



# PLANNING & DEVELOPMENT SERVICES

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## MEMORANDUM

[Revised]

**To:** Planning Commission Members  
**From:** Betsy Stevenson, Senior Planner  
**Date:** August 24, 2006  
**Re:** 2005 GMA Update Proposal Deliberations – Environment Element

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Please find enclosed additional information and responses to supplement the Response to Comments memo dated August 1, 2006. A few of the responses to issues outlined in the previous memorandum were left to be responded to at a later date.

In addition, some proposed changes to the language found in Chapter 5 are also included.

For your convenience, a table was developed to address specific comments found in the Written Correspondence volumes that relate to the Environment Element of the Comprehensive Plan. Some of this information is in draft form, because it refers to the Critical Areas Ordinance, which is in the process of being updated and should be available for review in the next few weeks.

Please feel free to contact me or other Planning and Development Services staff if you have any questions about this material.

### **III. Environment**

#### **A. Critical Areas**

**Issue #1 and Response** can be found in the August 1, 2006 memo from Eric Toews, PARAMETRIX and Skagit County Planning and Development Services, in Section II, A. Issue #1.

**Issue # 2:** *The Critical Areas Ordinance, when revised to incorporate best available science, should employ buffer widths that are tailored to fit with Department of Ecology's new wetland ratings system – the County's existing buffer widths will require revision.*

**Response:** Skagit County, as part of the Critical Areas Ordinance Update, is reviewing its existing wetland buffers and proposing revisions that represent the most current best available science and guidance from Department of Ecology for the protection of wetlands based on wetland rating and land use intensity.

**Issue #3:** *The draft Plan and regulations should include improved Aquifer Recharge provisions that address coastal seawater intrusion and help prevent the deterioration of sole source aquifers (e.g. Guemes Island).*

**Response:** The Skagit County Health Department, in cooperation with Planning and Development Services has proposed revisions to the Critical Areas Ordinance that will address critical aquifer recharge areas. Seawater intrusion potential may become an element evaluated as part of the site assessment report.

## CHAPTER 5 ENVIRONMENT ELEMENT

After review of the Environment Element of the Comprehensive Plan, the following changes are put forth for your consideration:

**Policy 5A-4.7** Skagit County shall continue to work cooperatively with the cities, towns and the Army Corps of Engineers to in flood hazard mitigation planning and projects.

*Proposed change to read:*

**Policy 5A-4.7** Skagit County shall continue to work cooperatively with the cities, towns, state and federal agencies as needed in flood hazard mitigation planning and projects to minimize potential for flood damage throughout Skagit County.

**Policy 5A-5.1 a.** The greatest level of protection should be provided to wetlands of exceptional resource value which are defined as those wetlands that include rare, sensitive or irreplaceable systems, as referenced in Washington State Wetland Rating System (Second Addition) August 1993.

*Proposed change to read:*

**Policy 5A-5.1a.** The greatest level of protection should be provided to wetlands of exceptional resource value, based on the Washington State Wetland Rating System for Western Washington (August 2004).

**Policy 5A-5.5** Wetland, fish and wildlife habitat conservation areas, and aquifer recharge areas should be either maintained, restored, acquired, replaced or enhanced.

- a. In-kind replacement of functions and values of critical area is preferred. Where in-kind replacement is not feasible or practical due to the characteristics of the existing critical area, substitute resources of equal or greater ecological value should be provided.

*Proposed change to read:*

**Policy 5A-5.5** Critical areas should be avoided, maintained, restored, acquired, replaced or enhanced.

- a. **Mitigation for proposed alterations to critical areas or associated buffers should be sufficient to maintain the function and values of the critical area or to prevent risk from a critical area hazard. Proposed mitigation should follow the mitigation sequence of**
  - i. **Avoid the impact altogether.**
  - ii. **Minimize the impact utilizing appropriate technology and design.**
  - iii. **Rectify the impact by restoring, repairing or rehabilitating the affected environment to the conditions existing at the time of initiation of the project or activity.**

- iv. **Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the project.**
- v. **Compensate for the impact by replacing, enhancing or providing substitute resources or environments.**

**Policy 5A-5.5 g.** should be moved to page 15, under **Policy 5A-5.3**, under Frequently Flooded Areas, as item **k**.

Page 19, under the heading of **Air Quality**, the Northwest Air Pollution Authority has changed its name to **Northwest Clean Air Agency**. This should be changed both here and on Page 3 of the Environment Profile.

## **ENVIRONMENT PROFILE**

On Page 2, under **Hazard Mitigation Plan**, the last sentence may need to be reworded or removed to reflect the removal of **Goal A6 of the Environment Element**.

On Page 2, under **Regional Water Resource Plans**, includes a statement about the Skagit River Impact Partnership:

A coalition of jurisdictions under the name Skagit River Impact Partnership is working with the Corps to resolve a dispute regarding how the predicted extent of 100-year flood events is established. In addition, FEMA's maps of the flood hazard areas are considered outdated by others.

### ***Proposed change to read:***

**A coalition of jurisdictions under the name Skagit River Impact Partnership is working to evaluate coordinated floodplain management and review the proposed hydraulic calculations and mapping changes being proposed by FEMA.**

Comment	Page	Response
<b>COMP PLAN</b>		
<p>Goals 4A-2.7 and 4B-2.2 establish a working group of interested parties to reconcile, where possible, conflicts between the goals of protecting critical areas and habitat with those of preserving farmland for agricultural purposes and forest land for commercial forestry issues.</p> <p>COMMENT: Concern that proposed language in Comp Plan makes it more difficult for habitat preservation and restoration projects on farm and forest land. Adopt the language of the goals.</p>	<p>pgs. 100, 601, 723, 822, 995, 1475, 1477, 1566.5, 1685.5+</p>	<p>PDS concurs with the comments and supports the formation of a working group as outlined.</p>
<p>Policy 5A-1.3.e discusses Fish and Wildlife Habitat Conservation Areas (HCA's) and the criteria for their classification.</p> <p>COMMENT: "The criteria should include areas where species of concern or threatened or endangered species on state or federal lists are documented."</p>	<p>p. 764</p>	<p>WAC 365-190 Minimum Guidelines to Classify Agriculture, Forest, Mineral Lands and Critical Areas, Section 365-190-080(5) sets forth the criteria for fish and wildlife habitat conservation areas.</p> <p>Subsection (a)(ii) reads "Habitats and species of local importance"; 365-190-080(5)(c)(ii) goes on to discuss information that counties and cities may consider to determine habitats and species of local importance.</p> <p>The comment is acknowledged, but the language as written complies with the applicable WAC and is recommended by Planning and Development Services.</p>
<p>"Also bodies of water that are planted with game fish should not be HCAs since planted fish are either hatchery origin fish that dilute the genetic integrity of wild stocks or nonnative species."</p>		<p>WAC 365-190-080(5)(a) specifically includes (vii)Lakes, ponds, streams and rivers planted with game fish by a governmental or tribal entity as an area to be included as an HCA.</p> <p>Again, PDS recommends the proposed language for compliance with WAC 365-190.</p>

Comment	Page	Response
<p>“Where did the regulations for aquatic resources (apart from shorelines) come from?”</p>	<p>p. 1003</p>	<p>WAC 365-190, Minimum Guidelines to Classify Agriculture, Forest, Mineral Lands and Critical Areas.</p> <p>Section 365-190-080(5) outlines and describes aquatic resources be considered when determining fish and wildlife habitat conservation areas.</p> <ul style="list-style-type: none"> <li>(a)(iii) Commercial and recreational shellfish areas;</li> <li>(iv) Kelp and eelgrass beds, herring and smelt spawning areas;</li> <li>(v) Naturally occurring ponds under twenty acres and their submerged aquatic beds that provide fish or wildlife habitat;</li> <li>(vi) Waters of the state;</li> <li>(vii) Lakes, ponds, streams and rivers planted with game fish by a governmental or tribal entity,</li> </ul>
<p>COMMENT: Concern for the completion of the seawater intrusion policy. Could it be part of the GMA Update?</p> <p>Policy 5A-5.1(i) states that the Health Department will formulate seawater intrusion policies for the islands and coastal areas of the mainland where seawater intrusion has been documented.</p>	<p>1118 1683</p>	<p>The Skagit County Health Department and Planning and Development Services are addressing the interim seawater intrusion policy through the Critical Areas Ordinance Update and through the revision to Chapter 12.48, Skagit County Water Code.</p>
<p>COMMENT: Guemes Island sole source aquifer designation and needed mapping.</p>	<p>1119</p>	<p>The Skagit County Department of Health and Planning and Development Services are addressing the sole source aquifer system on Guemes Island in the proposed Critical Areas Ordinance (14.24) update and SCC 12.48 water code update.</p>

Comment	Page	Response
<p>COMMENT: “Wetland definition needs to be narrowed to a practical term, as opposed to be a ‘political’ term.</p> <p>“Critical areas need to be downgraded to a practical level, as opposed to ‘controlling’ and public ‘taking’.”</p>	<p>p. 1215</p>	<p>The definition used for wetlands comes from RCW36.70A.030(21). Growth Management – Planning by Selected Counties and Cities.</p> <p>The proposed Critical Areas Ordinance update is being developed in accordance with local and state requirements.</p>
<p>COMMENT: Recommend the County reference the newly revised rating system (Washington State Wetland Rating System for Western Washington, Revised Ecology Publication #04-06-025, August 2004)</p>	<p>1682 1688</p>	<p>That recommendation was made in the August 22, 2006 handout, entitled Chapter 5, Environment Element, as a revision to Policy 5A-5.1.a. PDS supports the proposed revision.</p>
<p>COMMENT: CPP 10.11, Chapter Five, page three, item 2, recommends the insertion of WDFW Priority Habitat and Species list.</p>	<p>1688</p>	<p>The Countywide Planning Policies are designed to be broad and less specific. The policy reads “When evaluating and conditioning commercial, industrial or residential development, Skagit County shall consider threatened or endangered wildlife.”</p> <p>Planning and Development Services considers the policy to be adequate as written. The specific list mentioned in the comment is identified several times in the policies that relate to Classification and Designation of Critical Areas (5A-1.1)(a) and (e).</p>
<p>COMMENT: CPP 10.14 should include fish and wildlife aquatic habitats.</p>	<p>1688</p>	<p>The policy reads “The Skagit River Floodway and the Skagit River Floodplain shall be regulated to protect human life, property and the public health and safety of the citizens of Skagit County; minimize the expenditure of public money; and maintain flood insurance eligibility while avoiding regulations which are unnecessarily restrictive or difficult to administer.”</p> <p>PDS considers the policy to be adequate.</p>

Comment	Page	Response
Policy 5A-1.1c.COMMENT: add language to encourage the use of new modeling data by Climate Impacts Group dealing with global warming in the Pacific Northwest.	p. 1688	The policy reads “ Hydrologic information such as WA Department of Natural Resources water type maps, USGS streamflow data, and FEMA maps should be utilized in identifying frequently flooded areas.” The update to the Critical Areas Ordinance utilizes best available science. The listing above is not an exhaustive list. Other sources may be utilized, even if they aren’t specifically listed in the policy. PDS recommends the policy remain as written.
Policy 5A-1.3e. Proposed changes to several of the items listed.	p.1688.5	Please refer to Responses on Pages 5 & 6 of this document, which reference WAC 365-190-080.
Policy 5A-2.1c. Recommend the addition of “and remedies of how flooding can be reduced (i.e., restoration of lands, etc.)” to this policy.	p.1688.5	<p>The policy reads “ Educational opportunities should increase public understanding of stream hydrology and the potential for major flooding in the Skagit River Basin.”</p> <p>The proposed change brings specificity to an educational policy. The next policy 5A-2.2 addresses the author’s concern. It states that “readily available information should be assembled and distributed to educate and inform the public about :risks of known frequently flooded areas and geologic hazards; development practices that increase the risk to lives, property, infrastructure, resources and measures to minimize these risks.” PDS would recommend that the policies cited here remain as written.</p>



Comment	Page	Response
Policy 5A-4.1d. recommends the addition of fish and wildlife species after plant species.	p.1688.5	<p>The proposed addition would read “Coordination with state and tribal programs to protect plant species and communities <b>and fish and wildlife species</b> listed in the Natural Heritage Program, the Priority Habitats and Species (PHS) Program and plant, <b>fish and wildlife</b> species of cultural (tribal) significance should be maintained.”</p> <p>PDS would agree with the comments and recommends the proposed language change, as set forth in bold text.</p>
Policy 5A-5.1j. recommends adding “Where appropriate, restoration efforts should be implemented to reduce the potential for flooding.”	p.1668.5	<p>The proposed language is vague in the meaning of restoration efforts here. The policy reads “Undisturbed natural rivers, streams, lakes, wetlands and floodplains shall be protected to avoid increases in flood elevations, to reduce flood damage, and to allow proper conveyance of flood flows.”</p> <p>The policy as written seems to address the recommendation with the statement that the areas shall be protected (rather than restored).</p> <p>Restoration and mitigation is discussed in Policy 5A-5.5.</p> <p>PDS would suggest the policy would remain as written.</p>
Policy 5A-5.1k. suggests rewording the sentence to include “...shall be established based on best available science (BAS) associated with riparian dependent species.”	p.1688.5	<p>Policy reads “Stream and wetland buffers shall be set so as to protect habitats associated with riparian dependent species.”</p> <p>The proposed rewording changes the meaning of the policy, which is to protect habitats.</p> <p>The CAO Update does require the review of BAS in the process.</p> <p>PDS would recommend the policy remain as written.</p>

Comment	Page	Response
<p>Policy 5A-5.1p the author recommends deleting preferred.</p> <p>Policy 5A-5.2b. the author recommends deleting limited and adding avoided.</p>		<p>Policy reads “Native vegetation shall be preferred and retained over exotic species in Fish and Wildlife Conservation Areas.”</p> <p>Policy reads “Land uses, densities and development activities in the floodplain and coastal high hazard areas should be limited to protect public health, safety, and welfare to minimize expenditure of public money and costly flood control projects, and to maintain hydrologic systems.”</p> <p>The deletion of preferred and limited and adding avoided again changes the meaning of the policies and PDS would recommend it remain as written.</p>
<p>Broad request to add a sentence that would say development in geologically hazardous areas should be avoided.”</p>	p.1688.5	<p>There are existing proposed policies that are more specific regarding proposed development and land uses in designated geologically hazardous areas.</p> <p>PDS would recommend that the policies remain as written.</p>
<p>Policy 5A-5.2c. recommends a change in language to replace “where this practice can provide site specific mitigation” to “provided, all impacts to fish and wildlife resources can be fully mitigated.”</p>	p.1689	<p>The policy reads in full “Low land use densities and intensities or open space shall be preferred in geologically hazardous areas where this practice can provide site specific mitigation.”</p> <p>The policy as written includes mitigation beyond that for fish and wildlife resources. The comment is focused and narrow.</p> <p>PDS would recommend the policy be retained as written.</p>

Comment	Page	Response
Policy 5A-5.2e. recommends the addition of “All impacts to critical areas must be fully mitigated.”	P. 1689	<p>The policy reads “Fish and Wildlife Habitat Conservation Areas shall be protected against habitat degradation to the fullest extent possible while allowing reasonable use of the property.”</p> <p>The existing language allows some flexibility. Policy 5A-5.3r. addresses the comments of the author.</p> <p>PDS would recommend the policy remain as written.</p>
Policy 5A-5.2f recommends the addition at the end of the policy, “and provide sufficient riparian buffers based on Best Available Science (BAS).” Also note a WDFW publication Management Recommendations for Washington’s Priority Habitats:Riparian(1997), which WDFW believes is BAS.	P. 1689	<p>The policy reads “Urban density development in the County and adjacent to Habitat Conservation Areas shall be sited such that HCA functions and values are protected.” As noted previously, additional mitigation language for Fish and Wildlife HCAs can be found under Policy 5A-5.3q. through r. The proposed rewrite changes the meaning of Policy 5A-5.2f. PDS would recommend that the policy remain as written.</p>
Policy 5A-5.3e the author suggests including single family residences.	P. 1689 p.1689	<p>The policy reads “Development regulations shall be adopted that prohibit intensive uses such as urban subdivisions, multi-family dwellings, commercial buildings and industrial parks in the floodplain.”</p> <p>The proposed inclusion of single family residences in this policy would significantly impact private property rights. Skagit County is not prepared at this time to prohibit single family residences in the floodplain.</p> <p>PDS would recommend the policy remain as written.</p>

Comment	Page	Response
<p>Policy 5A-5.3 l. and m. the author suggests that the requirements found in these two policies for geologically hazardous areas should be included in the Fish and Wildlife HCAs section.</p>	<p>p. 1689</p>	<p>The policies discuss the need for geotechnical reports, which would not be required for Fish and Wildlife Habitat Conservation Areas.</p> <p>The proposed changes aren't supported. The requirement of a geotechnical report for Fish and Wildlife HCAs is excessive.</p> <p>PDS would recommend against changing these policies or adding the language to the F&amp;W HCA section.</p>
<p>Policy 5A-5.3 l. and o. the author recommends the addition of fish and wildlife critical areas at the end.</p>	<p>p. 1689</p>	<p>Again, the policies address requirements for development activity in geologically hazardous areas. If there are HCAs present, the policies that relate to Fish and Wildlife HCAs would also apply and would cover the concerns addressed by the author.</p> <p>PDS would recommend that the existing policy language remain as proposed.</p>
<p>The author addresses several policies in the next paragraph, but the references seem to be incorrect.</p> <p>The comments refer to low impact development and requiring its utilization when feasible.</p>	<p>p. 1689</p>	<p>Skagit County is looking into potential funding sources to develop a pilot project utilizing low impact development techniques. At this time, such techniques would be voluntary.</p> <p>PDS recognizes the benefits of low impact development techniques and would encourage voluntary participation. A policy requiring the use of LID design techniques would be premature at this time.</p>
<p>Policy 5A-5.3u. recommends the addition of language to this policy that deals with mitigation sequencing.</p>	<p>p. 1689</p>	<p>Specific language that deals with mitigation sequencing is found under Policy 5A-5.5a. The proposed changes outlined in the August 22, 2006 memo, Chapter 5 Environment Element specifically outline mitigation sequencing.</p> <p>Based on the above recommended change, PDS believes the intent of the comment is met and would not recommend changes to the policy noted by the author.</p>

Comment	Page	Response
No proposed changes to Chapter 6, Shoreline Element.	p. 1689	As the commenter notes, the SCSMMP isn't scheduled to be updated until 2012. Shoreline areas are also included as a critical area. The proposed Master Program update will be done in accordance with WAC 173-26, integrating GMA requirements at that time. The existing Master Program was adopted under RCW 90.58. According to RCW 36.70A.480 the goals and policies of the shoreline master program shall be considered an element of the Comprehensive Plan. That is why there are no changes proposed to Chapter 6 of the Comprehensive Plan at this time.