



Skagit County Planning & Development Services

DALE PERNULA, AICP *Director*

JACK MOORE, CBCO *Building Official*

Supplemental Staff Report – 2016 Update

Response to public comments on 2016 Update scope

To: Board of County Commissioners
From: Kirk Johnson, AICP, Senior Planner
Re: Response to Public Comments on 2016 Update Scope
Date: December 2, 2014

This memo addresses public comments received during the written comment period between October 16 and November 20, 2014, and testimony received at the public hearing on November 17, regarding the scope of the 2016 Comprehensive Plan Update.

The memo includes an Executive Summary that makes recommendations on some of the major themes of public comment and also clarifies issues where there appears to be some confusion. The second part of the memo includes a list of comments received during the public comment period and provides more detailed responses to many of those comments.

Executive Summary

Some of the public comments suggested that the 2016 Update should include a comprehensive, element-by-element review of the Skagit County Comprehensive Plan and a complete rewrite of Skagit County Code Title 14. The Department disagrees with these suggestions for reasons described in greater detail on p. 3 of this memo and in the more detailed responses to public comment beginning on p. 5. In summary, the proposed “limited” scope continues to be warranted for the following reasons:

- The need to complete the update on time (June 30, 2016)
- The thoroughness of the review conducted through the 2005 Update
- The Commissioners expressed general satisfaction with the current plan and code
- Limited planning resources and a very full, Board of County Commissioner-approved work program of planning projects in addition to the 2016 Update
- The long, complex, arduous and expensive planning history—at one point involving more than 200 non-compliance issues—leading to the current comprehensive plan and code that, only since 2012, have been in full compliance with the Growth Management Act.

Finally, the “limited” update scope nonetheless constitutes a significant amount of work and effort for the Department, the Planning Commission, the public, and the Board of County Commissioners.

That said, a few issues raised in public comment may warrant attention through the 2016 Update if the Board decides to add them to the Update scope.

Rural character and uses

There was significant comment on rural character and the wide number of non-residential uses currently allowed in rural zones, particularly Rural Intermediate. Although the desired outcomes are not always consistent—some wanting less regulation on rural properties, others wanting more restrictions on the types of non-residential uses allowed—the issue appears to be of great interest among the public who commented. Reviewing issues of rural character and uses is not a legal requirement for the County; however, based on public comment, the Commissioners may want to add such a review to the 2016 Update scope. If so, the Department recommends a process for doing so on page 10 of this memo.

Marijuana production in Rural Intermediate

There was significant comment in opposition to marijuana production in rural residential zones, particularly Rural Intermediate. This resulted in part because of a recently-established operation in Alger that is currently under enforcement action for having installed greenhouses contrary to Skagit County Code. Once that use comes into compliance its impacts on neighboring properties should diminish. Nonetheless, if the Commissioners were so inclined, based on the public comment, marijuana production in Rural Intermediate and other rural residential zones could be addressed as part of the broader review of rural character and uses proposed above.

Permitting of small businesses, including gun shops, in rural zones

Some commenters expressed concern about the recent location of a gun shop in the East Edison Rural Center without public notice or opportunity for comment. With one very limited exception (see p. 11 of this memo), state law prohibits the County from regulating gun shops any differently than other businesses operating in the same zone. One commenter suggested that any land use change in the rural area, no matter how small, should require a public comment period. The issue of the types of commercial uses in rural residential zones, and permitting levels for those uses, could be addressed through the more general review of rural uses as described above.

Implementation of the Guemes Island Subarea Plan

Members of the Guemes Island Planning Advisory Committee (GIPAC) urged the County to begin implementing policies and code provisions recommended in the Guemes Island Subarea Plan (GISP), which the Board of County Commissioners approved as part of the Comprehensive Plan in 2011. If the Guemes Island Planning Advisory Committee can identify some clear and relatively simple code changes recommended by the subarea plan, the Department would recommend that the Board consider incorporating those code changes into the list of code changes proposed to move forward through the 2016 Update.

Process clarifications

Some public comments reflect a misunderstanding of the proposed 2016 Update process and require clarification. Often the clarification indicates there are more opportunities for public participation in the 2016 Update than some commenters appear to realize or acknowledge.

- **Work sessions with the Planning Commission and the public are already proposed to help in developing the 2016 Update proposal, prior to the proposal's release and hearings before the Planning Commission.**

These sessions are described on page 7 of the scoping memo, which some commenters appear to have missed.

- **Periodic comprehensive plan updates such as the 2016 Update are not the only opportunity for members of the public to propose amendments to the countywide planning policies, the comprehensive plan, the land use/zoning map, and the development regulations.**

Such amendments may be proposed in any annual comprehensive plan amendment docketing cycle. The scoping memo, on page 5, explains this option in regard to comprehensive plan map amendments; it is also true for policy and code amendments. Members of the public may submit policy, code, and map amendment proposals by July 31 of 2015. As explained in the scoping memo, the Board would have the option of adding them to the 2016 Update through that year's docketing cycle, or not.

- **The \$5,000 Comprehensive Plan Amendment fee only applies to site-specific map amendments, not to policy amendments, code amendments, and non-site-specific map amendments (e.g. area-wide map amendments).**

This is true in any given comprehensive plan amendment cycle, including a periodic update. See SCC 14.08.020(6). This matter could and should be made clearer in the code and fee schedule.

- **The code does not require the Board to appoint a CAC or TAC (technical advisory committee) for the 2016 Update.**

Skagit County Code 14.08.070(2) requires the Board, with exceptions, to appoint a Citizen or Technical Advisory Committee "to participate and assist in the initial development of Comprehensive Plan elements, subarea plans and functional plans." This update does not involve the initial development of any of those items.

- **If the main focus of the 2016 update is technical amendments and updates to the Comprehensive Plan and development regulations—as proposed—then working directly with the Planning Commission to develop and vet the proposal makes good sense.**

This approach will maximize efficiency of both time and resources and will help to ensure that the Planning Commission has ample opportunity to vet major elements of the 2016 Update proposal with the public, before the proposal is released for formal public review and comment.

If the scope of the update were more open-ended, there would be greater merit to appointing a separate citizen advisory committee to help sift through a broad range of views about the direction the County should be taking through its comprehensive plan.

Public Comments

The written comments below were received at the public hearing or during the public comment period and are available on the proposal website at www.skagitcounty.net/2016update.

List updated 12/05/2014 to reflect all speakers at the public hearing, not just those whose names were on the sign-in sheets. *Indicates names added on 12/05/2014.

<i>Name</i>	<i>Organization</i>	<i>Method</i>
Bell, Marjorie	—	Email (11/20/14)
Bowers, Kate*		Testimony
Brown, Michael*		Testimony
Brunisholz, Jacques	—	Email (11/20/14)
Burke, Heather	—	Email (11/20/14)
Bynum, Ellen	FOSC	Testimony + letter (11/17/14)
Campbell, Bonnie	—	Email (11/20/14)
Charles, Stuart	—	Testimony
Collinge, Iris	—	Testimony
Doran, Molly	Skagit Land Trust	Email (11/20/14)
Ehlers, Carol	—	Testimony + notes (11/20/14)
Erbstoeszser, Marie	—	Email (11/20/14)
Fox, Nancy	GIPAC	Testimony
Freethy, Diane	SCARP	Letter (11/19/14)
Good, Randy	—	Testimony
Gorr, Gilda	—	Testimony
Gorr, Gilda and Bill	—	Letter (11/17/14)
Guemes Island Planning Advisory Committee	GIPAC	Letter (11/17/14)
Hallberg, Jeroldine	—	Email (11/20/14)
Hurlimann, Cambria	—	Testimony
Kooiman, Marianne	—	Testimony + letter (11/17/14)
Krienen, Susan	—	Email (11/20/14)
Mangold, Scott	—	Testimony + email (11/20/14)
McGuiness, Cindy	—	Email (11/20/14)
McNett Crowl, Liz	—	Email (11/20/14)
Mitchell, Roger	—	Testimony + letter (11/17/14) + email (11/20/14)
Morgan, Greta*		Testimony
Munsey, Connie	—	Testimony + letter (11/17/14)
Orsini, Stephen	—	Email (11/20/14)
Rooks, Hal	—	Testimony
Rosenhan, Tim	—	Email (11/20/14)
Scott, Lori	—	Testimony

<i>Name</i>	<i>Organization</i>	<i>Method</i>
Scott, Lori and John	—	Letter (11/17/14)
Sherman, Paul	—	Email (11/20/14)
Stauffer, Ed*		Testimony
Xaver, Andrea	—	Email (11/19/14)

Responses to Public Comments

Comments on process

- ☛ **It is the citizens’ comprehensive plan. Encourage citizen participation, provide ample opportunity for public comment, listen respectfully to others’ views, and use plain language, avoiding planning jargon and acronyms.**

These are worthwhile goals.

- ☛ **Reinstitute public work sessions with the Planning Commission and the public before formal proposals are released and Planning Commission public hearings are held. Extend the current public comment period until public work sessions are held.**

The Department has not stopped holding public work sessions with the Planning Commission before release of formal proposals. The 2016 Update scoping memo, on page 7, proposes public work sessions on various elements of the 2016 Update.

- ☛ **Determining that an update is limited before asking for public input seems to have missed the point of full and continuous public involvement.**

The Board of County Commissioners (“Board”), having expressed general satisfaction with the County’s existing Comprehensive Plan, has asked for the scope of changes to the plan through the 2016 Update to be limited. The proposed scope identifies those elements of the Comprehensive Plan and development regulations the Department believes are necessary to address to ensure the plan and code remain compliant with the Growth Management Act (GMA) and current with updated population, employment, and other demographic data. The Board may add additional items to the scope based on public comment if it chooses to. That is the purpose of a scoping process.

- ☛ **The proposed scope does not include enough information for the public to judge the accuracy of the proposal.**

It would be extremely time-consuming to develop detailed policy and code language for each aspect of the proposed scope before the Board decides what the scope should consist of; and it would delay the ability to even have a scoping process for many, many months as those further details were developed. Once the Board approves the 2016 Update scope, additional details about specific aspects of the proposal will be developed and shared with the public. The public will have the opportunity for further review and comment, including through public work sessions with the Planning Commission to assist in development of the proposal.

- ☛ **Are any Countywide Planning Policies proposed for amendment?**

Amendments are proposed to Countywide Planning Policy 1 that would require all jurisdictions (the County and the cities and towns) to conduct a buildable lands analysis as part of this and

future periodic updates. A buildable lands analysis determines how much land within the jurisdiction is already developed and how much additional development potential remains. It is an important tool for helping individual jurisdictions and the Growth Management Act Steering Committee (composed of elected officials from the County, cities, and towns) to determine if jurisdictions are capable of accepting proposed population and employment allocations. The proposed Countywide Planning Policy amendment, which is still under development by the Growth Management Act Steering Committee, would also authorize an annual growth management monitoring process to track population growth, commercial and residential permitting, annexations, and other key land use issues across jurisdictions.

🗨️ **Are there codes proposed for amendment beyond what is listed in the memo?**

The proposed code amendments listed in the scoping memo are all of those that the Department is currently aware of. Exhibit 2 to the scoping memo, "List of proposed amendments to Skagit County Code (SCC)," notes that other code amendments may be added "as needed, to maintain consistency with Comprehensive Plan policies that may change through the 2016 Update process." The Board may choose to add additional items to the 2016 Update scope which could require additional code amendments.

🗨️ **Seven-year updates provide the only chance for members of the public to suggest changes to Countywide Planning Policies, the comprehensive plan, the land use/zoning map and the code.**

That is incorrect. Such amendments may be proposed in any annual comprehensive plan amendment docketing cycle.

🗨️ **There should be no fees for comprehensive plan amendments associated with the 2016 update.**

Fees do not apply to policy amendments and to non-site-specific map amendments (e.g. area-wide map amendments). SCC 14.08.020(6) states that a fee is required "[i]f the proposed amendment is a site-specific amendment that applies to a specific number of parcels which are in readily identifiable ownership or is in conjunction with an identifiable development proposal..."

This is true in annual and periodic Comprehensive Plan update cycles. Members of the public may submit policy, code, or non-site-specific map amendment proposals, without fees, by July 31 of 2015 for consideration in the 2015 docket cycle or, if the Board so decides, for possible inclusion with the 2016 update.

The Department agrees that the fee schedule should be clarified to explain that the \$5,000 fee only applies to site-specific map amendment proposals.

🗨️ **The County should create a different form for Comprehensive Plan policy amendments.**

The Comprehensive Plan Amendment form has a section applicable to all comprehensive plan amendment proposals, policy and map, and an additional section specific to map amendments. The questions asked in each section of the form are drawn from the sections of SCC 14.08 specific to policy amendments and map amendments. There are different submittal requirements for policy vs. map amendments, even though they both use the same form.

🗨️ **The Planning Commission shouldn't be used as the 2016 Update Citizen Advisory Committee. The Planning Commission has a different duty to review the proposal rather than help generate it. Also the Planning Commission doesn't have time for additional duties. The Board should appoint a new citizen advisory committee or technical advisory committee for the update with citizen volunteers assigned to each element of the Comprehensive Plan.**

If the main focus of the 2016 update is technical amendments and updates to the Comprehensive Plan and development regulations—as proposed—then working directly with the Planning Commission to develop and vet the proposal makes sense. If the scope of the update were more open-ended, there would be some merit to appointing a separate citizen advisory committee to help sift through a broad range of views about the direction the County should be taking through its comprehensive plan.

When a proposal developed with the help of a separate advisory committee or board is forwarded to the Planning Commission, the Commission often feels the need to reconsider many of the fundamental issues already addressed by the advisory committee. This can significantly extend the length of a planning process—which many people already criticize as taking too long—and can require members of the public to provide comments to two separate bodies.

In the current situation, the more appropriate and efficient path is to work directly with the Planning Commission. This will allow the Planning Commission to come up to speed on the history of comprehensive planning in Skagit County and on elements of the plan that must be updated to meet GMA requirements. As stated on p. 7 of the scoping memo: “This [approach] will maximize efficiency of both time and resources and will help to ensure that the Planning Commission has ample opportunity to vet major elements of the 2016 Update proposal before it is released for public review and comment.”

🗨️ **Not appointing a Citizen or Technical Advisory Committee is inconsistent with Skagit County Code.**

The Board is not legally obligated to appoint a CAC or TAC. Skagit County Code 14.08.070(2) requires the Board, with exceptions, to appoint a Citizen or Technical Advisory Committee “to participate and assist in the initial development of Comprehensive Plan elements, subarea plans and functional plans.” This update does not involve the initial development of any of those items.

🗨️ **The Comprehensive Plan was developed by and belongs to people of Skagit County. We have a right to determine our future.**

The Comprehensive Plan does belong to the people of Skagit County. The entire 2016 Update proposal will be available for public review and comment per the provisions and requirements of SCC Chapter 14.08. As described on p. 7 of the scoping memo, there will be additional opportunities for public participation in the process than are required under county code or state law. This includes a number of work sessions to be held with the Planning Commission prior to release of the formal proposal that will involve input from the public.

☛ **There is no formal public participation plan. Public participation is scattered throughout code.**

Public participation processes and procedures for legislative matters (those involving updates to policies, code, or the land use/zoning map) are contained in SCC Chapter 14.08, Legislative Actions. They are not scattered throughout the code as suggested. They do constitute a public participation program consistent with the requirements of GMA.¹ Skagit County’s public participation program, found at SCC 14.08.070, and other legislative procedures described in SCC 14.08, are proposed to guide public process for the 2016 Update. This process is proposed to be enhanced with the Planning Commission/public workshops described above.

☛ **County legal counsel has told members of the public that if they don’t state their opposition to a proposal then they are considered to be in support of a proposal.**

County legal counsel has not made any such statement.

☛ **The date and time of the public hearing and the address for the 2016 Update website were not clearly identified in the public notice.**

The date and time of the public hearing and the address for the 2016 Update website were clearly indicated at the top of the public notice, as illustrated. The legal notice printed in the paper also clearly specified that “You may also comment in person or submit written comments at the public hearing at the Commissioners Hearing Room, 1800 Continental Place, Mount Vernon.” Unless otherwise specifically noted, Board of County Commissioner public hearings are *always* held in the Commissioners’ Hearing Room.

Notice of Availability
including notice of
written comment period
and public hearing
Proposal Information

Publish date: October 16, 2014
Proposal name: Proposed
Scope for 2016
Comprehensive Plan Update
Documents available at:
www.skagitcounty.net/2016update

Lead Agency: Skagit County
Planning &
Development Services
Contact Person:
Kirk Johnson, AICP,
Senior Planner
SEPA Responsible Official:
Not applicable at this time.
SEPA review will occur later
in the 2016 Update process

Public hearing body: Board of
County Commissioners
Public hearing date:
Monday, November 17,
at 11:00 a.m.
Written comment deadline:
Thursday, November 20,
4:30 p.m.

¹ The program was first established through resolutions 16519 (1997) and 16852 (1998), where Skagit County clearly indicated it was “adopting a Public Participation Program, under the authority of RCW 36.70A.140.” The public participation program has since been incorporated into SCC 14.08, Legislative Actions.

Notice of Availability

including notice of written comment period and public hearing

Proposal Information

Publish date:	October 16, 2014
Proposal name:	Proposed Scope for 2016 Comprehensive Plan Update
Documents available at:	www.skagitcounty.net/2016update
Lead Agency:	Skagit County Planning & Development Services
Contact Person:	Kirk Johnson, AICP, Senior Planner
SEPA Responsible Official:	Not applicable at this time. SEPA review will occur later in the 2016 Update process
Public hearing body:	Board of County Commissioners
Public hearing date:	Monday, November 17, at 11:00 a.m.
Written comment deadline:	Thursday, November 20, 4:30 p.m.

On its own initiative, the *Skagit Valley Herald* also published the following notice in its “Around and About” section on page A3 on November 16:

AROUND & ABOUT

Compiled from staff reports

COUNTY COMMISSIONS

The Skagit County commissioners will meet at 11 a.m. Monday in the commissioners hearing room, 1800 Continental Place, Mount Vernon, to hear testimony on the scope of the 2016 comprehensive plan update.

tion to interview potential school board candidates will be held in advance at 5 p.m.

The Mount Vernon School Board will meet at 6 p.m. Tuesday at LaVenture Middle School, 1200 N. LaVenture Road, Mount Vernon.

Political notes

- 🗨️ **Commenter wants to review the 1,500 public comments that were received during the early 1990s visioning process that was part of development the comprehensive plan under the Growth Management Act (GMA).**

The County did not begin keeping a detailed record of its GMA planning process until the first appeals were filed against the County in the late 1990s. Staff has searched for public comments or other records from the 1990-1991 visioning process and has not found any documents. They may be available through the state archives in Bellingham or in the personal files of former Planning Commission member Carol Ehlers. The “community vision” derived from that process is described in Chapter 1, beginning on page 1-5 of the current Skagit County Comprehensive Plan.

Comments on issues

Rural character, specifically uses allowed in the Rural Reserve and Rural Intermediate zones

- 🗨️ **There are too many non-residential uses allowed in the rural area, particularly the Rural Reserve and Rural Intermediate zones. “Rural Intermediate reads like a catch-all dumping ground for any land uses that don’t fit anywhere else.” Reevaluate Skagit County Code as it relates to the goals of maintaining rural character in the Comprehensive Plan, specifically the rural zoning designations which cluster development, both commercial and residential. Require that all new development, remodeling and land use changes be publicly noticed and public comment period with a hearing option should legitimate opposition be raised. The Comprehensive Plan and code overemphasize protection of farming and forestry (natural resource) uses and inadequate attention to the rural area, rural people, and the neighborhoods in which they live.**

There was significant comment on rural character and non-residential uses allowed in rural zones. Although the desired outcomes were not always consistent—some wanting less regulation on rural properties and others wanting more—the issue is clearly one of great interest among the public who commented.

It’s important to keep in mind that one person’s nuisance or incompatible use is another’s livelihood or exercise of property rights. Quite often property owners applying for development permits on their rural lands are frustrated by what they see as the limited range of uses allowed in their zone or and the time-consuming and onerous permitting procedures, including public hearings required for many special uses.

Reviewing issues of rural character and rural uses is not proposed in the draft scope and is not an issue Skagit County is legally required to address through the update.

Recommendation However, if the Commissioners may want to add such a review to the 2016 Update scope, the Department would recommend holding a series (i.e. 2-3) of workshops with the Planning Commission and a broad cross-section of the public to review a) definitions and policies regarding rural character, and b) uses permitted in primarily residential rural zones (Rural Reserve, Rural Intermediate, and Rural Village Residential). These workshops might lead to development of a draft Rural Element and zoning code that would propose to restrict certain non-residential uses in specified zones. This could then then be released for public review and comment along with the current Rural Element and code, as part of the formal 2016 Update proposal.

Marijuana

- ☛ **Production and processing of marijuana should not be allowed in the Rural Intermediate zone, including Alger and other rural residential zones with parcels 5-acres or smaller. It is inconsistent with rural character and can have negative effects on surface and ground water quantity and quality, create odors, and create other impacts that diminish rural character and neighbors' quality of life. This should be addressed through the 2016 Update.**

The particular marijuana production facility in Alger that has generated many of these comments is currently under enforcement action for having installed greenhouses contrary to Skagit County Code. Once that use comes into compliance its impacts on neighboring properties should diminish.

That said, the comments raise a broader point about the compatibility of marijuana production and processing facilities in zones that are primarily residential in nature, specifically Rural Intermediate and Rural Reserve. This issue could be addressed through a review through the 2016 Update of Comprehensive Plan policies on rural character and uses allowed in Rural Reserve and Rural Intermediate, as discussed above.

Or, if the Board wanted to address this issue more quickly than would occur as part of the 2016 Update, it could direct the Department to initiate a review of the County's existing approach to marijuana production and processing facilities, including consideration of prohibiting those activities in primarily residential zones. The timing of this review would need to be considered in light of other legislative projects the Department is working on under its work program established by the Board.

Gun shops

- ☛ **A proposed gun shop should not be allowed in the East Edison Rural Center. It is not consistent with rural character and is not compatible with nearby schools, a post office, businesses, and residences. It should not be allowed to open without any opportunity for public comment.**

RCW 9.41.300 substantially constrains the County from imposing restrictions on where a gun shop may locate. The statute provides that:

...counties may enact ordinances restricting the areas...in which firearms may be sold, but... a business selling firearms may not be treated more restrictively than other businesses located within the same zone.

The exception to that general rule is:

...counties may restrict...to not less than five hundred feet from primary or secondary school grounds, if the business has a storefront, has hours during which it is open for business, and posts advertisements or signs observable to passersby that firearms are available for sale.

It does not appear that the County has imposed such a restriction through zoning, but the proposed store is more than 500 feet from a qualifying school anyway. RCW 9.41.290 further provides that the state law "fully occupies and preempts the entire field of firearms regulation

within the boundaries of the state,” which clearly prevents the County from adopting any restriction not specifically authorized by statute.

Any land use change in the rural area should require a public comment period, no matter how small.

Currently a change of use is processed under the building code, which does not provide any opportunity for public comment or a discretionary land use decision by the County.

On-site postings do occur for proposed land use changes (which include some level of discretion), but not for what are known as ministerial (non-discretionary) building code decisions. Small retail is an outright permitted use in the Rural Center zone; therefore no public notice is required for a change from one small retail use to another small retail use.

A notice requirement could be implemented by changing all permitted uses in the zone into special uses; however, that would involve a much more regulatory approach than the process currently in place.

Guemes Subarea Plan

Glad to see the proposal in the scope to integrate subarea plans as chapters of the comprehensive plan. Would like to see the County move forward through the 2016 Update to implement various recommendations in the Guemes Island Subarea Plan, adopted in 2011.

The Department has already incorporated Guemes Island Subarea Plan standards relating to height, bulk, and scale in shoreline areas into the County Shoreline Update. If the Guemes Island Planning Advisory Committee can identify some clear and relatively simple code changes recommended by the County-adopted Guemes Island Subarea Plan, the Department would recommend that the Board consider incorporating them into code changes proposed to move forward through the 2016 Update.

The current interim seawater intrusion policy has inconsistencies and flaws. The Guemes Island Subarea Plan calls for an updated seawater intrusion policy; drafting of such a policy was put on hold in 2012 by Health due to lack of funds. Guemes Island is designated a category 1 aquifer recharge area in the Critical Areas Ordinance. Protecting groundwater is of utmost importance and commenters would like to see the policy moving forward.

This would be more appropriately addressed by the Health Department than by Planning and Development Services through the 2016 Update. Commenters are advised to communicate with the Board of County Commissioners and Health Department staff about that department’s ability to move forward with development of a permanent seawater intrusion policy.

All of the “shalls” were changed to “shoulds” in the Guemes Subarea Plan. This is worrisome because it relieves the County of the duty to implement any of the plan. This needs to be revisited.

The Board in adopting the Guemes Island Subarea Plan decided to change many of those policies from shall to should because it wanted flexibility, based on overall County priorities and department staffing levels, to determine when particular policies could be implemented. That remains the case today. Instead of changing existing “shoulds” back to mandatory “shalls,”

the Department recommends the Board focus on moving forward implementing the Subarea Plan's directives through the code amendments it considers highest priority.

Other scope issues

- 🔊 **The 80/20 goal for urban and rural population growth in the Countywide Planning Policies has only been achieved in a few years since the Comprehensive Plan was adopted. In years when more than 20% of the growth occurs in the rural area, the County should implement policies to limit rural growth in future years until the goal is achieved.**

The County's rate of urban vs. rural development has fluctuated over the years, with the urban share sometimes exceeding 80% and the rural share sometimes exceeding 20%. BERK Consulting, which is helping Skagit County jurisdictions with population and employment projections for their respective 2016 updates, summarized its analysis of growth trends since the 2000 Census as follows²:

Urban and Rural Shares: Based on a review of permit trends, growth has tended to occur in UGAs as directed by GMA and local goals. In 2012, Skagit County considered several methods to estimate urban/rural growth trends; results generally show the County and cities achieved a 79% urban and 21% rural growth split over the years 2000-2010, similar to the 2025 Growth Target policy of an 80/20 split."

BERK also recommended the following: "Recognizing the planning level analysis and imperfect year 2000 census geographies (improved in 2010), using 2010 Census blocks and tracking permits for more accuracy in the future is recommended; this process could be set up as part of a forthcoming land capacity method."

Continued monitoring is important, but the development trends over the past 10+ years appear to indicate that the County and the municipalities are largely meeting the 80/20 urban to rural growth goal contained in Countywide Planning Policy 1.2.

- 🔊 **There are real issues that need to be addressed like the I-5 bridge collapse, proposed "property takings" through the Shoreline Management Program update and proposed pipeline setbacks, the continued weak economy, and implementation of I-502. The emphasis on pedestrian and bicycle transportation is urban not rural. Until the economy recovers, don't spend any time on unnecessary things like transfer of development rights, bike lanes, and Bayview Ridge.**

Completing work on Bayview Ridge was perhaps the Board of County Commissioners' top planning priority for the past several years. The recently-adopted plan amendment included a significant increase in industrial-zoned land to strengthen the Skagit County economy. The Shoreline Master Program update is required by state law, as is a pedestrian and bicycle component as part of the County's Transportation Systems Plan (RCW 36.70A.070(6)(a)(vii)). Transfer of development rights is included in the Department's work plan approved by the Board. As a discretionary item, however, it is not proposed for inclusion in the 2016 Update.

² Skagit County Growth Projections, Summary of Methods and Results (July 2014), memorandum by BERK Consulting developed in consultation with planning directors from Skagit County and the cities and towns through the Skagit Council of Governments. Available on the Skagit County 2016 Update website at www.skagitcounty.net/2016Update.

- 🗨️ **Not one issue in the proposed scope of work reflects the needs of the people of Skagit County; rather it represents the needs and wants of County planning staff. The scope is a sad piece of work.**

The scope of work is based largely on a checklist from the Washington State Department of Commerce advising counties of items that must, by state law, be included in periodic comprehensive plan updates. Part of the Department's obligation is to advise the Board of actions it must take to maintain compliance with GMA and other state laws. Failure to complete the update by the June 30, 2016 deadline may limit Skagit County's access to state transportation, economic development and infrastructure funds. It is the Board's prerogative, based on public comment and available resources, to add discretionary items to the scope of work or not.

- 🗨️ **The County's no net loss of farmland policy is not being implemented. Friends of Skagit County would like to encourage property owners to donate development rights to the Farmland Legacy Program, which is the only permanent mechanism for farmland preservation.**

The Comprehensive Plan contains numerous policies regarding the protection of Agricultural-Natural Resource Land (Ag-NRL) but it has no specific policy calling for no net loss of Ag-NRL or farmland generally. Such a policy was recommended by the Envision Skagit 2060 Citizen Committee in its Final Report and Recommendations. If the Board so desires, it could add consideration of such a policy to the 2016 Update scope.

- 🗨️ **The proposed scope and process doesn't acknowledge the growth of the senior population in Skagit County.**

In fact, the population projection work done by BERK Consulting does factor in the aging of the Skagit County population, which has implications for future employment, transportation patterns (including public transit and non-motorized transportation options), and a shift in housing needs for the future. These issues will be considered further in the proposed updates to the Housing and Transportation Elements of the Comprehensive Plan.

- 🗨️ **You can store hazardous waste in Rural Reserve and inject toxic chemicals into the ground in that zone. There should be stricter regulation of solid and liquid waste dumps in parts of Skagit County where wells are common.**

The zoning code for Rural Reserve (SCC 14.16.320) specifically states: "Does not include storage of hazardous materials." Injection wells are regulated by strict state and federal laws and regulations that prohibit any actions that would harm ground water. These include Part C of the Federal Safe Drinking Water Act; Washington State Water Pollution Control Act Chapter 90.48 RCW; WAC 173-218-010 "Underground Injection Control Program"; and 173-200 WAC "Water Quality Standards for Ground Waters of the state of Washington." Regulatory agencies that enforce these rules include the federal Environmental Protection Agency and the Washington Department of Ecology.

🗨️ **Considering urban planning approaches that promote physical activity is not a mandatory update requirement and should be removed.**

It is correct that this provision of GMA is not required to be considered through the 2016 Update. RCW 36.70A.070(1), referring to counties and cities, reads: “Wherever possible, the land use element should consider utilizing urban planning approaches that promote physical activity.”

The areas where the County might want to consider urban planning approaches that promote physical activity include a) within the Bayview Ridge urban growth area, where existing residents have supported an expanded trail system and safer bicycle and pedestrian travel along Peterson Road; and b) in urban growth areas around cities and towns, where interjurisdictional coordination would help those municipalities build their own bicycle and pedestrian networks. Such coordination would also contribute to the further development of a regional non-motorized network, consistent with the regional non-motorized transportation plan being developed by the Skagit Council of Governments.

🗨️ **The Update should include the Transportation Systems Plan and Transportation Element items identified in the proposed scope, including integration of the SCOG draft regional non-motorized plan into Skagit County’s Comprehensive Plan, Transportation Element, and Transportation Systems Plan’s non-motorized element, particularly focusing on those areas between cities.**

Comment is consistent with the proposed scope.

🗨️ **Supports proposal to address planning approaches that increase physical activity. This is part of an effort to increase emphasis on public health in local jurisdictions’ comprehensive plans.**

Comment is consistent with the proposed scope.

🗨️ **Improving access to walking and biking options are excellent ways to address some population health issues such as general health/fitness, heart cardiac issues, obesity, and others.**

Comment is consistent with the proposed scope.

🗨️ **Public trails are very popular in Skagit County, as indicated by numerous surveys and previous planning process, including Port of Skagit Surveys, public meetings on Bayview Ridge at the Burlington Edison School, Envision Skagit, and others. Trails are also an important component of tourism in Skagit County and help draw businesses to locate and expand here. Opposition to non-motorized transportation comes from a small minority and is not representative of the broader perspective among county residents.**

Comment is consistent with the proposed scope.

🗨️ **There’s been an inordinate diversion and waste of county resources on issues like the Transportation Improvement Plan (“6-year TIP) and non-motorized projects like the Cascade Trail.**

Skagit County is required to update its Transportation Improvement Plan (“6-year TIP) on an annual basis. Two Cascade Trail projects were placed in the current 6-year TIP at the direction of the County Commissioners.

🗨️ **No public input is being allowed on the Transportation Element.**

This is incorrect. The scoping memo proposes a work session with the Planning Commission where public input will be taken to assist in the development of the Transportation Element.

🗨️ **Begin steps to implement UGA open space plan and a transfer of development rights (TDR) program.**

Implementation of the Skagit County UGA Open Space Concept Plan is a discretionary item outside of the proposed scope. Development of a transfer of development rights (TDR) program is proposed for consideration through the 2014 Comprehensive Plan Amendment docket rather than the 2016 Update.

Natural Resource Land issues

🗨️ **Consider standards for purchasing Skagit grown produce for County-sponsored served meals, including jail and juvenile detention center and County-sponsored events and celebrations.**

That is a discretionary item outside of the proposed scope.

🗨️ **Proposal doesn't adequately address forestry.**

Forestry received a great deal of attention through the 2005 Comprehensive Plan Update, including consideration of significant changes in the Industrial Forest and Secondary Forest-NRL designation criteria, which the Planning Commission and Board of County Commissioners ultimately rejected. Although the designation criteria did not change, numerous specific map amendment changes to designated forest land recommended by the Forest Advisory Board were considered and many were approved. A new comprehensive review of forestry is not warranted. As part of its 2014-2016 work program, the Department is addressing the Rural Forestry Initiative (RFI) which is the Forest Advisory Board's top County legislative priority.

🗨️ **Has the mineral overlay ever been addressed as to criteria for selection process?**

A comprehensive review of the mineral resource overlay (MRO) was conducted as part of the 2005 Comprehensive Plan Update.

🗨️ **The proposed scope is virtually silent on water issues.**

The Department is still evaluating Comprehensive Plan policies and text and code provisions related to rural water in light of the state Supreme Court's ruling in *Swinomish v. State*, Wa. Sup. Ct. Case No. 87672-0, and the Department of Ecology's ongoing efforts to develop mitigation options for rural property owners. Proposed changes to the Comprehensive Plan and development regulations will be based on Board of County Commissioner actions and direction on water policy.

🗨️ **The "right to manage natural resources" code provisions protect farming and forestry uses on land in any zone, to the detriment of nearby rural area residents. The public doesn't know these provisions exist.**

SCC Chapter 14.38, Right-to-Manage Natural Resource Lands, does not apply right-to-manage natural resource protections to farming, forestry, and mineral resource extraction activities that

occur on rural lands (those not designated Natural Resource Lands), contrary to the commenters' assertion.

SCC 14.38 does seek to protect natural resource activities from nuisance complaints when those activities occur on designated Natural Resource Land (Ag-NRL, IF-NRL, SF-NRL, RRc-NRL and Mineral Resource Overlay (MRO)), and are conducted according to current best management practices.

Real estate transactions involving land within 1 mile of Ag-NRL and ¼ mile of IF-NRL, SF-NRL, RRc-NRL and MRO-designated land, must disclose that the property is located near designated Natural Resource Lands and there is potential for negative impacts from farming, forestry, and mineral resource activities. Properties located near designated Natural Resource Lands are also identified in the Assessor's Data Base as being subject to the provisions of SCC 14.38.

🗨️ **Use geological and geomorphological information from saltwater shorelines in the Critical Areas Ordinance update.**

The Department will use available scientific information, including those sources referenced, as part of the update of the Critical Areas Ordinance.

🗨️ **There is a great deal of overregulation imposed through the Skagit County Code. New programs, policies and code should be subject to cost-benefit and needs analysis and monitored through performance metrics.**

Many provisions of the code implement requirements created by the Growth Management Act, the Shoreline Management Act, the State Environmental Policy Act, the Local Project Review Act, and other state statutes. Other code provisions implement more locally derived planning goals and policies. In all cases, the County seeks to balance the need to protect the public health, safety, and welfare of the community with the desires and Constitutional rights of individual property owners to use and benefit economically from their property. One person's over-regulation may be another person's inadequate regulation, as the above comments regarding gun shops and marijuana productive facilities illustrate.

With limited planning staff, it would be difficult to subject all new programs, policies and codes to formal cost-benefit and needs analysis. That is in part what the legislative process—including docketing by the Board, SEPA analysis, public review and comment, Planning Commission hearings and deliberations, and final action by the Board—is intended to flesh out in qualitative if not strictly quantitative terms. Performance metrics are a worthwhile thing wherever they can be implemented.

🗨️ **Skagit County Code needs a complete review and revision.**

The Department disagrees. The code can always be improved, and the Department has proposed some 25 code amendments it believes will improve the code or are necessary for continued GMA compliance. There are many sections of the code that would benefit from revision or reorganization. But a wholesale rewrite of the entire code is unwarranted.

The current code implementing the 1997 Comprehensive Plan has been developed over the past 18 years. In the late-1990s and early 2000s, Skagit County faced more than 200 Growth Management Act non-compliance and invalidity issues based on its adopted Comprehensive

Plan and development regulations. The County spent a great deal of financial and staff resources—including planning and prosecuting attorney staff time, as well as expenses for outside legal counsel—bringing those documents into full GMA compliance, which finally occurred in 2012. The process of developing the current code represents thousands of pages of public comment and thousands of hours of Planning Commission and Board deliberations, not to mention extensive briefings and hearings before the Growth Management Hearings Board, to arrive at the code we now have.

🗨️ **The need for a \$27 million new sewer plant is a major obstacle to expansion of Anacortes' population.**

City of Anacortes planners involved in GMA Steering and Technical Committee discussions of the new population allocations have not raised this as a constraint to additional proposed population growth in Anacortes, and the City's Public Works Department denies this is a constraint as well.

🗨️ **The Washington State Department of Transportation (WSDOT) map illustrating the US Department of Transportation's functional classification of public roads for the Anacortes urban area is incorrect and should be updated.**

The 2016 Update will make use of the most current maps available. The County cannot direct WSDOT to update its maps.