CHAPTER 2

URBAN, OPEN SPACE AND LAND USE

Introduction

Land uses in Skagit County fall into four general categories recognized by the Comprehensive Plan: Urban, Rural, Natural Resource Lands, and Open Space. The Urban, Open Space and Land Use Element addresses the general distribution and location, and the appropriate intensity and density, of Urban and Open Space land uses. There are separate chapters for Rural and Natural Resource Lands – Chapters 3 and 4 respectively – because of their significance in Skagit County. This Urban, Open Space and Land Use Element also addresses certain land use goals and policies that are generally applied consistently across all land use categories: the treatment of historic land use approvals; pre-existing, non-conforming uses; public uses; lot certification; and land divisions.

GROWTH MANAGEMENT MANDATE

The following GMA Planning Goals are specific to urban land use and open space:

- Encourage urban development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.
- Reduce the inappropriate conversion of undeveloped land into sprawling, low-density development.
- Private property shall not be taken for public use without just compensation having been made. The property rights of landowners shall be protected from arbitrary and discriminatory actions.

- Encourage the retention of open space and development of recreational opportunities, conserve fish and wildlife habitat, increase access to natural resource lands and water, and develop parks.
- Identify and encourage the preservation of lands, sites, and structures that have historical or archeological significance.

These GMA goals in the context of the entire Growth Management Act led to the development of the following Countywide Planning Policies that provide specific guidance to the land use policies in this chapter:

- Urban growth shall be allowed only within cities and towns, their designated Urban Growth Areas and within any non-municipal urban growth areas already characterized by urban growth, identified in the County Comprehensive Plan with a Capital Facilities Plan meeting urban standards. (CPP 1.1)
- Cities and towns and their urban growth areas shall include areas and densities sufficient to accommodate as a target 80% of the county's 20-year population projection. (CPP 1.2)
- Urban growth areas shall provide for urban densities of mixed uses and shall direct development of neighborhoods which provide adequate and accessible urban governmental services concurrent with development. The GMA defines urban governmental services as those governmental services historically and typically delivered by cities, and includes storm and sanitary sewer systems, domestic waster systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with nonurban areas. (CPP 1.3)
- Urban growth areas shall include greenbelt[s], open space, and encourage the preservation of wildlife habitat areas. (CPP 1.4)
- Cities shall encourage development, including greenbelt and open space areas, on existing vacant land and in-fill properties before expanding beyond their present corporate city limits towards urban growth boundaries. (CPP 1.5)
- Annexations beyond urban growth areas are prohibited. (CPP 1.6)
- Development within established urban growth boundaries shall, as a minimum, conform to those urban development standards in effect within the respective municipality as of April 1, 1999. Bayview Ridge UGA urban

standards for roads, sewer, and stormwater shall meet or exceed those in effect in the City of Burlington on April 1, 1999. UGAs with populations of over 1,500 or a Commercial/Industrial land allocation (new) over 100 acres shall have, as a minimum, the...urban law enforcement and fire service levels [as further elaborated in this Countywide Planning Policy]. (CPP 1.7)

- All growth outside the urban growth boundary shall be rural in nature as defined in the Rural Element, not requiring urban governmental services except in those limited circumstances shown to be necessary to the satisfaction of both the County and the affected city to protect basic public health, safety and the environment, and when such services are financially supportable at rural densities and do not permit urban development. (CPP 1.8)
- Contiguous and orderly development and provision of urban services to such development within urban growth boundaries shall be required. (CPP 2.1)
- Development within the urban growth area shall be coordinated and phased through inter-agency agreements. (CPP 2.2)
- Master planned sites designated for industrial and large-scale commercial uses shall be clustered, landscaped, and buffered to alleviate adverse impacts to surrounding areas. (CPP 2.4)
- Commercial areas shall be aggregated in cluster form, be pedestrian oriented, provide adequate parking and be designed to accommodate public transit. Strip commercial development shall be prohibited. (CPP 2.5)
- Urban commercial and urban industrial development, except development directly dependent on local agriculture, forestry, mining, aquatic and resource operations, and major industrial development which meets the criteria contained in RCW 36.70A.365, should be restricted to urban or urban growth areas where adequate transportation networks and appropriate utility services are available. (CPP 2.6)
- The Comprehensive Plan should support innovative land use management techniques, including, but not limited to, density bonuses, cluster housing, planned unit developments and the transfer of development rights. (CPP 4.3)
- Forest and agricultural lands located within urban growth areas shall not be designated as forest or agricultural land of long term commercial significance unless a program authorizing transfer or purchase of development rights is established. (CPP 8.3)

• Open space corridors within and between urban growth areas shall be identified; these areas shall include lands useful for recreation, fish and wildlife habitat, trails, and connection of critical areas. (CPP 9.1)

LAND USE DESIGNATIONS

Skagit County's land use goals and policies are implemented through land use designations and related zoning districts and regulations. Comprehensive Plan land use designations are intended to represent the most appropriate uses of land in the unincorporated portion of Skagit County. Designation criteria provide objective rationale for the application of land use designations to the Skagit County Comprehensive Plan/Zoning Map, based on the characteristics of the land.

This next portion of the Urban, Open Space and Land Use Element describes the criteria and procedures for designating Urban Growth Areas; the policies that guide development and the provision of infrastructure within those areas; and the need for coordination and joint planning between the County and cities, towns, and tribal governments to ensure the necessary transition of governmental services within the Urban Growth Areas.

Since many of the following land use policies refer to residential density, it is important to understand the difference between "gross density" and "net density." Gross density means the total number of dwelling units divided by the total land area of the site or area, excluding nothing. Net density means the total number of dwelling units divided by the net area of the lot or site. The net area excludes roads, public open spaces, community facilities, and critical areas.

GOAL A URBAN GROWTH AREAS

Guide most future development into concentrated urban growth areas where adequate public facilities, utilities, and services can be provided consistent with the Countywide Planning Policies.

GOAL A1 URBAN GROWTH AREA DESIGNATION

Establish Urban Growth Areas in which urban development will be encouraged and outside of which growth can occur only if it is rural in character.

- Work with local jurisdictions to designate and maintain Urban Growth Areas (UGAs) of sufficient size to accommodate the County's 20-year urban population and employment allocations. Areas proposed for UGA designation shall meet the following criteria:
 - a. Compact development can be accomplished through infill or expansion, while minimizing the fiscal and environmental impacts of growth and assuring opportunities for housing, jobs, and commerce.
 - b. A range of governmental facilities and services presently exists or can be economically and efficiently provided at urban levels of service. These services include sewer, water, storm drainage, transportation improvements, fire and law enforcement protection, and parks and recreation.
 - c. The area has a physical identity or social connection to an existing urban environment.
 - d. Natural features and land characteristics are capable of supporting urban development without significant environmental degradation.
 - e. The land does not have long-term, commercially significant value for agriculture, forestry, or mineral production and that can accommodate additional development without conflicting with activities on nearby natural resource lands.
- **2A-1.2** Work with cities and towns to establish criteria for evaluating future proposals for Urban Growth Area expansions including: land capacity analysis; ability to provide urban services; impacts on critical areas, natural resource lands, and hazard areas; and compliance with related Countywide Planning Policies.

Urban Growth Area expansion proposals shall demonstrate that expansion is necessary within the 20-year planning period, that public facilities and services can be provided concurrent with development, and that reasonable efforts have been made to encourage infill and redevelopment within existing Urban Growth Area boundaries before those boundaries can be expanded.

- **2A-1.3** In designating Urban Growth Areas, consider GMA requirements to provide for recreational lands, critical areas, open space corridors, greenbelts, and view sheds, and to avoid natural hazard areas prone to flooding or other risks to public safety.
- **2A-1.4** The following Urban Growth Areas are designated within Skagit County:
 - Anacortes
 - Bayview Ridge
 - Burlington
 - Concrete
 - Hamilton
 - La Conner
 - Lyman
 - Mount Vernon
 - Sedro-Woolley
 - Swinomish
- **2A-1.5** Overall residential densities within Urban Growth Areas shall be a minimum of four (4) dwelling units per net acre, when urban services are provided. "Net density" is what results when only the area of the residential lots is counted, not roads, open spaces, drainage facilities, or other site uses that are not residential.

GOAL A2 CONCURRENCY

Adequate urban public facilities and services shall be provided concurrently with urban development, as appropriate for each type of designated land use in the Urban Growth Area.

2A-2.1 Encourage growth in areas already characterized by urban development or where the appropriate levels of urban public facilities and services are established in adopted capital facilities plans.

- a. Ensure that adequate urban public facilities and services are provided in Urban Growth Areas concurrent with urban development.
- b. Implement streamlined standards and development procedures to encourage and facilitate development within the Urban Growth Areas.

GOAL A3 URBAN SERVICES

Within the designated Urban Growth Areas, coordinate with the respective local jurisdictions and other service providers within the Urban Growth Areas to ensure that growth and development are timed, phased, and consistent with adopted urban level of service standards.

- 2A-3.1 Urban public facilities include: improved streets, roads, highways, sidewalks, road lighting systems and traffic signals; urban level domestic water systems, sanitary sewer systems, storm sewer systems, park and recreational facilities and schools as defined in the Capital Facilities Element with adopted level of service standards.
- 2A-3.2 Urban public services include fire protection and suppression; emergency medical services; public safety; public health; education; recreation; environmental protection; and other services as identified in the Capital Facilities Element with adopted level of service standards.
- 2A-3.3 Urban governmental services should not be extended to, or expanded in, rural areas except in those limited circumstances necessary to protect basic public health and safety and the environment, and when such services are financially supportable at rural densities and do not support urban development.
- 2A-3.4 The process of siting of major industrial developments in the rural area with associated provision of urban facilities and services shall be in conformance with RCW 36.70A.365 and Countywide Planning Policy 2.6.

2A-3.5 The process of siting new fully self-contained communities in the rural area with associated provision of urban facilities and services shall be in conformance with RCW 36.70A.350, the Countywide Planning Policies, and the community planning process.

GOAL A4 JOINT CITY-COUNTY PLANNING

Conduct joint planning between the County and local jurisdictions for future annexation areas within the Urban Growth Areas in accordance with the Framework Agreement and the Countywide Planning Policies.

- **2A-4.1** Joint planning should consider issues including, but not limited to:
 - a. coordination of development permit review.
 - b. assessment of the capacity of current public facilities and services to accommodate projected growth.
 - c. the phasing of development within the Urban Growth Area and the provision of capital improvements to the area concurrent with development.
 - d. the impacts of annexation on property owners, service providers, and other stakeholders in the Urban Growth Area.
 - e. fiscal impacts and cost/revenue implications of future annexations.
- **2A-4.2** Use interlocal agreements, pre-annexation agreements, and/or development agreements to equitably allocate financial burdens and resolve other issues resulting from the transition of governance from the County to local jurisdictions.
- **2A-4.3** Work with local jurisdictions to implement the Countywide Planning Policies and address other regional land use, economic, and transportation issues through interlocal agreements and codes.

GOAL A5 COMMERCIAL DEVELOPMENT

Encourage commercial and industrial development to locate in well-defined centers within the Urban Growth Areas. Prohibit new zoning that furthers the continuation of strip commercial development.

Policies:

- **2A-5.1** Plan for compact commercial and industrial centers in the Urban Growth Areas and provide infrastructure accordingly.
- **2A-5.2** Attract commerce and industry to designated areas within Urban Growth Areas by ensuring an adequate supply of land with adequate urban public facilities and services.

GOAL A6 QUALITY OF LIFE

Ensure a high quality of life within Urban Growth Areas.

- **2A-6.1** Foster development within Urban Growth Areas that creates and maintains safe, healthy and diverse communities. These communities should contain a range of affordable housing and employment opportunities, and school and recreational facilities, and be designed to protect the natural environment and significant cultural resources.
- Adopt plans, policies, codes and development standards that promote public health by increasing opportunities for residents to be more physically active. Such actions include: concentrating growth into Urban Growth Areas, promoting more compact urban development, allowing mixed-use developments, and adding pedestrian and non-motorized linkages where appropriate.

2A-6.3 Concentrate facilities and services within Urban Growth Areas, using urban design principles, to make them desirable places to live, work, and play; increase the opportunities for walking and biking within the community; use existing infrastructure capacity more efficiently; and reduce the long-term costs of infrastructure maintenance.

GOAL A7 TRANSFORMANCE OF GOVERNANCE

Provide for the orderly transition from rural to urban development patterns within the unincorporated portions of the municipal Urban Growth Areas.

Policies:

- **2A-7.1** Work with the cities and towns to ensure the cooperative and timely transfer of governmental responsibilities as urban development occurs.
- **2A-7.2** Limit land divisions and development intensities within the Urban Growth Areas to rural levels until property is annexed, thereby creating an economic incentive to encourage annexation.
- 2A-7.3 Allow residential development within Urban Growth Areas at rural densities prior to the provision of urban infrastructure, provided that future development at urban densities is not precluded.

GOAL A8 DEVELOPMENT PROCESS

Work with local jurisdictions to simplify the permitting process for land owners and developers within the unincorporated portions of the Urban Growth Areas.

Policies:

2A-8.1 Maintain, in consultation with local jurisdictions, a common set of municipal Urban Growth Area zoning districts and development regulations for residential, commercial, industrial, and other land uses in the Urban Growth Areas.

- 2A-8.2 Maintain development regulations that allow development in the Urban Growth Areas at lower-than-urban densities and/or intensities, prior to annexation, provided that future urban development is not precluded. Development shall follow standards generally consistent with those applied in the rural portions of the County.
- **2A-8.3** Maintain zoning maps for each of the Urban Growth Areas showing the zoning of all lands within the unincorporated portions of the Urban Growth Areas.
- **2A-8.4** Development at urban densities and/or intensities may be allowed prior to annexation. However, such development shall only be allowed if urban infrastructure is provided, and shall be subject to the standards of the future annexing jurisdiction.
- 2A-8.5 Any subdivision of land under these regulations shall include measures to ensure the accommodation of future rights-of-way for urban transportation infrastructure and utilities that will be required when the property is further subdivided and developed at urban densities and land uses.

OPEN SPACE

As discussed in greater detail in the Urban, Open Space and Land Use Profile, there are two major categories of Open Space in Skagit County: public, and private. Open space lands in private ownership play an important role in maintaining ecological, scenic, and natural resource values, but because of their private nature they are not shown on the Comprehensive Plan/Zoning Map. Public open space lands are those lands in public ownership that are dedicated or reserved for public use or enjoyment for recreation, scenic amenities, natural resource land management, or for the protection of environmentally sensitive areas. Where identified below to be of regional or statewide importance, such lands are designated on the Comprehensive Plan/Zoning Map. Other publicly held lands, such as local neighborhood parks, scenic roads and highways, shorelines, rivers and streams, and utility corridors, although not designated as open space on the Comprehensive Plan Map, nevertheless offer similar open space functions and benefits.

GOAL B OPEN SPACE

Recognize the important functions served by private and public open space, designate and map public open space of regional importance, and designate open space corridors within and around urban growth areas.

- **2B-1.1** Public open space areas are those lands in public ownership that are dedicated or reserved for public use or enjoyment for recreation, scenic amenities, natural resource land management, or for the protection of environmentally sensitive. They include:
 - **a.** Neighborhood and community parks. These should be linked by open space networks whenever possible.
 - b. Land that offers special natural resource-based and recreational opportunities, such as: federal, state and local regionally important parks and recreation areas; islands; federal wilderness areas; wildlife refuges; lakes; reservoirs; creeks; streams; river corridors; shorelines and areas with prominent views.
 - **c.** Lands which include a significant historic, archaeological, scenic, cultural or unique natural feature.
 - **d.** Areas that take advantage of natural processes, wetlands, tidal actions and unusual landscape features such as cliffs and bluffs.
- 2B-1.2 Of these public open space areas, the County has designated certain ones on the Comprehensive Plan/Zoning Map as Public Open Space of Regional/Statewide Importance (OSRSI). These areas are so identified because their recreational, environmental, scenic, cultural and other open space benefit extend beyond the local area to be regional or statewide in significance. They include:

Deception Pass State Park; Montgomery-Duban Headlands Park; Saddlebag Island; Hope Island; Ika Island; Huckleberry Island; Skagit Island; Larrabee, Rasar, and Bayview State Parks; PUD #1 Judy Reservoir; Skagit Wildlife Refuge; North Cascades National Park; Noisy Diobsud Wilderness; Glacier Peak Wilderness; Ross Lake National Recreation Area; Mount Baker National Forest; Seattle City Light Wildlife Mitigation Lands; Rockport State Park; WA Department of Natural Resources Natural Resource Conservation Areas and Natural Area Preserves; and portions of the Northern State Recreation Area.

- 2B-1.3 By December 1, 2007, Skagit County will develop a program to identify and prioritize open space corridors and greenbelts within and between UGAs that include lands useful for recreation, wildlife habitat, trails, and connection of critical areas. The program will include a list identifying and prioritizing open space and greenbelt lands desirable for public acquisition. Any potential acquisition that may be proposed by such a program will not include any condemnation actions, but instead will be achieved by voluntary donation, CaRD subdivision, or mutually agreeable sale.
- 2B-1.4 Private Open Space is privately owned land that has been or will be set aside by the operation of the Critical Areas Ordinance, by voluntary conservation or by other means. These lands may include:
 - **a.** Critical areas as defined in the Critical Areas Ordinance.
 - **b.** Lands with conservation and land reserve easements in place.
 - **c.** Lands within urban growth areas that are wooded and serve a functional purpose in climate, noise, light or pollution control, or provide wildlife habitat or greenbelts.
 - **d.** Lands that can provide for a separation between communities, minimize or prevent sprawl, provide a buffer between urban and rural areas, or between natural resource lands and rural areas.
- 2B-1.5 The Current Use Open Space Taxation Program includes properties utilized for agricultural, timber and open space uses as provided in RCW 84.34.

 Property owners should be encouraged to enroll in the Current Use Open Space Taxation Program.

GOAL C LAND USE APPROVALS

Recognize for a reasonable period of time land use approvals that have been granted

but not yet acted upon. After landowner notification and the designated period of time, those approvals shall expire.

- 2C-1.1 Historic land use approvals such as conditional use permits, special use permits, and contract rezones that already have been exercised may continue to operate under the conditions of their original permit or land use approval. Any expansion or change beyond the conditions of the original permit or land use approval shall require a revised permit or land use approval.
- 2C-1.2 Historic subdivisions shall be subject to the provisions of RCW 58.17.170. Other historic land use approvals with vested development rights that have not yet been exercised will remain valid for five years from the date property owners are given notice of adoption of this policy. Property owners will be notified within two years of adoption of this policy. Land use approvals not exercised within this five-year period shall expire.

GOAL D PRE-EXISTING NON-CONFORMING USES

Prohibit expansions of pre-existing nonconforming uses that are not in conformance with the Comprehensive Plan or development regulations.

- 2D-1.1 A nonconforming use is any use established in conformance with Skagit County rules and regulations in effect at the time of establishment, which no longer conforms to the range of uses permitted in the site's current zone or to the current development standards of the code, due to changes in the code or its application to the subject property.
- 2D-1.2 Nonconforming uses will be allowed to continue operation subject to County regulations governing nonconforming uses and general municipal police powers regarding health and safety. Expansion of such uses shall be limited to certain previously approved and therefore vested expansion plans.

PUBLIC USES

Public Uses, generally, are government or quasi-government owned and operated facilities such as primary and secondary schools, libraries, postal services, offices, training facilities, fire and police stations, and courts. Public Uses under this section do not necessarily include Essential Public Facilities as provided for in Chapter 10 of this Comprehensive Plan.

GOAL E PUBLIC USES

Allow public uses as special uses in most comprehensive land use designations, to be reviewed on a site-specific basis.

- 2E-1.1 In most comprehensive plan land use designations, public uses are to be allowed as either administrative or hearing examiner special uses. They are reviewed as site-specific projects so that public benefits and land use impacts can be analyzed and, if necessary, mitigated.
 - a. Public uses on Natural Resource Lands are limited to those providing emergency services.

GOAL F LOT CERTIFICATION

Only lots created in a legal manner consistent with state law and County regulations shall be considered for development permits.

- 2F-1.1 The County shall establish and maintain a review process to determine whether lots on which development is proposed were created legally. Only lots created legally shall be considered for development permits pursuant to the provisions of RCW 58.17.210.
- 2F-1.2 A legally created lot meeting the minimum dimensional standards for the zoning district it is located in shall be eligible to be considered for development permits. A legally created substandard lot, meaning a lot not meeting the dimensional requirements of the zone, shall be evaluated against performance criteria considering factors such as lot size and previous development activities in determining eligibility for development.

2F-1.3 The performance standards used in reviewing substandard lots will seek to protect property rights and investment-backed expectations, as well as preserve natural resource lands and prevent sprawl.

GOAL G LAND DIVISION

Allow for the orderly division of land by providing for the creation of new lots meeting the dimensional standards of the zoning district in which the lots are located.

Encourage innovative land division technique as an alternative to traditional land division practices. These techniques allow flexibility in design and provide for better preservation of critical areas, natural resource lands and rural character.

Agricultural Land Preservation allows for the separation of an existing house from the existing larger parcel on lands designated Agricultural-Natural Resource Land and Rural Resource-Natural Resource Land, and is intended to encourage long-term agricultural land protection. This type of division allows flexibility to the landowner and protects the land with a conservation easement held in perpetuity.

Planned Unit Developments (PUD) or Planning Residential Developments (PRD) allow variations in controls related to density and other design elements. PUDs/PRDs are more appropriately located in urban growth areas or new fully contained communities where urban services and utilities are provided. They differ from standard land divisions because they routinely involve density bonus beyond what is normally permitted in a given land use designation or zone in exchange for meeting certain land use management objectives. PUDs often involve permitting of mixed uses (commercial/residential) development whereas PRDs are typically limited to residential uses.

2G-1.1 Planned Unit Developments and Planned Residential Developments shall be allowed only in Urban Growth Areas where public services and utilities are available or will be provided concurrent with development.

The Conservation and Reserve Development (CaRD) provisions allow innovative

techniques to be used for land divisions in the Rural area and in certain circumstances on Natural Resource Lands. The CaRD land division concept is attractive because it provides future land use options and protects and conserves open space, natural resource lands, rural character and critical areas. It also allows landowners to maintain some equity and development potential on the land while retaining open spaces and minimizing infrastructure costs. In certain Rural land use designations, incentives are provided in the form of density bonuses to encourage voluntary participation in this approach to land division. Even where density bonuses are not provided, CaRD land divisions can reduce infrastructure and other costs.

- 2G-1.2 CaRD land divisions may achieve some or all of the following benefits:
 - a. Flexibility in site development, which may result in more compact, clustered lots or environmentally sound use of the land, while maintaining the County's rural character.
 - b. Buffer areas to reduce land use conflicts between Rural and natural resource uses and the loss of Natural Resource Lands.
 - c. Reduction in housing costs due to reduced engineering, infrastructure, and development costs, smaller lot sizes, and more intense use of buildable areas.
 - d. Greater opportunity for property owners to derive reasonable economic use of the land by maintaining larger open space areas that may be used for the production of food, fiber, or minerals.
 - e. More flexible land development options in areas with potential to be designated urban growth areas in the future.
 - f. Allowance of bonus development lots when a landowner meets the various requirements of the CaRD provisions.
 - g. Large tracts of open space land held for recreation, natural resource management, and protection of critical areas and significant cultural resources.
- 2G-1.3 CaRD land divisions shall be designed to minimize impacts on neighbors, infrastructure systems, and the surrounding environment.
- 2G-1.4 When CaRD land divisions are approved for Long CaRDs their conservation easements or conditions/covenants/restrictions (CCRs) shall be in place for a

specified period of time.

- Certain identified critical areas shall be set-aside as a Protected Critical Areas (PCAs) and others may be placed into Open Space Preservation Areas (OS-Pas).
- b. A long CaRD land division which has designated Natural Resource Lands (NRL) not satisfying 2G-1.4(a) above shall have the remaining NRL set-aside as a conservation easement, which removes the development right on such lands until such time as the land is determined by a court of competent jurisdiction to no longer have long-term commercial significance for the production of food, agricultural products, timber, or extraction of minerals.
- c. A long CaRD land division that has designated Rural lands not satisfying 2G-1.4(a) above shall have the undeveloped lands set-aside as a land reserve until the land is redesignated through a comprehensive plan amendment.

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