

BAYVIEW RIDGE SUBAREA PLAN Development Regulations Department Report

February 18, 2005

Proposal

Skagit County is proposing to adopt new land use regulations to implement the proposed *Bayview Ridge Subarea Plan*. The recommended *Subarea Plan* proposes that a 3,633-acre Bayview Ridge Urban Growth Area (UGA) be created within the 4,011-acre Subarea, and that this UGA be developed as a cohesive, self-sufficient urban community while insuring continued compatibility with the Skagit Regional Airport.

A separate department report has been prepared to address the *Draft Bayview Ridge Subarea Plan*.

Location

The Bayview Ridge Subarea is located approximately one mile west of the City of Burlington, and 1 1/2 miles northwest of the City of Mount Vernon. The Subarea is bounded by Ovenell Road and SR 20 on the south, Farm to Market Road on the west, Josh Wilson Road and the hillside on the north, and by Avon-Allen Road on the east.

Background

Relationship to the Skagit County Zoning Code

The Skagit County Zoning Code is contained in Chapter 14.16 of the Skagit County Municipal Code. Chapter 14.16 describes the limitations and regulations for the use of construction on properties within each zoning district. Currently, Chapter 14.16 does not provide for urban residential development.

Proposed Action

Draft Bayview Ridge Subarea Plan Development Regulations

New land use development regulations are required to implement the proposed Subarea Plan. The new standards reflect the proposed urban level of both residential and commercial/industrial development, and continued protection of Skagit Regional Airport. The proposed development regulations include the both the creation of new land use districts and amendments to existing land use regulations, as outlined below:

- New Urban Residential Zone – “Bayview Ridge Residential, BR-R”
- New Community Center Zone – “Bayview Ridge Community Center, BR-CC”
- New Urban Reserve Zone – “Bayview Ridge Urban Reserve, BVR-URv”

- Amendments to the “Bayview Ridge Light Industrial, BVR-LI” zone
- Amendments to Bayview Ridge Heavy Industrial, BVR-HI” zone
- Amendments to Aviation Related “AVR” zone
- Amendments to Airport Environs Overlay “AEO” zone
- Elimination of the existing Bayview Ridge Urban Growth Area Regulations
- Amendment to Parking Requirements
- Amendments to Landscaping Requirements
- Amendments to reflect new Concurrency standards

Department Recommendation Draft Bayview Ridge Development Regulations

Following are requests for revisions to the *Draft Bayview Ridge Development Regulations* (January 2004 edition) as submitted by property owners.

For each proposed revision, the proposed revision is identified, and the draft regulation and the requested alternative regulation are presented. The department analysis and department recommendation regarding the proposed change then follow. These specific requests have been taken from:

Written Public Correspondence On: Draft Environmental Impact Statement Evaluating Alternative Approaches To Creating A Bayview Ridge Subarea Plan in accordance with the Skagit County Comprehensive Plan and the Growth Management Act – The Draft Bayview Ridge Subarea Plan and Draft Development Standards (June, 2003)

Written Public Correspondence On: Final Environmental Impact Statement for the Bayview Ridge Subarea Plan and Development Regulations in Accordance with the Skagit County Comprehensive Plan and the Growth Management Act – Draft Bayview Ridge Subarea Plan and Development Standards (March, 2004)

Skagit County Planning Commission Public Hearing – April 27, 2004

1.1. Bayview Ridge Residential – BR-R

Request: Skagitonians to Protect Farmland - Letter dated May 29, 2003

Draft Development Regulation: Section 14.16.335 5) BR-R Dimensional Standards

Proposed Revision: Review the minimum lot size for townhouses and condominiums to make sure they are not overly constrained in terms of creating a variety of housing stock as called for.

Department Analysis: Residential density in the BR-R zone is proposed as four units per acre, but is this density is applied over the entire development site. Townhouse/ condominium development is allowed, with a minimum lot size of 12,000 square feet and minimum lot width of 60 feet. Setbacks for all residential uses are the same. All new land divisions must also provide at least 10% open space. Beyond these constraints, the only other condition is that Planned Residential Development (PRD) Regulations are required to be in place prior to any land division where 5 or more lots are proposed. It is anticipated that the PRD regulations will address many issues associated with townhome/condominium development.

Department Recommendation: The department recommends that the draft 14.16.335 5) a) - BR-R Minimum Lot Area and Minimum Width, remain unchanged.

1.2. Elimination of Bayview Ridge Heavy Industrial Zone

Request: Jack Wallace - Letter dated April 15, 2003

Draft Development Regulation: Section 14.16.190 Bayview Ridge Heavy Industrial - HI

Proposed Revision: Zone all remaining undeveloped industrial property Light Industrial – the Heavy Industrial designation is not needed, and may not be feasible due to restrictions based on the City of Burlington sanitary sewer system and airport compatibility.

Department Analysis: The Subarea Plan proposes a 411-acre Heavy Industrial zone in the southwest corner of the Subarea. Of the 411 acres, 114 acres are considered developed, 147 acres are identified as wetlands and wetland buffers, and 150 acres are considered developable. The developable acreage is held by both the Port of Skagit County and private individuals.

The HI zone has access to both SR 20 and Farm to Market Road. The Terasen Pipeline traverses the area in an east-west direction.

The HI zone provides opportunities for heavy industrial uses, without precluding light industrial uses.

Zoning only the undeveloped properties light industrial would result in parcel by parcel zoning.

Department Recommendation: The department recommends retention of the HI zone.

1.3. 14.16.180 Bayview Ridge Light Industrial, BR-LI

Request: Jack Wallace - Letter dated May 5, 2004

Draft Development Regulation: Section 14.16.180 2) Light Industrial Permitted Uses

Proposed Revision: Create a wider mix of permitted uses within the LI zone - allow offices and retail uses, but specifically exclude large retail establishments such as shopping centers, malls, theaters, department stores, warehouse retail stores, and similar facilities commonly known as “big box” retail establishments.

Department Analysis: The intent of the revision is to provide more flexibility within the LI zone in order to encourage economic growth, while prohibiting uses generally seen as incompatible with light industrial development at Bayview Ridge.

As now drafted, Section 14.16.180 2) – “Permitted Uses” generally allows offices only when associated with another permitted use – i.e., a manufacturing firm may also have its office on-site, but an office building, by itself, is not allowed. Item o) under permitted uses does, however, allow “Telephone and Internet calls centers and server farms; web hosting facilities and other communication centers.” Item w) allows “Vocational educational and training centers”.

Office use is not necessarily incompatible with light industrial use. Office use typically generates more employees and hence more vehicular traffic; the impact of the additional traffic is dependent upon the size of the office, the specifics of the adjacent road configuration, and access. Large offices also require connection to the sanitary sewer system.

Regarding retail uses, Section 14.16.180 b) also allows commercial uses only when associated with another permitted use. “Principally retail sales of goods and services” are excluded. “Incidental retail sales of consumer goods and services are permitted as accessory uses,” however. Section 14.16.180, item g) allows “Repair, sales, rental, and storage facilities for equipment, including heavy equipment, farm equipment, marine equipment, boats, airplanes, and trucks”. Item t) allows lumberyards.

The requirements for an accessory use include that the floor area allocated to retail sales not exceed 10% of the gross floor area of the building, and that the retail sales area shall not exceed 2,000 square feet.

The request to allow stand-alone retail uses that require large spaces to display goods would address uses such as boat, mobile home/RV sales, truck/auto sales, etc. These uses typically draw considerably more customer vehicular traffic; as with office development, the impact of the additional traffic is dependent upon the size of the development, the specifics of the adjacent road configuration, and accessibility.

An important consideration related to the request to allow additional uses in the LI zone is the potential loss of a limited supply of available industrial land vs. the need to add to existing retail acreage. The Bayview Ridge industrial area is an important component of the County's industrial land base. The area is zoned for industrial development, is served by the largest airport in Skagit County, as well as rail service and SR 20, has large parcels available for potential users, and has an established urban infrastructure. If this property is developed with non-industrial uses, will there be opportunities elsewhere in the County for industrial development? Within Bayview Ridge, will non-industrial uses such as offices and retail sales see further industrial development as incompatible with their activities? Is there already adequate retail space elsewhere in the County?

Further analysis by staff responsible to administering development regulations indicates that the criteria for special use consideration are difficult to apply to specific applications, particularly the requirement to evaluate whether sufficient land for industrial development remains. This task needs to be accomplished at a broader level than the individual development application. It is also clear that the major property owners are interested in developing using a business park model with a mix of flex-space, offices, and light industrial.

Department Recommendation: The department recommends that "Offices" be added to Section 14.16.180 5) as a permitted use. This would allow stand-alone office development (in addition to those offices already allowed under Section 14.16.180 2) b) and o).

Regarding retail uses, the department recommends no change to the draft regulations.

1.4. Revision to Concurrency Requirements Related to Sanitary Sewer Service

Request: Initiated by Skagit County Planning and Development Services

Draft Development Regulation: Section 14.28.105 4) Sanitary Sewer Service in Bayview Ridge UGA, which reads as follows:

"As a condition of development approval, ...if the property on which a proposed use is located is within 200 feet of an existing City of Burlington sewer line, the owner must obtain confirmation of sewer availability from the City of Burlington prior to development approval and must connect to the existing sewer line. If the proposed use is located beyond that 200-foot

limit, the use may apply for a waiver to operate on an approved holding tank, pursuant to the requirements of “

Proposed Revision: Revise to read, “As a condition of development approval, the applicant must first obtain the consent of the City of Burlington to permit extension of, and connection to, the sanitary sewer system. This consent shall be conditioned upon a requirement that the applicant actually connect to the sanitary system, at the time of development or by a later, specific date. The City may require the applicant to construct the system, or may require the applicant to pay or post satisfy security for its pro rata share of the cost of construction, and such other term which the municipality determines to be appropriate. The decision to permit an extension of the sanitary sewer outside the corporate limits of the municipality is a decision reserved to the Burlington City County or authorized representative, and such consent shall be prerequisite for an application to be deemed complete.

If the City of Burlington approves an interim holding tank,”

Department Analysis: The County Commissioners recently adopted an Interim Ordinance No. 020040015 regulating development within unincorporated Urban Growth areas. This ordinance addresses connection to the sewer system in unincorporated UGAs. Revision of the Bayview Ridge concurrency requirement would result in a uniform policy regarding connection to the sewer system in all unincorporated UGAs.

Department Recommendation: The department recommends approval of the proposed revision.

1.5 Airport Environs Overlay (AEO) Zone

1.5.1

Request: Jack Wallace – April 27, 2004 testimony and Letter dated May 5, 2004

Draft Development Regulation: Section 14.16.210 4) a) i) – Prohibited Uses in all Airport Safety Zones. This section now reads:

“The following land uses shall be prohibited in all airport safety zones:

(a) K-12 schools (replacement and expansion at Bayview Elementary school is allowed); hospitals; nursing homes; churches; and, other similar land uses, as may be determined by the Administrative Official, for which the significant common element is the relative inability of the people occupying the space to move out of harms way in a safe and rapid manner”.

Proposed Revision: Delete language “... for which the significant common element is the relative inability of the people occupying the space to move out of harms way in a safe and rapid manner”. Mobility should not be the criteria for prohibiting uses.

Staff Analysis: The safety compatibility criteria recommended by WSDOT Aviation were originally based on the 1993 CALTRANS (State of California Department of Transportation) Division of Aeronautics *Airport Land Use Planning Handbook*. This Handbook identified “*special function restrictions*” for “*certain critical types of land uses - particularly schools, hospitals and other uses in which the mobility of occupants is effectively limited...*”, and stated that these uses “*...should be avoided near the ends of runways regardless of the number of people involved.*”

The updated CALTRANS Handbook (2002) addresses the issue of “*special function restrictions*” and risk in more detail. The potential for risk associated with large numbers of people in a confined space includes the type of population that is at risk, the likelihood of an accident, and the ability of the population to exit a damaged building or structure. As noted in the 2002 Handbook, near airport accidents are infrequent, but have potentially high consequences. This is especially true if the population involved is considered vulnerable – i.e., children, the elderly, the infirm, etc. The cost of avoiding the risk should also be considered - i.e., in a relatively undeveloped area, avoiding the creation of a potential risk may be feasible. In an existing, urbanized area the cost of avoiding the risk may be too high.

In the 2002 Handbook, the recommendations for Safety Zone 6 are:

Allow residential uses.

Avoid children’s schools, large day care centers, hospitals, nursing homes.

Allow most non-residential uses; prohibit outdoor stadiums and similar uses with very high intensities.

Children’s schools, large day care centers, hospitals, and nursing homes would be prohibited in Safety Zones 1 through 5.

The 2002 handbook also addresses “Uses in Structures versus Ones not in Structures”. With outdoor uses, people could potentially see a plane coming and vacate the area; this would not be true, however, for an outdoor use such as a stadium with limited exits. Within buildings, the building itself would provide substantial protection from the crash of a small airplane, and if a structural fire were to ensue, there would likely be some time to exit the building.

Staff Recommendation: The staff recommends that the draft 14.16.210 4) a) i) AEO Prohibited Uses be revised to read:

“The following land uses shall be prohibited in all airport safety zones:

(a) ~~K-12 schools (replacement and expansion at Bayview Elementary school is allowed);~~ hospitals; nursing homes; outdoor stadiums, and, other similar land uses, as may be determined by the Administrative Official, for which the significant common element is a vulnerable population or the relative inability of a large number of people occupying a space and being unable to move out of harm’s way in a safe and rapid manner”. **Schools may only be allowed if approved as a Hearing Examiner Special Use consistent with the criteria described in Section 14.16.335 4(h) of the Development Regulations.**

1.5.2

Request: Planning Commission

Draft Development Regulation: Section 14.16.210 4) a) i) – Prohibited Uses in all Airport Safety Zones. This section now reads:

“The following land uses shall be prohibited in all airport safety zones:

(a) K-12 schools (replacement and expansion at Bayview Elementary school is allowed); hospitals; nursing homes; churches; and, other similar land uses, as may be determined by the Administrative Official, for which the significant common element is the relative inability of the people occupying the space to move out of harms way in a safe and rapid manner”.

Proposed Revision: Delete language “*K-12 schools (replacement and expansion at Bayview Elementary school is allowed)*”. Because the Subarea will include an urban residential population, the school district should be allowed to submit an application for construction of a new school; this application can then be reviewed for public safety issues.

Staff Analysis: The safety compatibility criteria recommended by WSDOT Aviation were originally based on the 1993 CALTRANS *Airport Land Use Planning Handbook*. This Handbook identified “*special function restrictions*” for “*certain critical types of land uses - particularly schools, hospitals and other uses in which the mobility of occupants is effectively limited...*”, and stated that these uses “*...should be avoided near the ends of runways regardless of the number of people involved.*”

The updated CALTRANS Handbook (2002) addresses the issue of “*special function restrictions*” and risk in more detail. The potential for risk associated with large numbers of people in a confined space includes the type of population that is at risk, the likelihood of an accident, and the ability of the population to exit a damaged building or structure. As noted in the 2002 Handbook, near airport accidents are infrequent, but have potentially high consequences. This is especially true if the population involved is considered vulnerable – i.e., children, the elderly, the infirm, etc. The cost of avoiding the risk should also be considered - i.e., in a relatively undeveloped area, avoiding the creation of a potential risk may be feasible. In an existing, urbanized area the cost of avoiding the risk may be too high.

In the 2002 Handbook, the recommendations for Safety Zone 6 are:

Allow residential uses.

Avoid children’s schools, large day care centers, hospitals, nursing homes.

Allow most non-residential uses; prohibit outdoor stadiums and similar uses with very high intensities.

Children’s schools, large day care centers, hospitals, and nursing homes would be prohibited in Safety Zones 1 through 5.

In the case of schools in Zone 6, the recommendation is to “avoid”, not “prohibit”. The *Development Regulations* can identify schools as a Special Use that requires approval of the Hearing Examiner, after a public hearing; at this hearing, the specifics of the case may be evaluated. Specific criteria for approval may also be identified in the development Regulations.

Staff Recommendation: The Staff recommends that:

1. Draft 14.16.210 4) a) i) AEO Prohibited Uses be revised to delete language “*K-12 schools (replacement and expansion at Bayview Elementary school is allowed)*”.
2. Draft 14.16.335 (Bayview Ridge Residential) 4) Hearing Examiner Special Uses be revised to include:
 - h) Schools, subject to consistency with the following criteria:*
 - i) The proposed facility is not sited in Safety Zones 1 through 5, and is sited as close to the outer edge of zone 6 as possible.*
 - ii) The proposed facility will not be adversely impacted by noise.*
 - iii) The proposed facility is appropriately sited with respect to the air traffic pattern at the Bayview Ridge Airport.*
 - iv) The site includes, or abuts, permanent open space.*
 - v) Location within a designated Urban Growth Area is required.*
 - vi) The School District has investigated other potential sites and found that no other site is reasonably available.*
3. Draft 14.16.210 AEO Zone, Table 1
Safety Zone 6, Non-UGA Land Use, add the following:
“Expansion of Bayview Ridge Elementary School is allowed.”