



PLANNING & DEVELOPMENT SERVICES

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MEMORANDUM

To: Board of County Commissioners
From: Planning and Development Services
Date: October 24, 2011
Re: 2011 Comprehensive Plan Amendments (CPAs) Docket Recommendations

This memorandum contains summary information regarding the 2011 Comprehensive Plan Amendment proposals, as well as the Planning and Development Services ("Department") docketing recommendations on those proposals.

The Board of County Commissioners (BCC) has scheduled a public docketing hearing for Tuesday, November 8, from 1:30 to 2:30 pm in the Commissioners Hearing Room.

Amendment Proposals Under Consideration for 2011 Docket

Four timely applications were submitted by property owners in this year's Comprehensive Plan Amendment (CPA) cycle, all of them proposing to amend the Skagit County Comprehensive Plan and Zoning Map. (Maps of the amendment proposals are included as Attachment 1.) They are:

1. James Ritchie, map amendment proposal (PL11-0239)
2. Art Jensen, map amendment proposal (PL11-0240)
3. Triton-America LLC, map amendment proposal (PL11-0249)
4. Lake Erie Trucking (Bill Wooding), map amendment proposal (PL11-0250)

The Department has also proposed two county-initiated Comprehensive Plan policy amendments, and one amendment that may affect the Comprehensive Plan and Bayview Ridge Subarea Plan policies, text and related maps:

- C-1. Policy amendment proposal to further refine rezone requirements for Rural Intermediate and Rural Village land use designations.
- C-2. Minor "housekeeping" policy and text amendments to correct scrivener's errors.
- C-3. Amendment to integrate the outcome of the Bayview Ridge PUD Ordinance and Master Site Plan process into the Bayview Ridge Subarea Plan.

Department Docketing Recommendations:

By code, the Department shall make docketing recommendations to the BCC based on the docketing criteria found at SCC 14.08.030(3). Those recommendations are one item that the BCC considers in making its docketing decisions, along with comments received from applicants and other members of the public. The full docketing process, including the docketing criteria,

are described in the Department's memo to the BCC dated October 11, 2011, and available for review on the Department website at www.skagitcounty.net/planning.

It is important to note that a recommendation by the Department to include a proposed amendment in the current year's docket is procedural only and does not constitute a Department recommendation as to whether the amendment should ultimately be approved.

Department Docketing Recommendation Summaries

Property-Owner Proposals	Department Recommendation
1. James Ritchie (PL11-0239)	Docket
2. Art Jensen (PL11-0240)	Do not docket. The same proposal has been considered and denied twice before by the County, in 1996 and 1997. Rural Intermediate areas cannot repeatedly be expanded.
3. Triton-America LLC (PL11-0249)	Do not docket. Proposed redesignation from Ag-NRL to Natural Resource Industrial (or Rural Marine Industrial or UGA) is not achievable in this docket cycle. Proposed use would be best suited on an urban industrial site.
4. Lake Erie Trucking (Bill Wooding), (PL11-0250)	Docket

Department-Initiated Proposals	Department Recommendation
C-1. Policy amendment proposal to further refine rezone requirements for Rural Intermediate and Rural Village land use designations.	Docket
C-2. Minor "housekeeping" policy and text amendments to correct scrivener's errors.	Docket
C-3. Amendment to integrate the outcome of the Bayview Ridge PUD Ordinance and Master Site Plan process into the Bayview Ridge Subarea Plan.	Docket

Amendment Requests and Department Recommendations

Property-Owner Amendment Requests

1. James Ritchie – PL11-0239 (See Map No. 1)

Mr. Ritchie is requesting to redesignate a 5.5 acre parcel (P69432) from Ag-NRL to Rural Reserve (RRv) located in the Skagit Beach Community plat adjacent to the Swinomish Channel. The applicant has owned the parcel since 1989 and desires to construct a single-family home on the parcel.¹ The applicant has obtained Lot of Record certification from Skagit County (#PL04-0495) that identifies the lot as a substandard lot of record subject to SCC 14.16.850(4). Skagit County has approved a septic system for the property.² The parcel contains a barn, built in 1992, and evidence of agricultural activities, including horse grazing and limited cultivation.

Mr. Ritchie has applied for a change in designation to Rural Reserve to allow construction of a single-family home, rather than pursuing the option of constructing the house as an agricultural accessory use under SCC 14.16.400(2)(o) after demonstrating three years of farm income. Per the application materials, Mr. Ritchie states:

“...this Lot does not meet Ag-NRL designation criteria, as it has not been used for agriculture, and is unsuitable for commercial agricultural use because of its small size, irregular shape, inclusion in the Skagit Beach community, poor soils, and lack of access for farm equipment and operations.”

Discussion and Docket Recommendation:

Initial Department review suggests that the subject parcel does meet many of the Ag-NRL designation criteria found in Comprehensive Plan Chapter 4, policy 4A-1.1, including: parcel size (5 acres or greater); location in the 100-year floodplain; the presence of agricultural structures (barn, livestock fencing) and animals (horses). Adjacent lands are primarily in agricultural use to the northeast, east, and southeast of the property, although not to the western sides of the property.

It is unclear at this time whether the parcel contains prime farmland soils. The attached map (Attachment 2) from Skagit GIS shows the majority of the property consisting of the soil type “Xerorthents,” rather than the “Skagit” soils found immediately to the east. Xerorthents is not one of the soil types identified as “prime farmland soils” in the Comprehensive Plan as used for designating Ag-NRL (see Chapter 3, Natural Resource Lands Element, Goal A: Agricultural Resource Designation Criteria; and the Natural Resource Lands Profile, p. 4-7). It is a soil type typically associated with dikes and other cut and fill activities. However, the department’s geologist indicates that only field verification can determine the subject soil type for sure. By

¹ Applicant also sold a 0.9 acre portion of the original parcel (Parcel B) in 1997 (the extreme northern portion of the original tract). This is now parcel P69435. A single-family residence was subsequently built on that parcel which still retains its original Ag-NRL zoning.

² Design and soils approval. Septic system is not built.

elevation, the subject property would appear to be more consistent with the Samish soils to the east than the Xerorthents soils associated with the dike in that area.

The applicant could construct a residence on the property by complying with the Department's Administrative Interpretation regarding SCC 14.16.400(2)(o) by demonstrating three years farm income from the site. However, the applicant has said he is not interested in doing so. Some might suggest that "common sense" would support rezoning the property to Rural Reserve to allow the applicant to build a residence that could also be approved under Ag-NRL, subject to SCC 14.16.400(2)(o).

Others would suggest that a route is available to construct a residence under Ag-NRL zoning and that if the County is serious about protecting its agricultural lands, it should not allow incremental losses of those lands, even of smaller parcels located at the interface of agricultural and residential land.

Both arguments also hinge in part on determination of the soils issue.

The Department recommends docketing this proposal.

The issue of soil type and quality warrants further exploration through the full review process.

Also, this is the first proposal the County has received proposing to de-designate Ag-NRL land for residential use since the Department issued the Administrative Interpretation on SCC 14.16.400(2)(o) (allowing a single-family residence as an accessory use in the Ag-NRL zone with demonstration of three years of farm income). The proposal raises important policy questions that warrant fuller consideration by the public, the Planning Commission, and ultimately the Board of County Commissioners. A final decision on this particular proposal, particularly if the property is determined to have prime farmland soils, could have significant long-term consequences:

- 1) If the redesignation is approved, it could open the door to many future proposals to de-designate smaller parcels on the edge of Ag-NRL with a potentially significant cumulative impact.
- 2) If the redesignation is denied, it could establish a firm precedent that the County intends to protect its currently designated Ag-NRL lands, particularly when there is an option for a property owner to build an accessory residence by demonstrating three years of farm income.

2. Art Jensen – PL11-0240 (See Map No. 2)

Mr. Jensen seeks to rezone two contiguous parcels – Jensen (P35204) 5.9 acres, and Peck (P112774) 5.0 acres – from Rural Reserve (RRv) to Rural Intermediate (RI). The rezone would change the allowed residential densities from one unit per 10 acres in Rural Reserve to one unit per 2.5 acres in Rural Intermediate. The parcels are located at/near the intersection of Bay View-Edison and Bay View roads. The Jensen parcel already has a single-family residence on it. The Peck parcel is undeveloped. The applicant is requesting an up-zone to create two additional rural development rights—one for each parcel.

According to the information submitted by the applicant, these two parcels were twice reviewed for 2.5 acre Rural Intermediate zoning as part of the County’s GMA planning process twice previously – in 1996 and again in 1997. Rural Intermediate zoning was denied in both cases.³

The subject parcels are adjacent to Rural Intermediate-zoned parcels along their northern boundaries. Rural Reserve-zoned parcels border their three other sides. Elements of the man-made built environment –Bay View-Edison Road and Bay View Road – border the parcels on at least one other side (two in the case of Jensen).

Rural Intermediate zoning is defined as a “Limited Area of More Intensive Rural Development” (LAMIRD) under RCW 36.70A.070(5)(d). Comprehensive plan policy 3B-1.4 defines designation criteria for LAMIRDs. Chief among the criteria is the requirement that the county establish a “logical outer boundary delineated predominantly by the built environment” to “minimize and contain” these areas based on the “uses in existence on July 1, 1990” (the effective date of the Growth Management Act).

Docket Recommendation:

The Department recommends denial of this proposal for docketing. These parcels were considered for 2.5 acre zoning twice before in the last 15 years. Rural Intermediate zoning was denied both times. The Department believes it is inappropriate to consider repeated incremental requests for Rural Intermediate LAMIRD expansion outside of the community subarea planning process.⁴ The comprehensive plan recognizes that Rural Intermediate may be appropriate in certain rural “study areas” identified in the Plan Implementation and Monitoring Element, but only after completion of the necessary community plan. The Growth Management Hearings Board takes a dim view of LAMIRD expansions after their original designation. Unless state law

³ Applicant includes letter dated April 13, 1997 to County Commissioner Hart indicating a request for 2.5 acre zoning after their property was reviewed and designated RRv in the comprehensive plan adopted in 1996. Also included in the applicant’s file is a letter dated April 30, 1997 from the BCC indicating a free “window of opportunity” for them during the “first year of comprehensive plan review” to request a change in land use designation based on the possibility that their (RRv) “designation [was] based on a technical mapping error or by inadvertent application of designation criteria”. The BCC ultimately declined RI designation again on the property after the second review of the parcel in 1997. This current 2011 CPA proposal appears to be seeking a “third look” at RI zoning on the same property within the past 15 years.

⁴ The Department recommends a new county-initiated comprehensive plan amendment proposal to address this issue. See proposed amendment C-1 later in this memo.

and corresponding county policy changes, incremental requests for Rural Intermediate designation should be discouraged.

Additionally, in recent years, one or more of the County Commissioners has stated that no new rural upzones should be allowed without requiring the recipient to purchase and transfer development rights from areas in the county where development is least desirable – such as in Ag-NRL and the floodplain. The *Envision Skagit 2060 Citizen Committee* recommendations support this concept as well – that no new residential development rights should be created in rural areas unless a similar number of rights are extinguished or transferred from elsewhere.

The Department has received approval from the Washington Department of Commerce to submit a grant proposal to support development and implementation of a Transfer of Development Rights (TDR) program that could enable such transfers in Skagit County. It may be appropriate to revisit LAMIRD expansion requests in the future once a TDR program or other similar mechanism is in place to facilitate density transfers and mitigate LAMIRD expansions.

3. Triton-America, LLC – PL11-0249 (See Map No. 3)

The applicant requests a map designation change on a 47 acre parcel (P19669) from Ag-NRL to Natural Resource Industrial (NRI). The parcel is located between the Twin Bridges Marina on Highway 20 and Padilla Bay. The intent is to allow construction of up to a 150,000 square foot building for the “fabrication of marine vessels and associated parts, as well as other energy and aviation-related fabrication and manufacturing work.” The applicant also proposes to dedicate an adjacent 124-acre Ag-NRL parcel (P19663) bordering on Padilla Bay as a “wildlife sanctuary.”⁵ The properties have a mature stand of poplar trees originally planted and managed for pulp and/or other by-products.

The applicant submitted a comprehensive plan amendment proposal in 2006 for the same parcels (PL06-0689). At that time, the applicant requested designation change from Ag-NRL to Rural Marine Industrial (RMI) in order “to construct a 15-slip luxury boat marina and channel, a boat storage area with associated boat maintenance, dry dock, and painting facilities. Access through the proposed new channel would be through a planned lock.” The 2006 proposed amendment was denied for docketing by the BCC.

Docketing Options

Recognizing the importance of promoting economic development and helping local businesses to expand here in Skagit County, the Department has evaluated three different options or regulatory routes possibly available to the applicant to achieve the requested use. Each option is discussed below with a corresponding docket recommendation.

Option 1—Ag-NRL to Natural Resource Industrial (applicant requested change).

Applicable comprehensive plan policies include Rural Element policies 3C-2.1, 2.2, 2.3 and 2.4, as well as NRI-specific policies 3C-5.1, 5.2, 5.3, 5.4, 5.5, 5.8 and 5.9. One of these policies in particular appears to prohibit the outright redesignation of the property to Natural Resource Industrial for the purposes described by the applicant.

CP policy 3C-5.5 which states: “Designation of an agricultural industrial park is the **only** instance where Ag-NRL land may be converted to a NRI [Natural Resource Industrial] designation, and **only** based on a finding that the agricultural sector is better served by having the land in NRI designation to permit an agricultural industrial park.” (emphasis added).

If the applicant is not interested in this route – converting the property to an agricultural industrial park – then he must first demonstrate that the land does not meet the Ag-NRL designation criteria, before it can be changed to some other land use designation.

⁵ Since no zone change is requested for the 124 acre parcel, it will not be reviewed in any detail here. A comprehensive plan amendment to dedicate open space or conduct estuarine habitat restoration on this parcel is not required. Habitat restoration in the Ag-NRL zone is allowed per comprehensive plan policy 4A-4.6 and permitted as a hearing examiner special use under SCC 14.16.400(4)(d).

The applicant states that the “the property has been proven to be non-viable for the zoned use of Ag-NRL. The site cannot be farmed due to salt water intrusion.” However, no soils analysis is provided in support of this assertion. If the proposal is docketed, the Department would require, at a minimum, site-specific groundwater and soil testing as part of an assessment of the land’s agricultural viability.⁶

Even if an Ag-NRL parcel were subject to harmful saltwater intrusion, that factor alone would not necessarily qualify the parcel for removal from Ag-NRL designation. There are other agriculture-related uses allowed under SCC 14.16.400 on Ag-NRL. Some crops are more salt-tolerant than others, and some allowed uses in Ag-NRL are not necessarily soil dependent – such as agricultural processing facilities, and non-permanent greenhouses.

Allowed Uses in NRI

If the applicant can successfully demonstrate that the property should be removed from Ag-NRL designation, the requested Natural Resource Industrial designation and zone does not appear well-suited to his goal of constructing up to a 150,000 square foot building for the “fabrication of marine vessels and associated parts, as well as other energy and aviation-related fabrication and manufacturing work.”

According to CP policy 3C-5.2 regarding the Natural Resource Industrial designation: “Permitted uses include natural resource processing facilities; wholesaling and storage of products associated with natural resources; limited direct resource sales; and limited natural resource support services.” As the zoning code further illustrates, typical permitted uses include agricultural processing facilities, sawmills, and seafood processing and accessory on-site sales.

The Natural Resource Industrial code provision that comes closest to the applicant’s stated goal is SCC 14.16.160(2)(c)(i): “Fabrication, maintenance, and repair of equipment, vessels, and structures associated with aquatic natural resource industries.” That appears significantly more limited than the applicant’s intent.

Shoreline Master Program Consistency

The Shoreline Master Program jurisdiction applies to the parcel(s) and proposal. The shoreline jurisdiction of the parcel(s) is Rural. Industrial uses may be permitted as a conditional use, if they can show the use is water and shoreline dependent or related. Water related industry should occur in areas other than those of high environmental or agricultural value (SCC 14.26.7.11(1)(B)(4)). Water related industrial facilities should be located, designed and maintained to avoid, or if necessary withstand, 100-year flood frequency flooding and/or storm tides or surges without becoming hazards and without placement of massive structural defense works (SCC 14.26.7.11(1)(B)(5)).

Additionally, a number of critical areas are present on the site including wetlands and hydric soils, priority habitats and species, as well as moderate to high liquefaction potential soils. Any use other than ongoing agriculture would need to comply with standard Critical Areas Ordinance for avoidance, mitigation, etc.

NRI-Option Docket Analysis:

The proposal has some very desirable attributes that meet several important goals, including creating jobs and estuary restoration. However, as submitted, the proposal is inconsistent with current Natural Resource Industrial-related agricultural resource land provisions of the comprehensive plan and seeks a wider range of issues than is allowed in the NRI zone. **The Department recommends denial for docketing under this option.**

Option 2— Ag-NRL to RMI

This alternative – which the applicant has not applied for in this cycle - would expand the existing Rural Marine Industrial (RMI) zone applied to the Twin Bridges Marina and “Western Lime” property immediately adjacent to the subject parcel. Rural Marine Industrial- specific comprehensive plan policies include 3C-6.1, 6.2, 6.3 and 6.4 that states, in particular, “...only lands contiguous to areas with existing RMI zoning may be redesignated/rezoned to RMI.” This is a requirement that the applicant appears able to satisfy.

However, 3C-6.4 also requires that any RMI expansion must be “on a minimal scale.” The 47 acre parcel subject to RMI rezone consideration is even larger than the adjacent Twin Bridges Marina and Western Lime existing RMI-designated properties combined. The RMI zone is classified as a LAMIRD by the comprehensive plan. Therefore, a “logical outer boundary” and “infill/outfill” analysis would be required per policy 3B-1.2 and 1.4 under this option. The fact that the subject 47 acre parcel is larger than the entire existing adjacent RMI designation suggests that it would fail to meet the logical outer boundary test.

This option also appears inconsistent with the applicable RMI zoning requirements of SCC 14.16.170 which allows the “fabrication and construction of structures and vessels” as an “incidental” accessory use. Boat building is clearly not an outright permitted use in the RMI zone nor is it even identified as an allowable special use. This would be inconsistent with the applicant’s intended purpose to develop a large – up to a maximum 150,000 square foot – building to fabricate marine vessels and associated parts as well as energy and aviation related fabrication and manufacturing work.

For this proposal to proceed through docketing and meet the requirements of SCC 14.08.030, additional considerations would have to include, at a minimum, amendments to SCC 14.16.170 that would allow “vessel fabrication” as a permitted, conditional or hearing examiner special use in the RMI zone. The associated non-resource industrial and non-marine industrial “...energy and aviation related fabrication and manufacturing” uses listed by the applicant would likely also require amendments to SCC 14.16.170 to authorize these as additional accessory uses.

It is important to note that the current Rural Marine Industrial comprehensive policies, map designations, and zoning code were arrived out through settlement negotiations involving Skagit County, the Swinomish Tribe, the City of Anacortes, Friends of Skagit County and several private parties. Reopening RMI policies, designations and code could be a very difficult and time-consuming task.

Seeking RMI designation would also require the applicant to meet the Ag-NRL designation (de-designation) criteria in CP policy 4A-1.1 and 4A-3.1. The same concerns and considerations raised in the discussion of NRI designation above would apply here as well.

RMI-Option Docket Analysis:

The RMI option is, at a minimum, inconsistent with current RMI permitted and accessory use provisions of the county code and the LAMIRD provisions of comprehensive plan policy 3B-1.4. The applicant submitted a similar request for RMI zoning in 2006 (PL06-0689) that was denied for docketing for a variety of reasons. **The Department, again, recommends denial for docketing under this option.**

Option 3—Ag-NRL to UGA

This alternative – which, again, the applicant has not proposed – would expand the existing Swinomish UGA boundary immediately eastward across the Swinomish Channel to approximately encompass the Twin Bridges Marina, “Western Lime” property and the 47-acre subject parcel in this proposal.

UGA expansion requirements are contained in SCC 14.08.020. There are many substantive as well as procedural issues to be addressed here. Most notably, the Swinomish Tribe would have to concur and sponsor this option under SCC 14.08.020(2).

This approach would also require the applicant to meet the Ag-NRL designation (de-designation) criteria in CP policy 4A-1.1 and 4A-3.1 as codified in SCC 14.08.020(4)(b)(iv), as discussed above.

If the goal is to allow the proposed uses on the property, including the non-resource industrial and non-marine industrial “...energy and aviation related fabrication and manufacturing” uses listed by the applicant, this option might be a better fit, especially if the BCC does not wish to pursue potentially difficult code changes to expand siting opportunities or permitted use options under RMI or NRI.

UGA-Option Docket Analysis:

The UGA option is, at a minimum, inconsistent with current UGA modification provisions of the county code. **The Department recommends denial for docketing at this time under this option.** The applicant might initiate discussions with the Swinomish Tribe about its interest in expanding its UGA.

Summary Department Analysis

The Department does not find a viable route forward under any of the options explored for the Triton-America, LLC CPA proposal under the 2011 CPA cycle, without significant amendments to either the existing applicable comprehensive plan policies, implementing regulations and/or the proposal itself. **Therefore, the Department cannot recommend docketing this application as proposed above.**

Additional Board Docketing Option

Another option—should the BCC choose to docket this proposal—would be for the SEPA Responsible Official to issue a Determination of Significance (DS) for the proposal that would allow for preparation of a programmatic (non-project), limited scope, Environmental Impact Statement to explore alternatives, including revisions to the proposed uses and/or size of the proposed comprehensive plan amendment proposal as well as possible revisions to applicable Skagit County comprehensive plan policies and implementing regulations to allow such development. Docketing the proposal and requiring an EIS would allow the county and the applicant to explore potential agricultural de-designation issues, the saltwater intrusion issue, environmental restoration opportunities on Padilla Bay⁷, applicability of this estuary restoration proposal to the Tidegate Fish Initiative target of estuary restoration, as well as impacts and potential mitigation measures from the proposal.

4. Lake Erie Trucking (Bill Wooding) – PL11-0250 (See Map No. 4)

The applicant proposes to redesignate an approximately 35 acre parcel (P19168) from Rural Resource-Natural Resource Land (RRc-NRL) to Rural Reserve (RRv). The parcel on Fidalgo Island is located along the east side of Rosario Road approximately 0.4 miles southwest from Marine View Drive. The parcel is forested and undeveloped with topography that slopes downhill westerly at an approximate 10 to 15 percent grade toward Rosario Road. The applicant has obtained Lot of Record certification from Skagit County (#PL11-0210) that identifies the lot as a substandard lot of record eligible to be considered for development permits subject to SCC 14.16.850(4).

To the north of the subject parcel, the applicant owns approximately 56 acres of land also designated RRc-NRL. A Mineral Resource Overlay designation covers approximately 25 acres, and there is an active gravel pit within the MRO that is accessed from Marine View Drive to the north (see attached map and aerial photo for additional details).⁸ The land to the east and southeast of the subject parcel is designated Rural Reserve while land to the southwest and west is designated Rural Intermediate.

The subject parcel and adjacent Rural Resource-NRL is one of the few remaining blocks of RRc-NRL land on Fidalgo Island. The applicant is requesting an up-zone to Rural Reserve to secure additional residential development rights.

The applicant asserts that the subject parcel does not meet the RRc-NRL designation criteria identified in comprehensive plan policy 4C-1.1. In support of RRc-NRL de-designation, the applicant cites the parcel's nonconforming size, poor soil productivity for forestry production and seedling survival, lack of mineral resources and lack of enrollment in the current use taxation program. The applicant has provided Natural Resource Conservation Service soil survey data and maps in support of the de-designation request.

⁷ Padilla Bay is designated by NOAA as National Estuarine Research Reserve.

⁸ The MRO overlay on the adjacent parcel includes a density policy (4D-1.4) that restricts CaRD developments from within ¼ mile of the nearest boundary of the MRO. That would require any CaRD development to generally be clustered on the central and southern portion of the subject parcel.

There is a significant range of allowable residential densities possible on the 35 acre parcel depending on the zoning designation and subdivision process chosen. The various residential dwelling unit density options for the subject parcel allowed under the existing RRC-NRL and the proposed Rural Reserve zoning are shown in the following table.

Land Use/Zoning Designation	Allowable Density (DU's)	
	Standard	CaRD
<i>Existing</i>		
Rural Resource (RRC-NRL)	1.0 ⁹	3.0 ¹⁰
<i>CPA Proposal</i>		
Rural Reserve (RRv)	3.0 ¹¹	7.0 ¹²

Comprehensive plan policy 3A-2.4 encourages Conservation and Reserve Developments (or CaRDs) as the preferred approach to accommodating future residential development, where applicable, on rural and resource lands. Under the rezone proposed by the applicant, residential unit capacity on the subject parcel would more than double under the preferred CaRD development approach, and triple under the standard subdivision process. The potential increase in allowable density is significant—especially for a large and scarce resource land designated parcel on Fidalgo Island.

Discussion and Docket Recommendation:

Based on initial review, the Department does not necessarily agree that the property warrants removal from RRC-NRL designation. Although the parcel itself is less than 40 acres in size, it is part of a larger block of RRC-NRL. According to soils maps, a majority of the parcel (approximately 56%) contains soils rated PFLG 3 as identified in the Rural Resource-NRL designation criteria, with the remainder rated PFLG 4. An initial examination of the property by the Department’s geologist indicates uniform tree growth across the subject site and across the two soil types.

The County initiated a subarea planning process for South Fidalgo Island several years ago. While the subarea plan was never completed, there was much public opposition to upzoning rural island lands to allow increased development.

However, the applicant has made issue with the subject parcel’s qualifications for RRC-NRL zoning under designation criteria in 4C-1.1 and has submitted supporting documentation that warrants docketing the proposal for further review and evaluation. The size, nature and location

⁹ Utilizing standard maximum RRC-NRL density of one (1) unit per 40 acres.

¹⁰ Utilizing CaRD density bonus authorized in comprehensive plan policy 4C-1.2, where the maximum allowed gross density in the RRC-NRL zone is one (1) unit per ten (10) acres in CaRD land divisions.

¹¹ Utilizing standard maximum RRv density of one (1) unit per ten (10) acres.

¹² Utilizing CaRD density bonus authorized in comprehensive plan policy 3C-1.1, where the maximum allowed gross density in the RRv zone is one (1) unit per five (5) acres in CaRD land divisions.

of this parcel and the proposed increase in zoning potential suggest it requires careful scrutiny that can only be provided through the CPA evaluation process.

County-Initiated Amendment Requests

Following is a brief summary of the two county- initiated Comprehensive policy amendment proposals.

C-1. Rural Intermediate (RI) and Rural Village (RV) Comprehensive Plan Policy Amendments

This amendment proposes to revise the applicable Rural Intermediate (RI) and Rural Village (RV) policies in the Comprehensive Plan. The proposed policy revisions would aim to treat potential Rural Intermediate and Rural Village¹³ expansion requests (i.e., rural up-zone requests) with greater consistency. The proposal would require such LAMIRD rezones:

- 1) Only be considered when proposed as part of a community subarea plan, and
- 2) That transfer of development rights, conservation easements or other mechanisms are *considered* as part of any applicable proposed LAMIRD expansion to facilitate density transfer or extinguishment of an equivalent number of rural or resource land development rights elsewhere in the county.

These amendments would create a formal vehicle to consider implementation of the *Envision Skagit Citizen Committee's* recommendation for “no net gain” in existing countywide rural or resource land development rights¹⁴ as a means to protect the county’s long term rural character.¹⁵ In other words, the *Citizen Committee* has recommended that any net gain in residential development rights on a rural parcel—approved by the county through an up-zone—should also require a corresponding extinguishment of an

¹³ Including Rural Village Residential (RVR) and Rural Village Commercial (RVC) zones

¹⁴ *Envision Skagit 2060 Citizen Committee Final Recommendations, October, 2011: “The Committee is concerned about the...[potential buildout]... in Skagit County rural and resource lands, as reflected in the Envision Plan Trend scenario modeling.... All told, [today] there are... [more than] ... 13,000 not-yet-exercised [existing] development rights in the rural and resource lands. Not all of these are anticipated to be built out by 2060, but under current plans and policies the large majority likely would be. This could have very serious negative impacts on environmental resources, natural resource lands and industries, and rural character.”* The Committee further recommends: “*Skagit County should use all available tools to shape future development in rural and resource lands to minimize negative impacts...[t]hrough the use of land use designations and zoning, purchase and transfer of development rights and conservation easements...[and that]... [i]n so doing, the County should set a consistent policy for preserving rural character...*”

¹⁵ *Envision Skagit 2060 Citizen Committee Final Recommendations, October, 2011: “The County should modify its population distribution goal to direct 90 percent of new population growth to urban areas – mostly cities and towns – and 10 percent to rural areas, instead of the current 80/20 split. Moreover, the County should seek to direct half of the rural 10% to clustered “conservation developments” and/or expanded rural villages. The reduced development capacity in rural areas implied by these targets should be achieved through purchase or transfer of development rights. Development rights that are transferred should be sent to urban areas and existing rural villages, or encouraged to develop in small clusters, where they will have less impact on the environment and will be more efficient to serve with transportation and other infrastructure.”*

equivalent number of rights on a rural or resource land parcel (or parcels) elsewhere in the county¹⁶.

The Envision Citizen Committee's recommendations have not been adopted by the BCC and are not binding on county policy. As noted above, these amendments would create a mechanism to consider possible implementation of some of the committee's recommendations.

Recommended Comprehensive Plan Policy Amendments—Rural Residential Policies

Proposed revisions are shown in underline and/or ~~strike-through~~ format.

3C-1.3 *Rural Intermediate (RI).* *The Rural Intermediate (RI) designation applies to rural areas where the average existing and/or surrounding parcel density is predominantly more than or equal to 1 parcel per 2.5 acres or 1/256th of a section, not including any lands within a UGA. If rural lands proposed to be added to the RI designation have a density of less than 1 parcel per 2.5 acres, these lands must be included in any calculation of "average existing and/or surrounding parcel density." These RI designations are intended to balance property rights in the legally vested lots and the built environment that is reflected in certain rural areas of the County with the GMA requirements to minimize sprawl and concentrate growth in urban areas.*

Areas may be considered for designation as RI by identifying clearly-contained logical boundaries that are delineated predominantly by the built environment existing on July 1, 1990, per policy 3B-1.2 above. However, in some cases, where lots were legally created since that time, but prior to adoption of the Comprehensive Plan and have either been developed, or have vested rights to develop at those densities, RI designation may be appropriate on those lots as well. Finally, as described in more detail under the Rural Study Areas policies in the Plan Implementation and Monitoring Element, some RI density may be appropriate in one or more of those study areas, but only after completion of the necessary community plan.

- a) *The RI designation does not necessarily apply to every existing lot smaller than 2.5 acres in the County since, to do so, could result in a pattern of scattered and unconsolidated areas of more intense rural development.*
- b) *Within the Rural Intermediate designation, the minimum lot size that may be created through a land division is 2.5 acres, resulting in a maximum residential gross density of 1 dwelling unit per 2.5 acres.*
- c) *Proposed Rural Intermediate zone expansions will only be considered if and when proposed as part of a community subarea plan. As discussed in greater detail in Chapter 12, community plans draw upon the local knowledge, experience, and preferences of community residents, provided*

¹⁶ The Citizen Committee has expressed this intent in specific applicability to the potential use of transferable development rights to expand certain rural village LAMIRDs. It has also recommended that the County restrict future development opportunities in environmentally significant rural and resource land areas such as floodplains and riparian corridors and that mechanisms be utilized to compensate property owners in such cases for loss of any development rights. The Committee notes that "[t]hose rights [should be] transferred to logical and desirable places for development, including existing urban areas, rural clusters, and existing rural villages, situated on high ground, out of harm's way, away from natural resource lands, with good access to the transportation and transit network and other rural infrastructure". The Committee goes on to note: "There would be practical challenges to transferring thousands of development rights, and purchasing large numbers of rights would not be cheap. However, we do not believe that it is fair...to attempt to achieve this scale of a reduction in rural development rights through downzoning."

that such is consistent with the Growth Management Act, Countywide Planning Policies, and the Comprehensive Plan.

- d) Any proposed Rural Intermediate zone expansion and commensurate increase in residential development rights must consider and evaluate the use of transfer of development rights, conservation easements or other mechanisms to facilitate density transfer or extinguishment of a comparable number of rural or resource land development rights elsewhere in the county as a means to protect the county's long term rural character, productive natural resource lands, and environmental quality, and to mitigate LAMIRD expansion.

3C-1.8 *The community planning process is the preferred method to determine the sizes, configurations, uses, and development potentials specific to each Rural Village. As discussed in greater detail in Chapter 12, community plans draw upon the local knowledge, experience, and preferences of community residents, provided that such is consistent with the Growth Management Act, Countywide Planning Policies, and the Comprehensive Plan.*

- a) *Issues appropriate for consideration through a community plan include suitable land uses within the Rural Village, community infrastructure requirements, and development standards and design guidelines to protect and retain important features valued by the community.*
- b) *The outer boundaries of a Rural Villages shall only be amended through a community plan or through a 7-year GMA Update, provided that the boundaries of the historic Rural Villages shall be defined predominantly by the built environment that existed on or before July 1, 1990.*
- e) *Because Rural Villages are the preferred location for commercial uses in the Rural area, the establishment of new Rural Village Commercial designations within existing Rural Village boundaries may occur through the annual Comprehensive Plan amendment process, and is not required to occur through a community plan.*
- d) Any proposed Rural Village zone boundary expansion and commensurate increase in residential development rights must consider and evaluate the use of transfer of development rights, conservation easements or other mechanisms to facilitate density transfer or extinguishment of an equivalent number of rural or resource land development rights elsewhere in the county as a means to protect the county's long term rural character, productive natural resource lands, and environmental quality, and to and mitigate LAMIRD expansion.

Department Analysis:

The Department recommends docketing this proposal. The Department may alter, revise and or amend the proposal during the review and evaluation process to ensure consistency with the intent of other comprehensive plan policies and implementing regulations, or at the direction of the Board and with due consideration to the recommendations of the *Envision Skagit 2060 Citizen Committee*.

Board Docketing Option

The Board may choose to docket or not to docket this proposal.

C-2 Housekeeping Revisions to Comprehensive Plan Policies and Text

This amendment proposes to review and make minor un-substantive revisions to Comprehensive Plan policies and text to correct inconsistencies in policy enumeration, SCC references, and/or update policy language references to GMA requirements that have changed since the 2005 Comprehensive Plan Update (e.g., change “7 year GMA Updates” to “GMA-Mandated Updates,” etc.).

Department Analysis:

The Department recommends docketing this proposal.

Board Docketing Option

The Board may choose to docket or not to docket this proposal.

C-3. Bayview Ridge Subarea Plan Amendments to Integrate Outcome of Bayview Ridge PUD Ordinance & Master Site Planning Process (See Map No. 5)

The County recently committed to work with the Port of Skagit County to develop a Planned Unit Development ordinance that would implement the Subarea Plan and ultimately allow significant residential development at Bayview Ridge. As part of that process, the owners of land in the Bayview Ridge Community Center (BR-CC) zone will develop a master site plan for that zone and their other Bayview Ridge holdings. The Department expects that process—which will likely complete before the Department finishes processing this batch of comprehensive plan amendments—will necessitate amendments to the Subarea Plan to allow greater flexibility in an approved PUD development or master site plan, such as allowing the relocation of the community center, allowing mixed uses or live/work spaces, or adjustment of the BR-CC parks requirement to better fit the County Parks Comprehensive Plan. This amendment proposal will be further developed in that process before referral to the Planning Commission and reintegration with the remainder of the docket before final consideration by the BCC.

Department Analysis:

The Department recommends docketing this proposal.

Board Docketing Option

The Board may choose to docket or not to docket this proposal.