



Planning & Development Services

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Supplemental Staff Report 2022 Docket

To: Skagit County Planning Commissioners
From: Jenn Rogers, Long Range Planner
Date: November 17, 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 November 22, 2022, Planning Commission work session. This report supplements the October 20, 2022 Staff Report by providing a record of activities, additional information regarding the petitions, and a summary of the public comments from the formal comment period. A compilation of public comments is included as Appendix 1.

Public Notice and Participation

On October 25, 2022, the Staff Report for the 2022 Docket of Proposed Policy, Code, and Map Amendments was published to the County website. The public notice opened the comment period on the petitions noticed the public Hearing and the environmental (SEPA) determinations. Notice was published to the Skagit Valley Herald, the PDS email distribution list, SEPA distribution list, and posted to the PDS and legal notice webpage. Notice was also sent to landowners within 300 feet of the proposed rezone (LR22-01).

On November 8, 2022, the Planning Commission held a public hearing on the 2022 Docket as authorized by Skagit County Code (SCC) 14.08.080. The hearing was attended by the eight of the nine Planning Commission members and testimony was provided by petition applicants as well as the public. A total of twenty-one participants spoke on the docket. A full transcript of the meeting can be found on the [Planning Commission Agenda and Archive page](#)¹.

No comments were received in regards to the SEPA determinations. Comments on the petitions were sent by email to pdscomments@co.skagit.wa.us and sent as hard copy. A total of 53 comments were submitted during the comment period, October 20, 2022, to November 10, 2022. These and the verbal comments can be found as Appendix 1. The remainder of this report summarizes the comments and provides a department response.

¹ <https://www.skagitcounty.net/Departments/PlanningCommission/PCminutes.htm>

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

Public Comment Summary

Planning Commission Comment Period: October 20, 2022 to November 10, 2022

LR22-01 Small Scale Recreation and Tourism Rezone (14.08.060 Petitions—Approval criteria for map amendments and rezones.)

Comments Summary

29 – Written Comments: Friends of Skagit County, Skagit County Agricultural Advisory Board
6 – Hearing Testimony

The Skagit County Agricultural Advisory Board (AAB) and Friends of Skagit County are opposed to the rezone request for Bertelsen Farms. The AAB states that the Planning Commission should recommend to not approve this application because of the ongoing agritourism study by the County and its implications on activities described in the Berthelsen’s application. The AAB believes that while the County is studying how to better regulate and define agritourism, and its effects on agriculture, the County should not approve intensification of these activities on land which could be used for farming. The Friends of Skagit County states that the County would be violating the Growth Management Act by rezoning the parcel into a zone which is considered a Limited Area of More Intense Rural Development (LAMIRD). Both Friends and the AAB are also concerned that the rezone would violate Skagit County Code because the code limits the developed area of Small Scale Recreation and Tourism to just 20 acres.

Other commenters are concerned by the potential for sprawl, increased traffic, and noise impacts to neighbors. Citizens also state the rezone should not be approved because the land should be preserved for agricultural purposes and the new development could have negative impacts on existing critical areas.

Comments in support would like to see a rural business thrive in an area which lacks other economic opportunities for residents and visitors. The new ventures could attract tourists to Skagit County which would benefit both Bertelsen Farms and other businesses they frequent while visiting the area.

The applicant has provided a response letter to the submitted public comments. The letter is included in this memorandum as Appendix 2.

Staff Response

If an application for a rezone is approved, the approval does not automatically grant the applicant permission to expand their current business or start construction on proposed activities within the application. The applicant will still need to apply for the necessary land use and building permits before any of the new allowed uses can be utilized. These permits will include a water and critical areas review

and SEPA determination. The required reviews could help mitigate for increased traffic and noise impacts from the new activities, if approved.

The regulations for SRT zoning are included in [SCC 14.16.130](#) and subsection (6)(b) includes language on maximum size limits:

Maximum Size Limits. The entire SRT designated area, whose boundaries are identified on a single Comprehensive Plan Map amendment, shall be considered as 1 unit for the purpose of this calculation and shall be subject to the limits outlined in the following subsections as a whole.

- (i) The maximum number of acres that may be devoted to the built environment is 20 acres. Additional land may be associated with an SRT development provided it remains substantially undeveloped, primarily left in a natural state, and is used for passive recreation purposes only.
- (ii) The maximum number of units of overnight lodging is 35 units of built lodging (meaning fixed or mobile structures). This limit does not apply to the number of camping sites or recreational vehicle hook-ups within a campground or resort.
- (iii) Retail and service uses shall not exceed 3,000 square feet of gross building area per establishment and shall be limited to 2 establishments. Storage or other uses that are accessory to the permitted use and do not exceed 50% of the square footage of the permitted use or a total of 1,500 square feet shall also be permitted.

A request to rezone multiple parcels to SRT is not limited to 20 acres. Of the entire rezoned area, no more than 20 acres could be used for the built environment, which includes roads, gravel driveways, parking, structures, etc. Furthermore, retail and service structures are limited to 2 buildings no more than 3000 square feet. The rezone application is not out of compliance with these regulations. If the rezone is approved, the applicant must abide by the built environment limits as well as the other regulations stated in [SCC 14.16.130](#).

The type of LAMIRD is critical to determining what is and is not allowed. SRT is considered a Type 2 LAMIRD. As a type 2 LAMIRD, it **may include new development**. [RCW 36.70A.070\(5\)\(d\)\(ii\)](#); [WAC 365-196-425\(6\)\(c\)\(ii\)](#) The GMA provisions regarding existing areas of more intensive rural development and their logical outer boundary do not apply to new developments allowed as a Type 2 LAMIRD. *Whitaker v. Grant County*, EWGMHB Case No. 99-1-0019, at p. 8, Order on Compliance (May 6, 2004); see also *Anacortes v. Skagit County*, WWGMHB Case No. 00-2-0049c, at p. 11, Final Decision & Order (Jan. 31, 2002) (Type 2 LAMIRDS “are defined and bounded by ‘lots’ and thus [logical outer boundary] requirements are irrelevant.”).

Since LR22-01 concerns a Type 2 LAMIRD, new development is allowed under the GMA and the County is not limited to development existing in 1990.

C22-1 Wind Turbine Use Amendment

Comments Summary

22 – Written Comments: Friends of Skagit County

11 – Hearing Testimony

The majority of comments are in opposition to the proposed regulations for accessory use wind turbines in Skagit County. Some comments state wind turbines are not a true clean energy source because of the fossil fuels potentially required to build the turbines themselves and some operators have had difficulty recycling the wind turbine parts after it has been decommissioned. Other comments are concerned about the lack of wind in Skagit County and that wind turbines would be a blemish in the rural countryside of Skagit. Multiple citizens in the public hearing were also wary of the County becoming dependent on new energy sources when wind turbines have failed in other states.

Staff Response

C22-1 is a petition to codify regulations relating to personal wind turbines for net metering purposes. Skagit County currently allows for wind turbines to be permitted if they are for net metering and limited to one turbine per lot of record. When the Administrative Official Interpretation was released in July 2008, the intent was not to disallow wind turbines in the future. The intent was to reduce the regulatory burden for applicants to install a personal wind turbine on their property. Since the 2008 AOI to reduce wind turbines from an administrative special use to accessory use, there have been approximately six turbines permitted in Skagit. These turbines have been between 50–80 feet in height.

The Department has stated in previous memoranda that there are few areas of Skagit County which would provide sufficient wind to power a residence or other structure in its entirety. Net metering, by definition, means that the customer is using a personal energy generating system, such as wind or solar, to supplement power from a public power grid. Small wind turbines in Skagit County could provide an additional energy source for citizens and there have been state and federal incentives² for customers to utilize green energy alternatives to help power their home. According to the U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, wind power is considered a clean and renewable energy source. “Not only is wind an abundant and inexhaustible resource, but it also provides electricity without burning any fuel or polluting the air. Wind continues to be the largest source of renewable power in the United States, which helps reduce our reliance on fossil fuels.”³

C22-3 Guemes Island Overlay Side Setback Amendment

Comments Summary

49 – Written Comments: GIPAC, Friends of Skagit County

4 – Hearing Testimony

Comments in opposition to the petition state the regulations were approved during the process to update the Guemes Island Overlay in 2016 and should not be changed. Other commenters are concerned by the potential for larger homes disrupting the rural nature of the island and the impact of the amendment to shorelines and water availability. The island is a sole source aquifer and there are homes with documented sea water intrusion in their wells. Homes which would be impacted the most by these regulations are on small shoreline lots and larger homes could negatively impact the health of the shoreline.

² <https://www.energy.gov/sites/default/files/2021-07/us-wind-industry-federal-incentives-funding-partnership-opportunities-fact-sheet-v2.pdf>

³ <https://www.energy.gov/eere/wind/advantages-and-challenges-wind-energy#:~:text=Wind%20power%20is%20a%20clean%20and%20renewable%20energy%20source.&text=Not%20only%20is%20wind%20an,our%20reliance%20on%20fossil%20fuels.>

Comments in support of the amendment state the change is necessary to protect personal property rights and that there will not be a negative impact to shorelines or the rural character of the island. Many residents have homes on lots which are substandard (40-50 feet wide) which make building or remodeling a home difficult with the envelope requirements. Some of the homes are small cabins and residents would like to remodel them to build a home which has more livable space or raise the existing home above base flood elevation, but the regulations limit development to where a remodel is not feasible.

Staff Response

The requested amendment to the Guemes Island Overlay would not remove the subarea plan, this would be a small change to the side setback and building envelope requirements. The Department understands this regulation was approved during the 2016 update to the Guemes Island Overlay; however, the docketing process is in place to evaluate if an approved regulation is meeting the intent and if there are any unintended consequences. There are comments stating that the regulation is not meant to hinder the ability of a property owner to build or remodel a house, but there are many homeowners who have not been able to remodel their homes because of this regulation. Both the complexity of the code language and the negative impacts on homeowners, particularly those on substandard lots, have led the County to recommend this regulation to be removed from the code.

As stated in previous memos and staff reports, the Shoreline Master Program and underlying zoning regulations will continue to protect the rural character and shoreline environment of Guemes Island. Both the SMP and zoning regulations limit where a home may be built on a lot to protect shorelines and view sheds. Eight foot side setbacks will remain if this regulation is amended, which is the standard in most other residential zones, and is sufficient for both view sheds between residential structures and to protect neighboring homes from fire hazards. The SMP also limits lot coverage and the height of structures. Both restrictions will ensure homes remain small on substandard lots and limit development.

C22-4 Economic Development Plan Amendment

Comments Summary

1 – Written Comments: Friends of Skagit County

0 – Hearing Testimony

The Friends of Skagit County wrote to support the petition with the understanding that the public facilities would not be eligible for funding with any other change to the code or comprehensive plan.

C22-5 Seawater Intrusion Areas Amendment

Comments Summary

2 – Written Comments: Friends of Skagit County

0 – Hearing Testimony

Friends of Skagit County and one other commenter wrote to support the petition. Friends of Skagit County requested that the County work with a hydrogeologist with experience working in island environments.

Next Steps

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

Appendix 1, 2022 Docket Public Comments and Testimony Compiled

Appendix 2, Bertelsen Farms Response Letter to Public Comments