



PLANNING & DEVELOPMENT SERVICES

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Memorandum

To: Planning Commission

From: Betsy Stevenson, AICP, Senior Planner

Date: August 22, 2011

Re: Staff Report on Planning Commission Work Session on Ag Critical Areas Ordinance

Background

Washington counties are required by state law to designate and protect critical areas—wetlands, aquifer recharge areas, fish and wildlife habitat conservation areas, frequently-flooded areas, and geologically hazardous areas. Preventing stream pollution is critical for downstream recreation and shellfish farming. Fish and wildlife habitat areas and wetlands are especially important to healthy salmon and endangered Orca whale populations. Other counties have chosen to protect these critical areas using mandatory buffers—strips of land bordering the critical area where farming is not allowed. Skagit County does not require such buffers on ongoing-agricultural lands. Instead, Skagit County requires agriculture to “not harm or degrade” critical areas, and to comply with specific Watercourse Protection Measures.

Skagit County's approach to protection of critical areas in areas of agricultural activity has not been entirely upheld by the courts. In 2007, the state Supreme Court ruled that Skagit County need only “protect” and not “enhance” critical areas. But it also confirmed that the County's monitoring and adaptive management program lacks critical details.

In recognition of the statewide importance of this issue, the Legislature in 2007 imposed a moratorium on changes to critical areas ordinances as they affect agricultural activities. For the last four years, agricultural, environmental, and tribal representatives have worked on a new approach to critical areas protection on agricultural lands that the Legislature adopted this year. A county may now enroll in the State's “Voluntary Stewardship Program” as an alternative to the prior requirement to protect critical areas in areas of agricultural activity through development regulations.

The Board of County Commissioners, through Resolution R20110239, recently decided to consider enrollment in the Voluntary Stewardship Program. The enrollment ordinance may include changes to the current Critical Areas Ordinance for Ongoing Agriculture, including modifications to the Watercourse Protection Measures requirements and the County's monitoring program.

Work Session

Resolution R20110239 instructs the Planning Commission to hold a work session on this topic, currently scheduled for August 23, 2011, at 6 pm. The purpose of the work session is to receive substantive feedback on the proposed revisions described in this staff report, as well as any other revisions that the Planning Commission would like considered.

Members of the Agricultural Advisory Board and the Forestry Advisory Board, as well as the public, are specifically invited to participate in the work session and to offer substantive comments on the concepts. PDS will write its formal proposal using the feedback received from the Planning Commission, and will include substantive options, and its recommendation, in that proposal.

Current Ordinance

The development regulations for the critical areas ordinance for ongoing agriculture are codified in Skagit County Code section 14.24.120. That section of the Critical Areas chapter is organized as follows:

- (1) Purpose and intent
- (2) Applicability
- (3) “No Harm or Degradation Standard”—agriculture must:
 - (a) Meet the state water quality standards
 - (b) Meet Ecology’s TMDL requirements
 - (c) Meet the Watercourse Protection Measures
 - (d) Not degrade existing fish habitat from baseline inventory characteristics
- (4) Required Watercourse Protection Measures—agriculture must comply with standards for:
 - (a) Livestock and Dairy Management
 - (b) Nutrient and Farm Chemical Management
 - (c) Soil Erosion and Sediment Control Management
 - (d) Management of Agricultural Drainage Infrastructure
- (5) Recognition of Dairy Nutrient Management Plans or Resource Management System plans

Proposed Revisions

Planning & Development Services plans to propose an ordinance that would change SCC Chapter 14.24 in the following ways:


- (1) Declare the County’s enrollment of all its watersheds in the state’s Voluntary Stewardship Program, with nomination of any priority watersheds
- (2) Adjust the purpose statement to reflect enrollment in the Voluntary Stewardship Program

- (3) Delete the reference to already-repealed resolution R20030210 regarding the County's monitoring program
- (4) Clarify any of the existing Watercourse Protection Measures
- (5) Adjust any of the rest of the text for clarity

Public Participation

This work session is the first step in the process of developing this ordinance. PDS notified the public of this work session by posting the meeting information and many related documents and video links to www.skagitcounty.net/agcao.

PDS also mailed a postcard to approximately 340 individuals and organizations on our ag-fish postal mailing list, and forwarded the text of that postcard to the County's press release e-mail list, the Planning & Development Services e-mail list, and the Salmon Strategy e-mail list.

<p>Planning Commission Workshop: Ag-Critical Areas Ordinance Possible Revisions to Skagit County's Critical Areas Ordinance for Ongoing Agriculture Commissioners Hearing Room · 1800 Continental Place · Mount Vernon · August 23 · 6pm</p>		 <p>Skagit County Planning & Development Services 1800 Continental Place Mount Vernon WA 98273</p>
<p>Background Washington counties are required to designate and protect critical areas, such as streams. While other counties protect critical areas using mandatory buffers along streams where agriculture is not allowed, Skagit County instead requires farmers to "not harm or degrade" critical areas, and to comply with specific Watercourse Protection Measures.</p> <p>Although Skagit County has spent years and millions of dollars defending its approach, Skagit County's approach is not yet compliant with state law. In 2007, the state Supreme Court ruled that Skagit County need only "protect" and not "enhance" critical areas. But it also confirmed that the County's monitoring and adaptive management program lacks critical details.</p> <p>For the last four years, agricultural, environmental, and tribal representatives have worked on a new approach to critical areas protection on agricultural lands that the Legislature recently adopted. Skagit County can now opt into a Voluntary Stewardship Program in place of the prior requirement to protect critical areas on farmland through development regulations.</p>	<p>Workshop The Board of Commissioners recently decided to consider enrolling in the Voluntary Stewardship Program. Enrollment may include changes to the current critical areas ordinance for agriculture, including modifications to the Watercourse Protection Measures requirements and the County's monitoring program.</p> <p>The Planning Commission will hold a public workshop to discuss enrollment and related code changes. Although there will be other opportunities to participate, please attend to get your input in early!</p>	
<p>for more info, and to track this project's progress, please visit www.skagitcounty.net/agcao or email Senior Planner Betsy Stevenson at agcao@co.skagit.wa.us</p>		

Upcoming Workshop for Ag Critical Areas Ordinance

As a result of this outreach, an article appeared on page A3 of Sunday's Skagit Valley Herald:

<h2>County asks for input on critical areas ordinance</h2>		
<p>Skagit County Commissioners will seek input at a public workshop on Tuesday night about whether the county should opt into a voluntary stewardship program regarding critical areas ordinances.</p> <p>The county has spent years and millions of dollars defending its approach to critical areas, a designa-</p>	<p>tion for streams that support wildlife. The county's current approach includes directives to "not harm or degrade" those critical areas instead of requiring mandatory buffers.</p> <p>In 2007, the state Supreme Court ruled that Skagit County need only "protect" and not "enhance" critical areas.</p>	<p>The ruling came with additional monitoring and adaptive management programs that the county would need to add.</p> <p>The county now has the choice to opt into a voluntary stewardship program in place of the prior requirement to protect critical areas on farmland.</p> <p>Commissioners have decided to consider enrolling in the program. They will seek public comment on the program at 6 p.m. on Tuesday, Aug. 23, at the Commissioners Hearing Room, 1800 Continental Place in Mount Vernon.</p> <p style="text-align: right;">— Whitney Pipkin</p>

After the work session, PDS will draft an ordinance that it will put out for formal public comment sometime around October 1, with a public hearing before the Planning Commission in late October.