



110 N. First Street | Suite C  
P.O. Box 2632 (mailing)  
Mount Vernon, WA 98273  
360-419-0988  
friends@fidalgo.net  
www.friendsofskogitcouny.org

November 8, 2011

Commissioner Ken Dahlsted  
Commissioner Sharon Dillon  
Commissioner Ron Wesen  
Skagit County Board of County Commissioners

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SKAGIT COUNTY  
PDS

RE: Comments on Proposed 2011 Comprehensive Plan Amendments Docket Recommendations.

Dear Commissioners:

Thank you for the opportunity to comment on the proposed 2011 Skagit County Comprehensive Plan changes.

**Board of Directors**

**Gene Derig, President**  
Anacortes

**June Kite, Vice-President  
& Acting Treasurer**  
Mount Vernon

**Marilyn Derig, Secretary**  
Anacortes

**Howard Pellett, Board  
Member**  
Guemes Island

Friends of Skagit County opposes any additional conversions of Ag-NRL lands without the county first completing a lands analysis and an economic cumulative effects analysis. In the same way that the cities use urban land use analysis to determine need before expanding their UGAs, we think the county should be doing a similar evaluation for Natural Resource Lands, including Ag-NRL, before permitting conversions. Agriculture remains the largest economic driver in the county and continued reduction of this infrastructure reduces the flexibility of crop rotation as well as the ability of producers to profit. We urge you to deny the proposed conversions on the 2011 list until the analysis of lands shows that conversion of resource lands will not damage the farming community and Skagit's agricultural economy.

For these reasons we request that you deny the Ritchie and Triton-America, LLC requests for conversion.

**Staff**  
**Ellen Bynum**  
Executive Director

**Gerald Steel, P.E.**  
Counsel

We remain very concerned that the County has allowed some Conservation and Reserve Developments (CaRDs), which were first submitted for approval in the 1990s to continue development. The PD&S has correctly identified a time limit for pursuing old permits and should enforce these by requiring new permit applications from proposed developers. The CaRD also needs to have an upper cap on number of homes permitted as well as a re-think of the "reserve" areas being reserved for development, rather than agriculture, forestry or more suitable rural uses. On parcels where the surrounding use is Ag (regardless of zoning - 56K acres in Rural zonings are still in ag production) the reserve should be for continued Ag uses.

*People dedicated to  
preserving Skagit County's  
rural character by protecting  
the natural environment;  
supporting sustainable,  
resource-based economies; and  
promoting livable urban  
communities for present and  
future generations.*

Skagit County cannot continue to pretend that its land use actions are preserving farms and forests without a thorough assessment of total acres per zone; calculating past conversions, the rate, and determining the economic effects of these changes; an analysis of actual uses on non-resource zoned lands; and an analysis of how these conversions affect the overall Skagit economy. There is no proven need for these conversions without this analysis.

For similar reasons we ask that you deny docketing for the Lake Erie Trucking proposal. Skagit County does not have to our knowledge an analysis of the effects of cumulative conversions of forest resource lands. This proposal should

be considered in the context of the South Fidalgo sub-area plan that the County has accepted and whose citizen council is active in determining changes to the plan.

LAMIRD expansion outside of the original designations is not permitted and has been upheld by the Growth Management Hearings Boards. For this reason Friends asks that the Jensen request be denied.

As we understand it both the PUD ordinance and the Master Site Plan process must coordinate with the Bay View Ridge subarea plan process. This means that the decisions adopted in the ordinance, Master Plan and sub-area plan must be consistent and not conflict with one another. The sub-area plan and process should determine the site plan possibilities. This is more than mere housekeeping. In addition, concurrency is required and planning processes must include ways to include and enforce concurrency. Monitoring the costs to the public as well as to the developers, accurately gauging the ability to deliver and coordinate public services and the effectiveness of the proposed designs with regard to demand and need must be included. Bay View Ridge is a stand alone UGA only because the cities, towns and villages of Skagit County did not find ways to accept the projected population growth at the time. Should the population increase locate inside of other urban areas due to a drop in demand (or other reasons), Bay View Ridge must have the flexibility to revise the plan to accommodate reduced growth. Conversely, should the demand increase, the plans must be able to make these changes without undue expense to the public. With stand-alone UGAs being the exception under GMA, and the experience of planning and developing these UGAs being limited, Skagit County needs to be sure incremental decisions don't cost taxpayers and ask for and get technical and planning assistance if necessary.

By attachment Friends concurs with the comments submitted by Evergreen Island regarding the safety issues with siting incompatible uses and agrees that the County has not done a complete analysis of these issues. The attached maps expertly use color schematics to clearly show the risk to be expected should no change be made to the proposed development footprint. We urge you to take the appropriate measures to revise the proposed plans to further reduce the safety risks.

Should you wish further information on any of these comments, do not hesitate to contact us. Thank you for your time and consideration.

Yours sincerely,



Ellen Bynum  
Executive Director

cc: Gene Derig, President, June Kite, Vice-President, Marilyn Derig, Secretary, Howard Pellett, Board Member, Gerald Steel, Counsel and FOSC General Membership

Attachment – Evergreen Islands comment letter – 8 pages and cover.



**Evergreen Islands  
Board of Trustees**

Tom Glade  
*President*

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Brian Wetcher

Julie White

*mailing address*  
P.O. Box 223  
Anacortes WA 98221

*web address*  
[evergreenislands.org](http://evergreenislands.org)

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Evergreen Islands is a  
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# EVERGREEN ISLANDS

November 8, 2011

To: Skagit County Board of Commissioners:  
Ron Wesen (District 1), Ken Dahlstedt (District 2), Sharon Dillon (District 3)

cc: Skagit County Planning & Development Services

**Re: 2011 Comprehensive Plan Amendments (CPAs) Docket Recommendations**

Dear Commissioners:

Evergreen Islands' comments regarding the 2011 Comprehensive Plan Amendments Docket Recommendations are presented in this letter. We greatly appreciate both the opportunity to commend and the time required of you to consider our comments.

Our comments are presented on the following pages.

Respectfully yours,

Tom Glade  
President, Evergreen Islands



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

The subject parcel meets 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.
- The applicant can 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.

Evergreen Islands urges the Commissioners to deny this proposal for docketing for the following reasons:

- Re-designation will open the door to many future proposals to de-designate smaller parcels on the edge of Ag-NRL with a potentially significant cumulative impact.
- Denial will 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.
- 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.

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

Evergreen Islands agrees with the Planning Department's recommendation to deny this proposal for docketing. The reasons for denial include the following (emphasis added):

- Since in the last 15 years. Rural Intermediate zoning was denied twice before, repeated incremental requests for Rural Intermediate LAMIRD expansion outside of the community subarea planning process is inappropriate.
- 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 and corresponding county policy changes, incremental requests for Rural Intermediate designation should be discouraged.
- 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).



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

Evergreen Islands agrees with the Planning Department's recommendation to deny this proposal for docketing. The reasons for denial of this request to change Ag-NRL to Natural Resource Industrial are as follows:

- The applicant 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.
- Some crops are more salt tolerant than others. The properties currently have a mature stand of poplar trees originally planted and managed for pulp and/or other by-products.
- The requested Natural Resource Industrial designation and zone change for the construction of 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" does not conform to the Rural Element policies of the Comprehensive Plan for the Natural Resource Industrial designation.
  - CP policy 3C-5.2 states: "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." Also the zoning code states that typical NRI permitted uses include agricultural processing facilities, sawmills, and seafood processing and accessory on-site sales.
  - CP policy 3C-5.5 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 not better served by having the land in NRI designation to permit an agricultural industrial park."
  - CP policy 3C-6.4 requires that any RMI expansion must be "on a minimal scale." The 47 acre subject parcel is even larger than the adjacent Twin Bridges Marina and Western Lime existing RMI-designated properties combined.
- Since the property is close to Padilla Bay, the use must meet the requirements of the Shoreline Master Program, which it does not.
  - Water related industry should occur in areas other than those of high environmental or agricultural value (SCC 14.26.7.11(1)(B)(4)). The project is adjacent to the Padilla Bay National Estuarine Research Reserve.
  - 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)).
- Any use other than ongoing agriculture will need to comply with standard Critical Areas Ordinance for avoidance, mitigation, etc. A number of critical areas are present on the site including:
  - wetlands and hydric soils
  - priority habitats and species
  - moderate to high liquefaction potential soils.

However, Evergreen Islands is diametrically opposed to Planning Department's suggestion to docket the proposal and require an EIS to "allow the county and the applicant to explore potential agricultural de-designation issues". The simple act of the SEPA Responsible Official issuing a Determination of Significance (DS) represents tacit approval of the de-designation, with only the mitigation measures to be resolved. The SEPA review must come only after the Comprehensive Plan Amendment has been adopted and the applicant has submitted a development application.

#### **4. Lake Erie Trucking (Bill Wooding) – PL11-0250**

Evergreen Islands disagrees with the Planning Department's recommendation to approve this proposal for docketing, and asks the Commissioners to deny this proposal for the 2011 Comprehensive Plan Amendments.

The potential increase in allowable density is significant—especially for a large and scarce resource land designated parcel on Fidalgo Island. The County initiated a subarea planning process for South Fidalgo Island several years ago. While the subarea plan was never completed, upzoning rural island lands to allow increased development was resoundingly opposed by the residents of South Fidalgo.

The property does not warrant removal from RRC-NRL designation for the following reasons:

- 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.
- This proposed increase in rural density should only be allowed in conjunction with the development of the South Fidalgo subarea plan.

### C-3. Amendment to integrate the outcome of the Bayview Ridge PUD Ordinance and Master Site Plan process into the Bayview Ridge Subarea Plan.

Evergreen Islands is both surprised and dismayed that Skagit County is allowing high density development within the WSDOT aircraft safety zones, especially considering the history of the incompatible development allowed adjacent to the Anacortes Airport. The Anacortes Airport is reportedly the most heavily impacted airport in the state of Washington. The City of Anacortes's allowance of incompatible development has created a seemingly unresolvable yet highly predictable conflict between the airport users and the residents of Skyline.

Responding to the adoption of the Growth Management Act (GMA), the Aviation Division of the Washington State Department of Transportation (WSDOT) published a report entitled "Airports and Compatible Land Use<sup>1</sup>." The WSDOT Airport report states,

Through Washington State Senate Bill 6422, which amended the Washington State Growth Management Act and associated provisions in the act, the state recognized the inherent social and economic benefits of aviation. The law requires every city and town, code city, charter city and county having a general aviation airport in its jurisdiction **to discourage the siting of land uses that are incompatible with the airport.** The policy to protect airport facilities must be implemented in the comprehensive plan and development regulations as they are amended in the normal course of land use proceedings. Formal consultation with the aviation community is required and all plans must be filed with the Washington State Department of Transportation WSDOT Aviation Division. Further, the law requires the establishment of an airport land use compatibility technical assistance program available to local jurisdictions.

Further extracts from the WSDOT Airport Report include,

Given that uncertainty can be objectively measured and that the consequences of action can be described in terms of the risks it entails, it is possible to craft **a set of best practices for jurisdictions to help to minimize uncompensated risk and liability.**

It cannot be stated firmly enough that should a jurisdiction decide to reject implementing best practices, ignore historic accident data, or ignore the recommendations of the Airport Land Use Compatibility Program or the FAA regarding appropriate airport land use, it is the jurisdiction that embraces the cost of uncompensated loss and liability — and ultimately the consequences of this action in the terms of higher insurance premiums or possible canceled coverage.

The report's section entitled "Taking Responsibility: Airport Land Use Compatibility Program" states (emphasis added),

The role of the Airport Land Use Compatibility Program is to advocate for **the protection of airports from incompatible development by providing the best available information to jurisdictions prior to their land use decision-making.** The support provided by this program not only gives jurisdictions the ability to craft responsible land use practices, it provides jurisdictions with an additional risk management tool to protect themselves from liability incurred through decision-making based upon irrelevant criteria or anecdotal evidence.

The program typically states, when evidence warrants it, that it is the opinion of the Washington State Department of Transportation Aviation Division that a proposed incompatible development would be in direct conflict with RCW 36.70A.510 and development adjacent to the airport would clearly be an incompatible land use.

Further, the program also issues a disclaimer prior to the jurisdiction's deliberation and action on a zoning request that the WSDOT Aviation Division has fully disclosed to the jurisdiction the best available intelligence on the historic aircraft accident trends that affect lands and land uses on and adjacent to airports.

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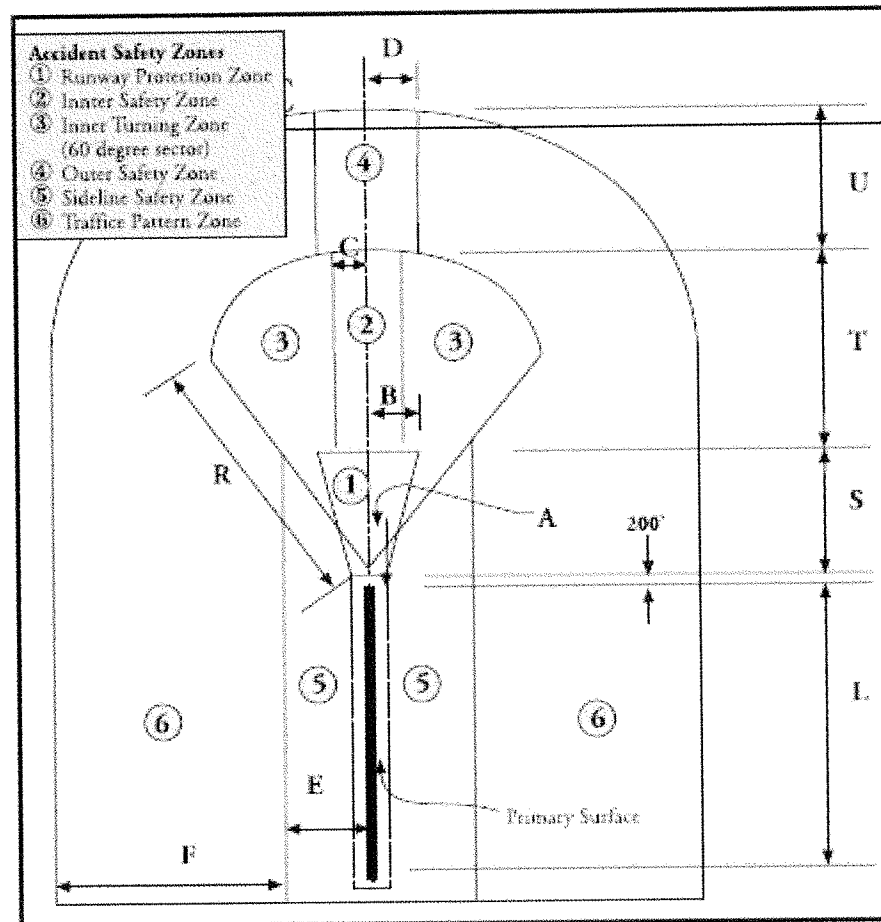
<sup>1</sup> "Airports and Compatible Land Use, Volume 1, An Introduction and Overview for Decision-Makers," Aviation Division of the Washington State Department of Transportation, Revised February 1999.



The safety zones recommended by WSDOT are included in the report's appendices. Figure 1 below shows the Aircraft Accident Safety Zone Diagram included in Appendix A, and Table I below summarizes the Appendix B<sup>2</sup>, Airport Compatible Land Use Matrix

## APPENDIX A

### AIRCRAFT ACCIDENT SAFETY ZONE DIAGRAM



SAFETY ZONE DIMENSION (IN FEET)

Dimension	Runway Length Category (L)		
	Runway less than 4,000	Runway 4,000 to 5,999	Runway 6,000 or more
A	125	250	500
B	225	505	875
C	225	500	500
D	225	500	500
E	500	1,000	1,000
F	4,000	5,000	5,000
R (60° Sector)	2,500	4,500	5,000
S	1,000	1,700	2,500
T	1,500	2,800	2,500
U	2,500	3,000	5,000

Note:  
Data Source: NTSB  
accident investigations  
1984-1991. Illustration  
Source: Hodges and  
Shutt, Institute of  
Transportation Studies,  
University of California,  
Berkeley, 1993.

<sup>2</sup> "Airports and Compatible Land Use, An Introduction and Overview for Decision-Makers," Washington State Department of Transportation

**Table I. Accident Safety Zones, Land Use Guidelines and Planning Strategies for New Development**

Accident Safety Zone	Zone Name	Runway Length Category (L)	Residential Use	Population Density
Zone 1	Runway Protection		Prohibit all residential land uses	0-5 people/acre
Zone 2	Inner Safety		Prohibit all residential land uses	0-5 people/acre
Zone 3	Inner Turning (60-degree sector)	< 4,000 feet	Prohibit all residential land uses	<25 people/acre
		4,000 to 5,999 feet	1 dwelling unit per 5 acres.	<25 people/acre
		> 6,000 feet	1 dwelling unit per 5 acres.	<25 people/acre
Zone 4	Outer Safety	<4 ,000 feet	1 dwelling unit per 5 acres.	<40 people/acre in buildings <75 persons/acre outside buildings
		4,000 to 5,999 feet	1 dwelling unit per 5 acres.	<40 people/acre in buildings <75 persons/acre outside buildings
		> 6,000 feet	1 dwelling unit per 5 acres.	<40 people/acre in buildings <75 persons/acre outside buildings
Zone 5	Sideline Safety		Prohibit all residential land uses	0-5 people/acre
Zone 6	Traffic Pattern	< 4,000 feet	1 dwelling unit per 5 acres.	<100 people/acre in buildings <150 persons/acre outside buildings
		4,000 to 5,999 feet	1 dwelling unit per 5 acres.	<100 people/acre in buildings <150 persons/acre outside buildings
		> 6,000 feet	1 dwelling unit per 5 acres.	<100 people/acre in buildings <150 persons/acre outside buildings

### ***The Airport Zones for the Anacortes Airport***

Figure 2 below shows the Airport Zones for the Anacortes Airport overlaid on an iMap map of the Anacortes Airport.

Figure 3 shows the same map but with the aircraft craft data<sup>3</sup> that was used to define the aircraft safety zones. Note that the history of airplane crashes at the Anacortes Airport validates this data. The data clearly demonstrates the need to limit development within the safety zones.

### ***The Airport Zones for the Skagit Regional Airport***

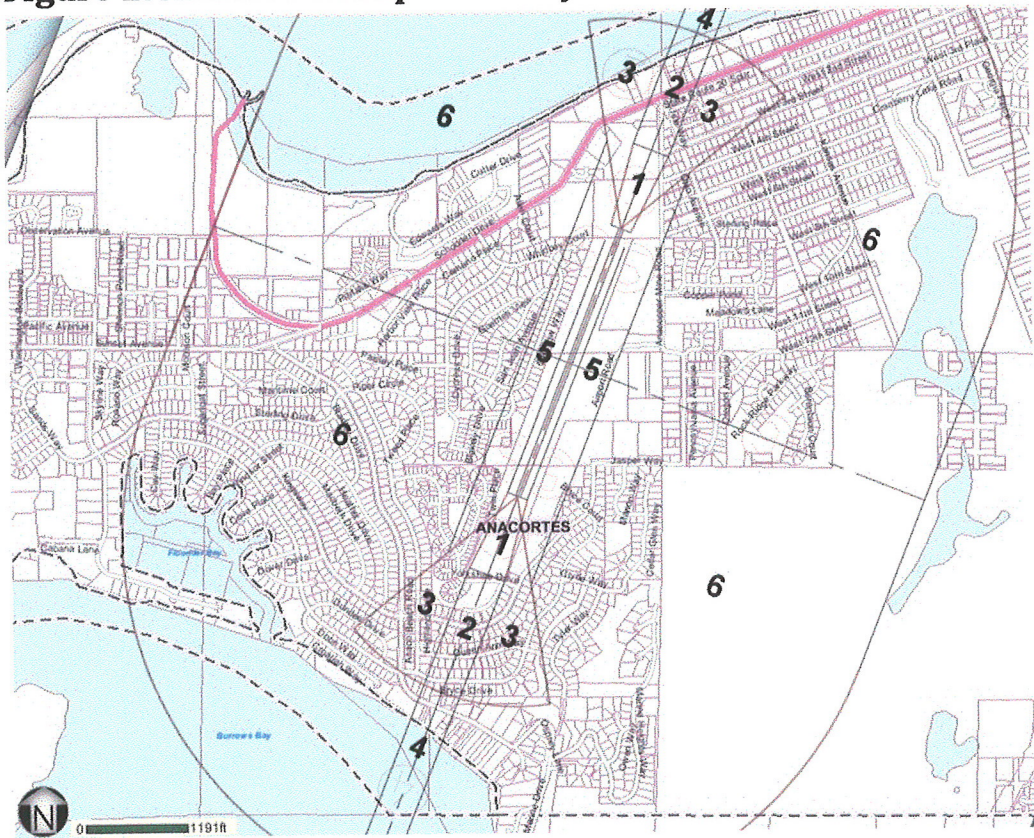
Figure 4 below shows the Airport Zones for the Skagit Regional Airport obtained from the County's iMap web page (Comp/Plan View).

Figure 5 shows the same map but with the Airport Zones shaded to represent the population density recommended by the WSDOT Airport Report.

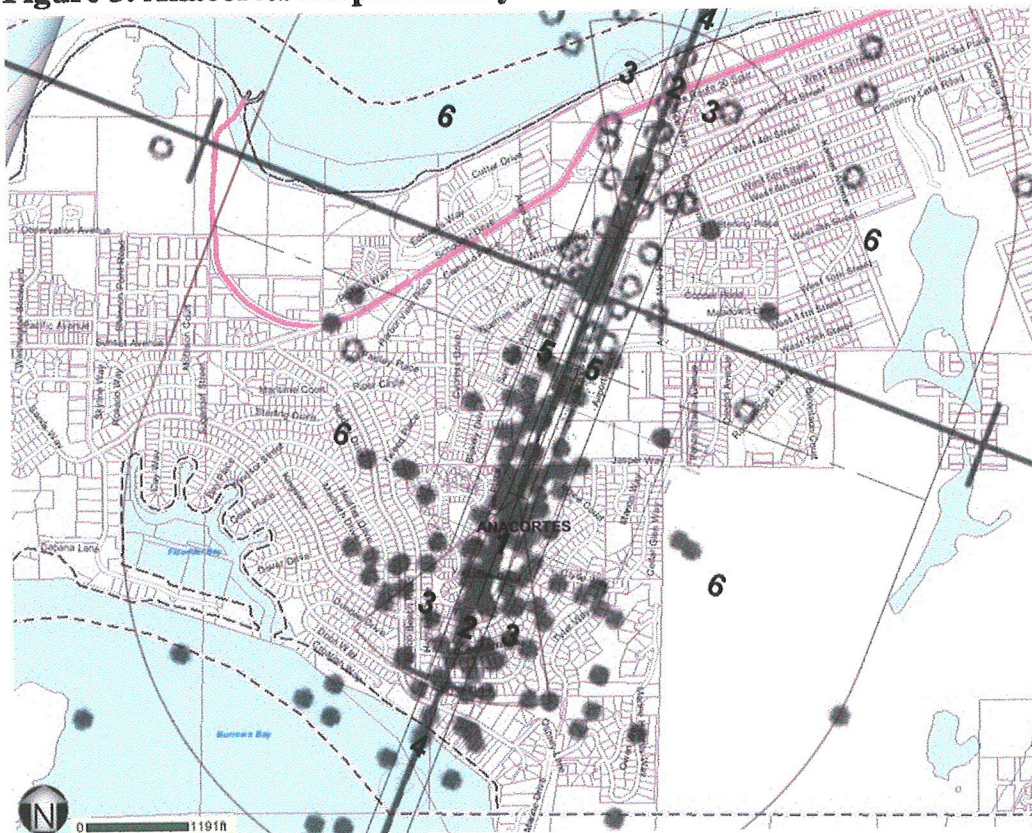
Evergreen Islands reminds the County that you are planning for the long-term planning for the County's future, and in so doing must plan for the inevitable increase of flights at the Skagit Regional Airport.

<sup>3</sup> Hodges, and Shutt. Airport Land Use Planning Handbook. University of California Institute of Transportation Studies: Berkeley, 1993.

**Figure 2. Anacortes Airport Safety Zones – WSDOT Recommendation**

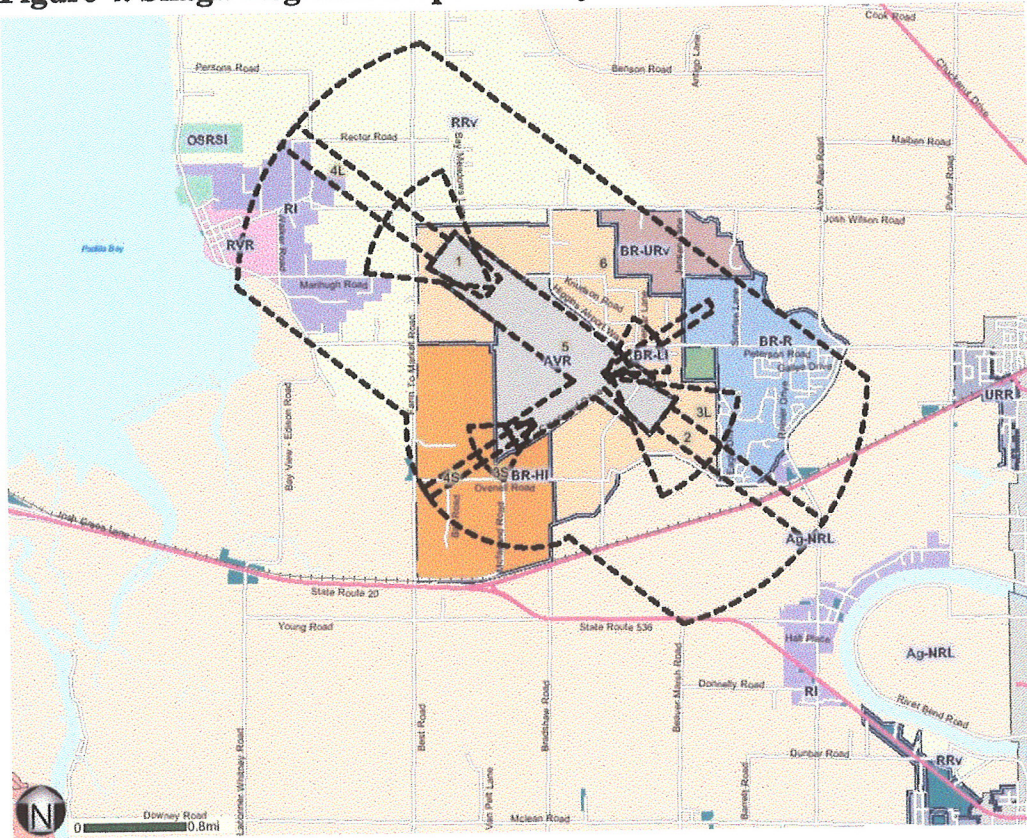


**Figure 3. Anacortes Airport Safety Zones – Crash Data Overlaid**





**Figure 4. Skagit Regional Airport Safety Zones - iMap Comp/Plan View.**



**Figure 5. Skagit Regional Airport Safety Zones - WSDOT Recommendation.**

