a permit. Skagit PUD has stated it would be a significant investment to expand a water line to the Starbird Road area and there are other projects in Skagit County which are currently higher priority.

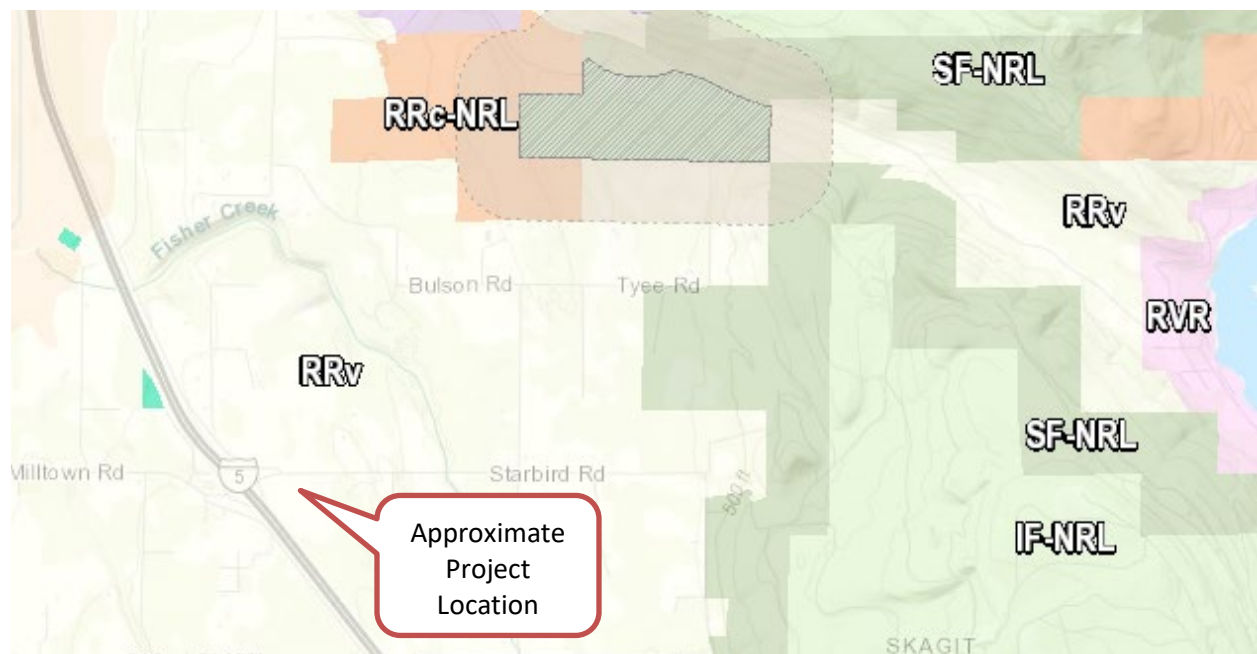


Figure 2 Zoning Map surrounding Bertelsen Farms



Figure 3 Aerial Photo of Bertelsen Farms

The Growth Management Act requires counties planning under the GMA to designate and protect resource industries, including forestry, agricultural, mining, and fisheries. Skagit County has historically zoned properties with important community resources as natural resource lands to ensure the use of those properties is compatible with the underlying zone. For example, areas with prime agricultural soils were designated as Agricultural-Natural Resource Lands. Other areas of the county which were out of the flood plain and prime for development, were designated under residential zones. There are three residential land use designations in the current Comprehensive Plan: Rural Intermediate, Rural Village Residential, and Rural Reserve. Rural Intermediate and Rural Village Residential are considered Limited Areas of More Intensive Rural Development (LAMIRD). Rural Reserve includes portions of the rural area that were not already developed at higher densities in 1990.

The Growth Management Hearings Board have stated rural area densities must be one residence per five acres or lower, unless the area is designated a LAMIRD. 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 provide a transition between resource lands and non-resource lands for uses that require moderate acreage. Areas near Bertelsen 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 LAMIRDs 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 and relies on a rural location and setting. Pursuant to RCW 36.70A.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

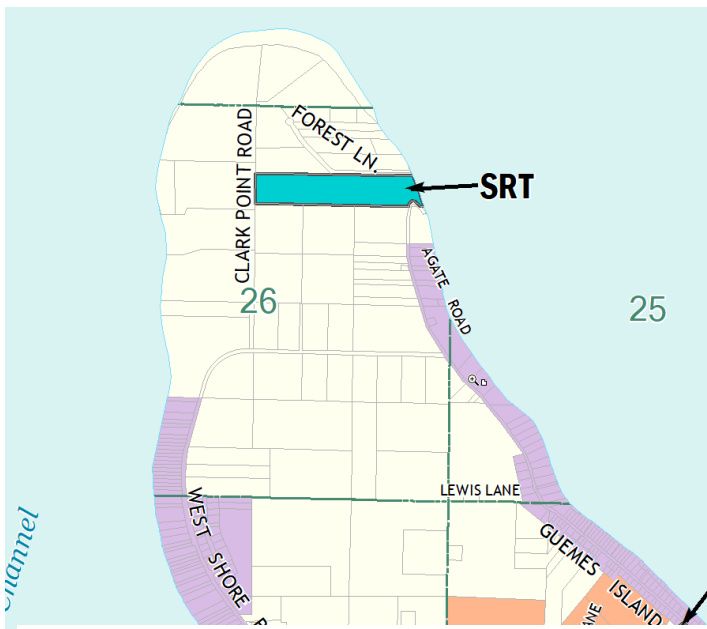


Figure 4 Guemes Island SRT Property

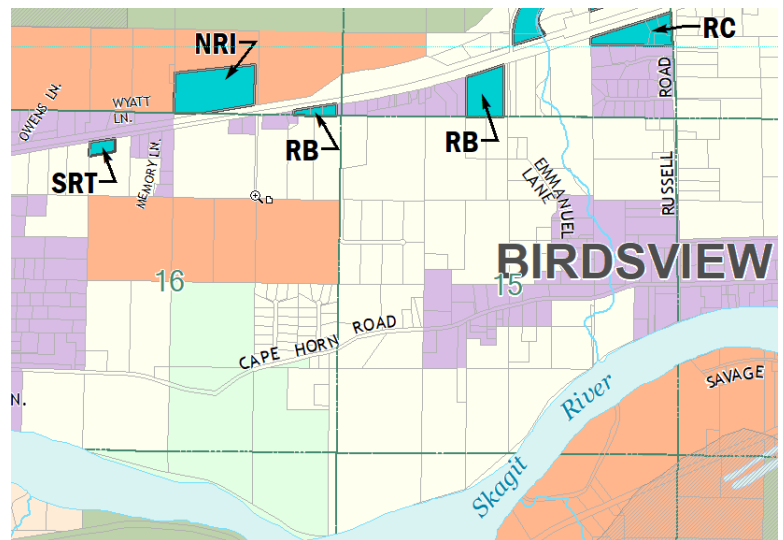


Figure 5 Birdsview SRT Property

There are two properties in Skagit County which are designated Small Scale Recreation and Tourism (SRT). The first is P46541 on Guemes Island, see Figure 4. This property includes the Guemes Island Resort and was originally zoned Commercial-Light Industrial and then rezoned to SRT. The second

² Skagit County Comprehensive Plan Policy 3B-1.6

property is P42797 along State Route 20 near Birdsvie, see Figure 5. This parcel was rezoned from Rural Reserve to SRT in December 2015 to allow for the existing brewery to expand. According to the Planning Commission recorded motion, findings of fact and reasons for action, “In 2005, the Birdsvie Brewing company started as brewery/tasting room and due to its success, it has expanded over time to more closely resemble a brew pub and eatery. The existing business is currently operating as a non-conforming use. [...] The Birdsvie Brewing business plan has changed due to its economic success and a rural commercial zoning designation will allow the business to flourish.”³

Below is a table of the allowed uses in Rural Reserve compared to Small Scale Recreation and Tourism. Permitted activities in the Rural Reserve zone are mostly agricultural in nature while Small Scale Recreation & Tourism allows for more commercial tourism activities to be permitted outright. While the current activities fit within the agricultural uses allowed under Rural Reserve, the applicant plans to expand the uses to include a microbrewery, campground, dog park, and general store. The proposed activities would be mostly outright permitted in the new zone, but the applicant would still need to connect to a public water supply as well as apply for the necessary building permits and reviews before the new uses could be utilized.

Type of Use	Rural Reserve	Small Scale Recreation & Tourism
Permitted	<ul style="list-style-type: none"> • Agriculture, Agriculture Accessory Uses, Agricultural Processing Facilities, Cultivation of forest products or crops, Seasonal roadside stand • Co-housing, ADUs, Residential Accessory uses • Home-Based Business, Family day care provider 	<ul style="list-style-type: none"> • Bed and breakfast, cabins • Campground, destination, developed, primitive, institutional camps/retreats • Commercial boathouses, Marinas (less than 20 slips), commercial facilities, conference center • Display gardens, grange/community center • Habitat enhancement and/or restoration projects • Historic sites • Kennel, Day-Use • Off-road vehicle use areas and trails, outdoor outfitters enterprises, outdoor recreation facilities, outdoor recreational equipment rental and/or guide services • Community Parks, stables/riding clubs, trails and primary/secondary trailheads • Drainage Maintenance, net metering system, maintenance of water lines • Vehicle charging station
Administrative Special Use	<ul style="list-style-type: none"> • Bed and Breakfast 	<ul style="list-style-type: none"> • Expansion of existing major public uses (up to 3,000 square feet)

³ N-2 Birdsvie Brewery Recorded Motion (October 6, 2015)
<https://www.skagitcounty.net/PlanningAndPermit/Documents/2014Docket/Recorded%20Motion%20signed.pdf>



	<ul style="list-style-type: none"> • Campground, destination and primitive • Home-based business 2, kennel (day-use) • Minor public uses, minor utility developments • Outdoor storage of processed and unprocessed natural materials • Parks, specialized recreational facility, regional, and recreation open space, trails and primary and secondary trailheads • Temporary manufactured home • Temporary events 	<ul style="list-style-type: none"> • Kennel, boarding • Minor public uses • Minor utility developments • Specialized Recreational Facility Parks • Retail and wholesale nurseries/greenhouses • Temporary Events
<p>Hearing Examiner Special Use</p>	<ul style="list-style-type: none"> • Aircraft landing field, private • Animal clinic hospital, animal preserve • Campground, developed • Cemetery, church, community club/grange hall • Display gardens • Fish hatchery • Golf course • Historic sites • Home-Based Business 3 • Kennels, boarding and limited • Major utility developments, • Manure lagoon • Natural resources training/research facility • Off-road vehicle use areas and trails, outdoor outfitters enterprises, outdoor recreational facilities • Outdoor storage of process and unprocessed natural materials • Community Parks, racetrack, stables and riding clubs • Seasonal Roadside Stands (over 300 feet), seasonal worker housing • Anaerobic digester 	<ul style="list-style-type: none"> • Animal Preserve • Major public uses • Major utility developments • Marinas over 20 slips • Recreational racetrack • Shooting clubs, indoor and outdoor • Storage of unlicensed/inoperable vehicles



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Consistency Review with Skagit County Code 14.08

- 1. A rezone or amendment of the Comprehensive Plan map must be consistent with the requirements of the Skagit County Comprehensive Plan, including any applicable designation criteria.**

Bertelsen Farms is an already developed winery and tourism destination for both residents of Skagit County and outside visitors.

In accordance with Comprehensive Plan Goal 3B, the Bertelsen Farms proposal supports the rural economy by fostering opportunities for small-scale recreation and tourism uses and could provide additional jobs for rural residents. Policy 3C-4.2 requires that the proposed designation must:

- a) Rely on a particular rural location and setting – the activities proposed by Bertelsen Farms rely on a scenic location and would be incompatible with urban areas.
- b) Incorporates the scenic and natural features of the land – Bertelsen Farms includes a wide view of Skagit County, which attracts visitors from neighboring counties to frequent the Bertelsen winery. The parcels proposed to be rezoned include natural features which would be compatible the proposed activities.
- c) Would be inappropriate or infeasible in a Rural Village, Rural Center, or Urban Growth Area – the proposed activities, such as farming hops, bees, grapes, and providing for camping opportunities, would not be feasible in more dense, urban areas of the county.

Finding that this use and designation keeps the land in a rural land designation, while allowing some intensification of recreation and tourism activities, is consistent with the goals and policies of the Rural Chapter of the Skagit County Comprehensive Plan. Existing and proposed uses are compatible with surrounding uses of agriculture and other rural resource activities. Additionally, the location of the proposal being out of the flood zone and adjacent to a major interstate makes the area a better fit for recreation and tourism activities.

- 2. A change to a rural or natural resource land map designation must also be supported by and dependent on population forecasts and allocated non-urban population distributions, existing rural area and natural resource land densities and infill opportunities.**

The land map designation change to SRT would remove approximately 69 acres from a residential zone, Rural Reserve, to a commercial zone, which would not allow for residential uses. If the parcels were to stay in the Rural Reserve zone there could be a potential for housing opportunities in the future if new development were allowed in the area, but the rezone is not anticipated to affect planned growth patterns based on the population projections in the Skagit County forecasts.

3. Is the amendment consistent with the vision statements, goals, objectives, and policy directives of the Comprehensive Plan and the does the proposal preserve the integrity of the Comprehensive Plan and assure its systematic execution?

Consistent with the community vision, amending the Comprehensive Plan and Zone to SRT for the subject properties supports and retains economic opportunities and helps promote a strong and diverse tourism economy in Skagit County.

The change is consistent with the following Comprehensive Plan goals and policies:

Comprehensive Plan Goal 3C-4, “Use the County’s abundant recreational opportunities and scenic and natural amenities to diversify the economy of rural Skagit County by allowing small-scale recreational and tourist uses in an environmentally sensitive manner.”

Comprehensive Plan Policy 3C-4.2 and 3C-4.5 as it is not converting Ag-NRL or IF-NRL designated lands to small-scale recreation and tourism and the applicant has provided site plans part of its rezone application.

Comprehensive Goal 11C-1, “Promote visitor opportunities that do not negatively impact the rural lifestyles of Skagit County residents, critical areas, or long-term commercial significance of natural resources,” and Goal 11C-2, “Promote the county’s excellent regional location, lodging and retail opportunities and local public transportation options as attractions for tourism.”

4. Is the proposal supported by the Capital Facilities Plan (CFP) and other functional Plans?

The Skagit County Capital Facilities Plan would not be impacted by a change of designation from Rural Reserve to SRT.

5. Is the proposal consistent with the Growth Management Act (GMA), the Countywide Planning Policies (CPPs), and applicable provisions of the Comprehensive Plan?

The Growth Management Act (GMA) permits intensification of development on lots containing small-scale recreational or tourist uses and “expansion of small-scale businesses as long as those small-scale businesses conform with the rural character of the areas as defined by local government.” The SRT designation is considered of LAMIRD, and is allowed pursuant to RCW 36.70A.070(5)(d)(ii-iii).

The Skagit County Countywide Planning Policy 5.7 states, “Tourism, recreation and land preservation shall be promoted provided they do not conflict with the long-term commercial significance of natural resource and critical areas or rural lifestyles.” The Bertelsen Farms properties do not contain soils which would constitute land with long-term commercial and agricultural significance. The current and proposed activities would not conflict with critical areas or other natural resources.

CPP 2.5 Rural commercial and industrial development shall be of a scale and nature consistent and compatible with rural character and rural services, or as otherwise allowed under RCW 36.70A.070(5)(d), and may include commercial services to serve the rural population, natural resource-related industries, small scale businesses and cottage industries that provide job opportunities for rural residents, and recreation, tourism and resort development that relies on the natural environment unique to the rural area.

The docketing of this proposal was evaluated pursuant to the criteria in the Implementation Element of the Comprehensive Plan:

<https://www.codepublishing.com/WA/SkagitCounty/#!/SkagitCounty14/SkagitCounty1408.html#14.08.040>

6. Does the proposal bear a substantial relationship to the public general health, safety, morals, or welfare?

The proposal to redesignate the land to SRT does not have a substantial relationship to the public general health, safety, morals, or welfare.

County-Initiated – Comprehensive Plan or Code

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 listed as 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 lot of record. Wind energy produced would only be for personal use by the property owner.

Recommendation

Staff recommends **approval** of this petition.

Analysis

Skagit County defines wind turbines 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 as, “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 SCC 14.04, 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 costing more than \$3,000. An Administrative Official Interpretation was released on July 1, 2008,⁴ to change Planning & Development Services policy to no longer consider such renewable energy systems to be Major Utility Developments. Net metering systems would instead 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.”

In a corresponding press release with the AOI,⁵ 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 planned 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. The County proposal is detailed in the table below, with comparison to regulations for small wind systems in Whatcom County.

	Proposed	Whatcom County
Height	100 ft maximum	100 ft maximum
Setback	1.2 of tower height (incl blades) from all property lines	1.2 tower height from property line

⁴ AOI Regarding Renewable Energy Systems and Major Utility Developments

<https://skagitcounty.net/PlanningAndPermit/Documents/energy/AOI%20Regarding%20Renewable%20Energy%20Systems%20FINAL.pdf>

⁵ AOI Renewable Energy Systems July 1, 2008, Press Release

<https://skagitcounty.net/Departments/Home/press/070108.htm>

Noise	55 decibel maximum	55 decibel maximum
Safety	Blade tip must extend no lower than 30 feet from ground, tower cannot be climbable below 15 feet	Blade tip must extend no lower than 15 feet from ground; tower cannot be climbable below 10 feet

According to the U.S. Department of Energy and the Distributed Wind Energy Association, small wind turbines are generally defined as turbine systems which can generate up to 100kW of power and are up to 160 feet tall. To power an individual home or small farm, a turbine would need to generate between 1kW and 20kW of power per day. Modern wind energy systems have been designed to be much quieter than historical counterparts. Typically, a small wind turbine will add approximately three to five decibels to the typical background noise in a rural community, with exceptions for the duration of a large storm.⁶ See Figure 6 for a comparison of noise pollution from a wind turbine compared to other common noise sources such as a home, office, or inside of a car. The proposed code language has limited the noise of wind turbines to 55 dBA, consistent with Skagit County noise ordinances (SCC 9.50 Noise Control) and Washington Administrative Code 173-60. When applicants for a wind energy system move through the permitting process, a sound evaluation will be required to ensure compliance with the relevant noise ordinances.

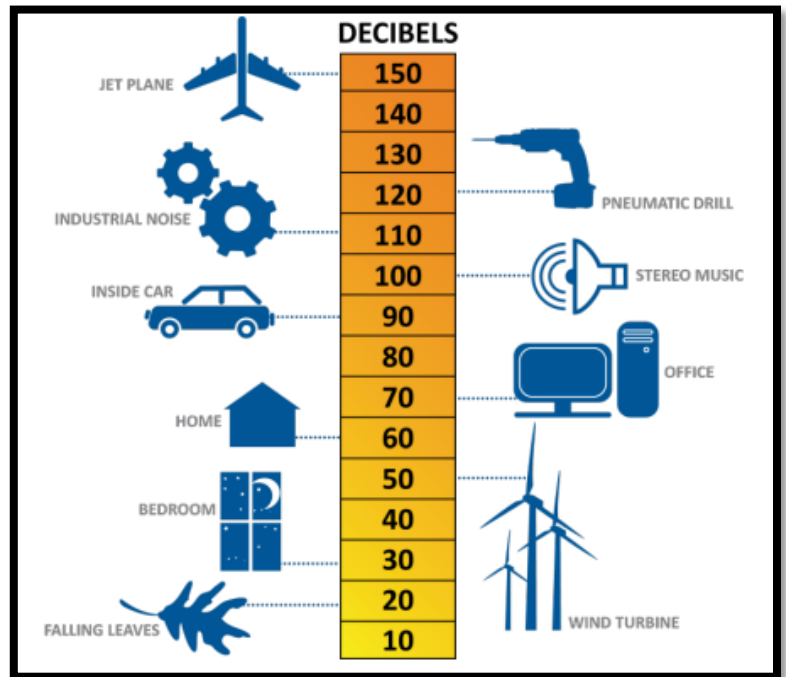


Figure 6 Wind Turbine Noise Comparison

For the safety of neighboring properties, wind turbines must be sited with a setback of no less than 1.2 times of the height of the tower, including the blades. While the County is not proposing to require fencing around the turbine, the tower must not be climbable from at least fifteen feet above the ground to discourage unsafe activity. To protect the safety of local wildlife and migratory birds, County staff will evaluate the siting of a wind turbine during the critical areas review. If a planned turbine is in a known migratory bird habitat or in a common flight path, staff can require review by a wildlife biologist to ensure that appropriate mitigation is implemented to protect the birds (SCC 14.24.520).

⁶ Distributed Wind Energy Zoning and Permitting Toolkit <https://distributedwind.org/wp-content/uploads/2017/11/Distributed-Wind-Toolkit-Nov2017.pdf>



Figure 7 Wind Turbine Monopole Example



Figure 8 Wind Turbine Lattice Example

Figure 7 and Figure 8 are examples of two different types of wind turbines which can be used for net metering purposes. Skagit County is proposing to only allow monopole design wind turbines, displayed in Figure 7, and will not allow lattice designs similar to Figure 8. Personal wind turbines permitted in Skagit County since the AOI was released have been between 60-80 feet tall. The energy produced by wind turbines is dependent on the amount of wind captured in that location, but taller wind turbines are able to access higher wind speeds. Skagit County does not have many areas where wind turbines would produce enough energy to power a residence in its entirety, but could offset a portion of the electrical costs for the home. During the 2013 Windpowering America study, the average wind speed in Skagit County was found to be approximately is 4 – 5 meters per second, which is not fast enough to produce energy adequate to power a residential structure. Wind turbines typically need to be located in flat areas without nearby structures or foliage which block wind. The most likely locations with the highest wind captured would be along the shorelines or on small islands such as Guemes, Samish, or Cypress Island.

Consistency Review with Skagit County Code 14.08

1. Is the amendment consistent with the vision statements, goals, objectives, and policy directives of the Comprehensive Plan and the does the proposal preserve the integrity of the Comprehensive Plan and assure its systematic execution?

The proposal is consistent with the following Comprehensive Plan goals and policies:

Goal 2A-8, “Work with local jurisdictions to simplify the permitting process for landowners and developers within the unincorporated portions of the Urban Growth Areas.”

Goal 3A-3, “Ensure that public facilities, services, roads, and utilities are properly planned for and provided, consistent with rural character, needs, and lifestyles.”

Goal 9A-5, “Encourage conservation of energy resources, including the reduction of energy consumption in county facilities.”

The proposal is consistent with the Comprehensive Plan goals as it permits citizens to more easily access a renewable energy source to power their homes and ensures the siting of wind turbines protect residents and critical areas.

2. Is the proposal supported by the Capital Facilities Plan (CFP) and other functional Plans?

This proposal will not have an impact on the Capital Facilities Plan or other functional plans.

3. Is the proposal consistent with the Growth Management Act (GMA), the Countywide Planning Policies (CPPs), and applicable provisions of the Comprehensive Plan?

The proposal is consistent with Growth Management Act Planning Goal 10, “Environment. Protect the environment and enhance the state’s high quality of life, including air and water quality, and the availability of water,” RCW 36.70A.020(10).

CPP 5.13 states, “Skagit County shall increase the availability of renewable resources and encourage the maximum attainable recycling of non-renewable resources.”

The use of wind turbines as an energy alternative is consistent with the Growth Management Act, Countywide Planning Policies, and the Skagit County Comprehensive Plan language on climate change as wind turbines are a renewable energy resource and can reduce the amount energy needed from the electrical grid.

4. Does the proposal bear a substantial relationship to the public general health, safety, morals, or welfare?

Wind turbines are a renewable energy resource, which has a positive impact on the climate in Skagit County and overall health of its citizens.

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).

Recommendation

The Department recommends **approval** of this petition.

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.

C21-3 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.

Recommendation

The Department recommends **approval** of this petition.

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 Sole Source Aquifer 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 9 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.”⁷ 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 requirement on Guemes Island is burdensome for County planning staff to regulate and do not necessarily maintain viewsheds for neighboring properties. The intent of the side setback was to ensure that homes are built offset within the bounds of their property and protect the views of neighboring residences. If a home is built between an existing home and the shoreline (see Figure 10), the structure is required to be offset, but it does not require the property owner to ensure the structure is built without blocking the house behind it. In addition, for narrow lots, the requirement for the side setbacks to equal 30% of the lot width often results in both side setbacks being eight feet.

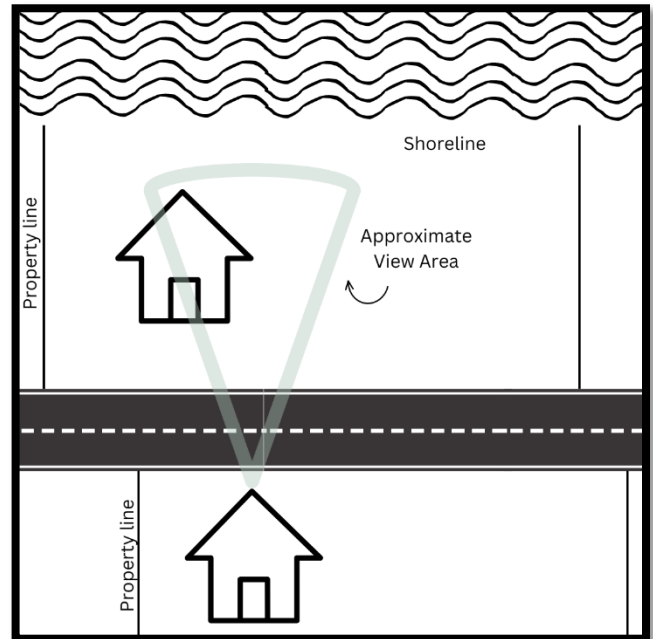


Figure 10 Guemes Island Setback Example

The setback requirements also affect the height of Guemes Island residences. SCC 14.16.360(7)(b) states, “Structures. The actual height of the structure from base flood elevation may not exceed 12 feet at the side setback. The actual height of the structure from base flood elevation may increase by one

⁷ “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/>

foot for each foot inside the required side setback up to a maximum actual structure height of 30 feet.” Many of the lots on Guemes Island are as narrow as 50 feet, minimizing the amount of livable space a property owner can utilize. If the residence is built out to the setback (eight feet) then the property owner can only build up to twelve feet before being required to build inward at an angle (see Figure 11). This reduces the ability for the homeowner to build a second floor with ceilings which are high enough to constitute a livable space. The intent of the reduced building envelope above twelve feet was to protect view sheds on the island, but the regulations have resulted with many property owners left with few choices as to how to build their residences on small lots.

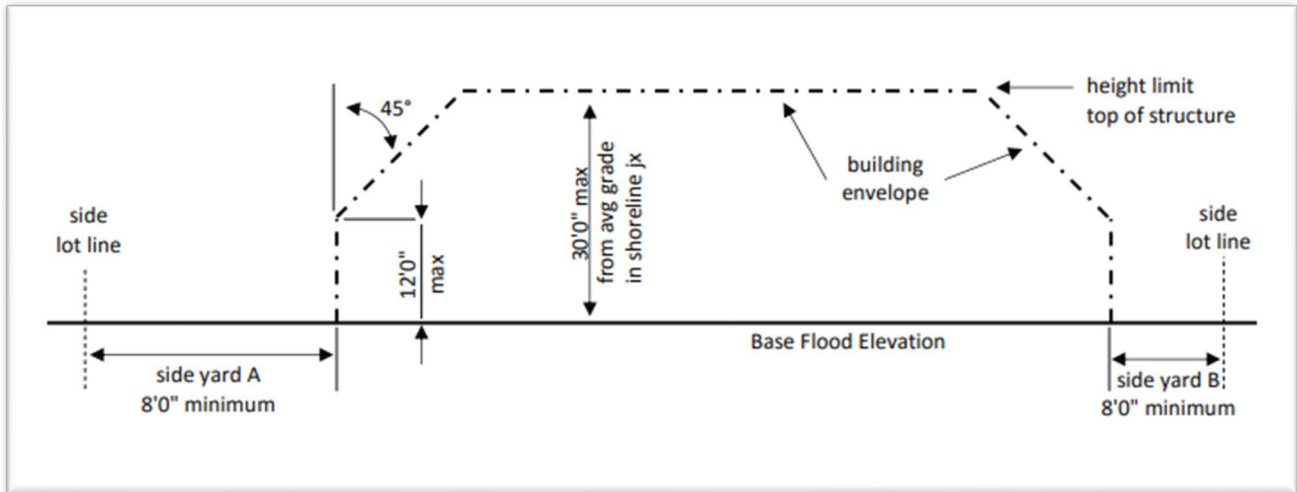


Figure 11 Guemes Island Building Envelope Drawing

The Skagit County Shoreline Master Program (SMP) includes several regulations to protect critical areas and view sheds. Under the current SMP, if a structure is within 200 feet of a shoreline, then the property owner is required to build structures with an eight-foot side setback and a height limit of 30 feet above average grade. SMP Chapter 7.13(1)(D) states, “All residential structures [...] should be arranged and designed so as to preserve views and vistas to and from shorelines and water bodies and be compatible with aesthetic values of the area.” The Department has also been working through its first comprehensive update to the SMP and the new version will be evaluated by the Washington State Department of Ecology before going through the final approval phase. If the new SMP passes as proposed, a structure which is built within 100 feet of a shoreline will be required to have eight-foot side backs and a height limit of 25 feet above average grade. The draft SMP states in section 6C-15.11, “Residential development should be arranged and designed to retain views and vistas to and from shorelines and water bodies.” The regulations within both the current and draft SMP will continue to protect view sheds and critical areas within the shorelines of Guemes Island without requiring homeowners and staff to calculate arduous side setbacks and building envelope guidelines.

Consistency Review with Skagit County Code 14.08

1. Is the amendment consistent with the vision statements, goals, objectives, and policy directives of the Comprehensive Plan and the does the proposal preserve the integrity of the Comprehensive Plan and assure its systematic execution?

The proposal is consistent with the following Comprehensive Plan goals and policies:

Goal 2A-8 Work with local jurisdictions to simplify the permitting process for landowners and developers within the unincorporated portions of the Urban Growth Areas.

Policy 3A-3.3, “Standards and plans for structures, roads and utility systems, and other public services and facilities shall be consistent with rural densities and uses. Such facilities and services shall be designed, constructed, and provided to minimize the alteration of the landscape and the impacts to rural residents and community character, to preserve natural systems, to protect critical areas, to protect important land features such as ridgelines, to retain historic and cultural structures/landscapes, and scenic amenities.”

The proposal is consistent with the Comprehensive Plan by ensuring development regulations are simplified for applicants during the permitting process and allows for residents to have more flexibility in the construction of their home on Guemes Island without impacts to critical areas, view sheds, and other scenic amenities.

2. Is the proposal supported by the Capital Facilities Plan (CFP) and other functional Plans?

The proposal will not have an impact on the Capital Facilities Plan or other functional plans.

3. Is the proposal consistent with the Growth Management Act (GMA), the Countywide Planning Policies (CPPs), and applicable provisions of the Comprehensive Plan?

The proposal is consistent with Growth Management Act Planning Goal Four, “Housing. Plan for and accommodate housing affordable to all economic segments of the population of this state, promote a variety of residential densities and housing types, and encourage preservation of existing housing stock.”

CPP 4.6, “provisions in Comprehensive Plans for the location of residential development shall be made in a manner consistent with protecting natural resource lands, aquatic resources, and critical areas.”

CPP 10.6, “rural character shall be preserved by regulatory mechanisms through which development can occur with minimal environmental impacts.”

The proposal is consistent with the Growth Management Act, Countywide Planning Policies and applicable provisions of the Comprehensive Plan by removing arduous regulations which reduce housing types for residents and do not protect the environment or view sheds.

4. Does the proposal bear a substantial relationship to the public general health, safety, morals, or welfare?

The proposal does not bear a substantial relationship to the public general health, safety, morals, or welfare.

C22-4 Economic Development Plan Amendment

Summary

This proposal seeks to add a new goal to the Economic Development Chapter (Chapter 11) of the Skagit County Comprehensive Plan. The policy would read as follows:

Policy 11G-4.7 Expend funds collected under Chapter 82.14 RCW to finance public facilities serving economic development purposes and finance personnel in economic development offices. For purposes of this Policy any public facility, as defined in RCW 82.14.370(3)(c)(i), listed in this Comprehensive Plan (including subarea plans) is fully incorporated to this Economic Development Section.

Recommendation

The Department recommends **approval** this proposal.

Analysis

The addition of this new goal to the Economic Development chapter of the Comprehensive Plan would ensure that all public facilities, including those included in a subarea plan, would be eligible for economic development funds from the Washington State Department of Commerce. Revised Code of Washington (RCW) 82.14.370 allows for moneys collected through sales and use taxes to finance public facilities serving economic development purposes in rural counties and finance personnel in economic development offices only. The statute states that for public facilities to be eligible for these funds, the facility must be listed in the county comprehensive plan or economic development plan. The current Skagit County Economic Development chapter does not explicitly state or reference individual public facilities in a manner which would make them eligible for RCW 82.14.370 funds.

Public facilities in Skagit County can include port facilities, such as the Port of Skagit or Anacortes, school district facilities, and any other public facility infrastructure. These facilities play an important role in the economic growth of the county and are thus vital to both supporting current activities and attracting new businesses to the county. These funds are a way for the county to support public infrastructure and the proposed new language will ensure all facilities which should be eligible for funding are able to receive those funds.

Consistency Review with Skagit County Code 14.08

- 1. Is the amendment consistent with the vision statements, goals, objectives, and policy directives of the Comprehensive Plan and the does the proposal preserve the integrity of the Comprehensive Plan and assure its systematic execution?**

The proposal is consistent with the following Comprehensive Plan goals and policies:

Goal 11A-2, "Encourage the creation and retention of living wage jobs to meet the needs and demands of Skagit County households."

Goal 11A-4, "Encourage educational opportunities for residents of all ages to develop and upgrade skills required for employment, advancement and entrepreneurship."

Policy 11A-4.2, "Work cooperatively with local jurisdictions, the Skagit Council of Governments, the Economic Development Association of Skagit County, the ports of Skagit and Anacortes, and federal

and state agencies to promote economic development and employment opportunities consistent with countywide economic development policies.”

The proposal is consistent with the Comprehensive Plan as it will ensure the continued flow of state economic development grants to funds public facilities in Skagit County which encourage job growth, development, and education.

2. Is the proposal supported by the Capital Facilities Plan (CFP) and other functional Plans?

The proposal will not have an impact on the Capital Facilities Plan or other functional plans.

3. Is the proposal consistent with the Growth Management Act (GMA), the Countywide Planning Policies (CPPs), and applicable provisions of the Comprehensive Plan?

The proposal is consistent with Growth Management Act Planning Goal Five, “Economic Development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state’s natural resources, public services, and public facilities.”

The proposal is consistent with the following Countywide Planning Policies:

CPP 5.3, “Economic diversity should be encouraged in rural communities where special incentives and services can be provided.”

CPP 5.5, “a diversified economic base shall be encouraged to minimize the vulnerability of the local economy to economic fluctuations.”

The proposal is consistent with the Growth Management Act, Countywide Planning Policies, and applicable provisions of the Comprehensive Plan as the state economic development grants will encourage new businesses and expansion of current businesses.

4. Does the proposal bear a substantial relationship to the public general health, safety, morals, or welfare?

Ensuring continued job creation and education in Skagit County will improve the welfare of citizens by providing good-paying jobs and opportunity for economic growth.

C22-5 Seawater Intrusion Areas Amendment

Summary

This proposal would change the requirement for the County Hydrogeologist to review proposed new wells in a seawater intrusion area to instead allow for a licensed hydrogeologist under contract with the County to perform the review. SCC 14.24.380 refers to the “County Hydrogeologist” in subsections (2)(a)(i)(C), (4)(a)(iv)(C), (4)(b)(vi), and (4)(d)(ii), and Table 14.24.380-1, in relation to review of wells in

seawater intrusion areas. The amendment would remove “County” and clarify that the County may select a Washington state licensed hydrogeologist to perform the required review on behalf of the County.

Recommendation

The Department recommends **approval** of this proposal.

Analysis

Seawater intrusion areas are those areas of the county at risk of seawater contaminating groundwater relied on for drinking water and are defined by SCC 14.24.380(1) as places within ½ mile of the marine shoreline and the entirety of Guemes, Sinclair, Cypress, and Vendovi Islands. New wells sited without consideration of the underlying groundwater characteristics may increase the risk of seawater intrusion in these areas. This issue is particularly concerning in areas where water is utilized from sole-source aquifers, such as Guemes Island. There are documented issues of seawater intrusion in existing wells in areas of Guemes Island. Some residents with affected wells have installed various treatment systems, flow restricting devices and other means to ensure potable drinking water is available.

The current regulations in Skagit County Code have been written to protect existing and new wells from seawater intrusion by requiring information be submitted to the County prior to drilling new wells to be reviewed and authorized by the County Hydrogeologist to reduce the risk of seawater intrusion in the new well and neighboring wells SCC 14.24.380 (2).

Skagit County has been without the County Hydrogeologist since early in 2022. The county has advertised for a new hydrogeologist for several months but have been unsuccessful in hiring a replacement to date. The lack of a County Hydrogeologist means that there has not been a qualified staff member to perform the duties specified in code. The proposed amendment would allow for the County to select a Washington State licensed hydrogeologist to perform the required reviews on behalf of the County and help ensure the protection of new and existing wells in seawater intrusion areas.

Consistency Review with Skagit County Code 14.08

1. Is the amendment consistent with the vision statements, goals, objectives, and policy directives of the Comprehensive Plan and the does the proposal preserve the integrity of the Comprehensive Plan and assure its systematic execution?

The proposal is consistent with the following Comprehensive Plan goals and policies:

Goal 5A, “Protect aquifer recharge areas, and well-head areas, ground and surface water quality and quantity for supplying all needs within Skagit County, including potable water for human use. Minimize risk to life, property, infrastructure, and resources caused by disrupting geologically hazardous areas or by locating development in areas subject to naturally hazardous geologic processes.”

Goal 5A-5, “Skagit County shall, protect and conserve critical areas in cooperation with federal, state, local, and tribal jurisdictions.”

Policy 5A-5.1, "Critical areas shall be designated and protected to prevent their continued loss and degradation. Furthermore, priority shall be given to the avoidance of impacts to critical areas, followed by the minimization of impacts and full mitigation respectively."

Policy 5.3(b)(i), "Consistent with state and federal laws and regulations, the County shall develop in unincorporated areas and facilitate on a county-wide basis performance standards and regulate uses for activities which can adversely impact water quality or quantity in aquifers, watersheds, and surface waters."

The proposal is consistent with the Comprehensive Plan because it ensures the protection of critical areas, particularly seawater intrusion areas, and the water quality of residents.

2. Is the proposal supported by the Capital Facilities Plan (CFP) and other functional Plans?

The proposal will not have an impact on the Capital Facilities Plan or other functional plans.

3. Is the proposal consistent with the Growth Management Act (GMA), the Countywide Planning Policies (CPPs), and applicable provisions of the Comprehensive Plan?

The proposal is consistent with the Growth Management Act Planning Goal 10, "Environment. Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water."

The proposal is consistent with the following Countywide Planning Policies:

CPP 10.2, "land use decisions shall take into account the immediate and long-range cumulative effects of proposed uses on the environment, both on- and off-site."

CPP 10.4, "wetlands, woodlands, watersheds and aquifers are essential components of the hydrologic system and shall be managed to protect surface and groundwater quality."

CPP 10.6, "rural character shall be preserved by regulatory mechanisms through which development can occur with minimal environmental impact."

The proposal is consistent with the Growth Management Act, Countywide Planning Policies, and applicable provisions of the Comprehensive Plan. Ensuring the County has the regulatory authority to hire or contract with a hydrogeologist to perform reviews of proposed wells in seawater intrusion areas protects the water quality of citizens in those areas.

4. Does the proposal bear a substantial relationship to the public general health, safety, morals, or welfare?

The proposal will protect the general health, safety, and welfare of the public in seawater intrusion areas by helping to prevent new seawater intrusion in both existing and proposed wells.

Next Steps

Following Planning Commission work sessions, there will be a chance to hear from the petitioners and the public regarding the items in this staff report. See below for more information.

<https://www.skagitcounty.net/Departments/PlanningCommission/PCminutes.htm>

How to Comment

The public may submit written comments via email to pdscomments@co.skagit.wa.us (preferred) or via US mail. All paper comments must be submitted on 8½" x 11" paper to the address below:

Skagit County Planning & Development Services
re: Comments "Skagit County's 2022 Docket of Proposed Policy, Code, and Map
Amendments"
1800 Continental Place
Mount Vernon, WA 98273

All comments must be received by **November 10, 2022, at 4:30 p.m.** and include (1) your full name, (2) your mailing address. Comments not meeting these requirements will not be considered.

You may also provide verbal comments at the Public Hearing. The public hearing is scheduled for **November 8, 2022, at 6:00 p.m** in the Skagit County Commissioners Hearing Room at 1800 Continental Place, Mount Vernon, WA 98273.

If you wish to provide testimony via the online meeting option, please send an email to pdscomments@co.skagit.wa.us, with your name, phone number, and include a request to be added to the speakers list in the body of the email. All requests must be received 24 hours prior to the public hearing date. Public hearing testimony is usually limited to three minutes, so written comments are preferred.

Attachment 1 - Amendments to Skagit County Comprehensive Plan and Development Regulations
(Published under a separate cover)