



PLANNING & DEVELOPMENT SERVICES

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MEMORANDUM

To: Skagit County Planning Commission
From: Eric Toews, Principal, *CASCADIA Community Planning Services*
Carly Ruacho, Senior Planner
Date: September 26, 2008
Re: Recommended Actions Regarding Items of Non-Compliance Identified in Western Washington Growth Management Hearings Board (WWGMHB) Case No. 07-2-0025c relating to an appeal of Skagit County's 2005 GMA Update

I. Background

On May 12, 2008, the WWGMHB issued a final decision and order in the above referenced matter, concluding that Skagit County's Comprehensive Plan and Development Regulations were not in compliance with the Growth Management Act (GMA or the Act) on several matters, and affording the County 180 days to achieve GMA compliance (i.e., by November 12, 2008). The compliance issues principally involve the uses permitted within limited areas of more intensive rural development (LAMIRDs) and potential inconsistencies between the Comprehensive Plan and Development Regulations. This memorandum identifies each compliance issue presented to the County, and provides a brief discussion and recommendation regarding corrective actions that the Department believes should be undertaken to achieve compliance.

II. Compliance Issues & Recommended Corrective Actions

Compliance Issue #1 – Caretaker Quarters in the SSB District

A. Summary of the Hearings Board Ruling: The Board concluded that Skagit County Code (SCC) 14.16.140(3) allowed new caretaker quarters in the Small Scale Business (SSB) zone in Type II limited areas of more intensive rural development (LAMIRDs) in conflict with Comprehensive Plan Policy 3B-1.6 and in violation of RCW 36.70A.070(5)(d)(ii).¹ The Hearings Board ruled that both Policy 3B-1.6 and RCW 36.70A.070(5)(d)(ii) “preclude new residential development in a Type II LAMIRD.” The Board stated that neither the County nor the petitioner had pointed to any applicable definition of the term “residential development.” In consequence, the Board concluded

¹ It is acknowledged that the Board's ruling cites to SCC 14.16.140(3), the Small Scale Business (SSB) zone. However, all non-numeric citations pertaining to this discussion reference the Small Scale Recreation and Tourism (SRT) zone. As SSB is a Type III LAMIRD pursuant to (36.70A.070(5)(d)(iii)) and only the Type II language specifically prohibits new residential development it can only be concluded that the Board's reference to the SSB zone was in error, and that the SRT district was intended.

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that caretaker quarters or owner/operator dwelling units “*could fall within the ambit of a common definition of that term.*” The Board noted that because SCC 14.16.140(3) placed no limit on the size or scope of such a use, “*caretaker quarters*” did not necessarily have to be incorporated within a Type II LAMIRD use, “*but could be one or more freestanding units comprising new ‘residential development’.*” Accordingly, the Board found the provision to be in violation of RCW 36.70A.070(5)(d)(ii). FDO at page 30.

B. Applicable GMA and CP Provisions: The provisions of the Act and Comprehensive Plan pertaining to Compliance Issue #1 are set forth below.

RCW 36.70A.070(5)(d)(ii) reads as follows:

- “(5) Rural element. Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The following provisions shall apply to the rural element:
- (d) Limited areas of more intensive rural development. Subject to the requirements of this subsection and except as otherwise specifically provided in this subsection (5)(d), the rural element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:
 - (ii) The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting, *but that do not include new residential development.* A small-scale recreation or tourist use is not required to be principally designed to serve the existing and projected rural population. Public services and public facilities shall be limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl.”
[Emphasis added].

Comprehensive Plan Policy 3B-1.6 reads as follows:

- “3B-1.6** Two other types of LAMIRD are allowed by GMA. The County’s other rural commercial and industrial designations were created and applied consistent with these other provisions. Pursuant to RCW 30.70(A).070(5)(d)(ii), the County’s Small Scale Recreation and Tourism designation allows:
- a. The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting, *but that do not include new residential development.*
 - b. A small-scale recreation or tourist use is not required to be principally designed to serve the existing and projected rural population.
 - c. Public services and public facilities are limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl.”
[Emphasis added].

C. Brief Discussion: As indicated in the footnote on page one, the Department believes that although code citations were given for Small Scale Business (SSB) the Hearings Board intended to reference Small Scale Recreation and Tourism (SRT). Therefore, all further discussion will pertain to SRT. The decision of the Hearings Board on this issue does not provide clear direction to the County as to what corrective actions might comply with the GMA. Clearly, an outright prohibition on caretaker and owner/operator quarters within the SRT zone would appear to comply with the Hearings Board order, but could be needlessly draconian. The language employed by the Board appears to at least suggest that other methods to achieve compliance were possible by referencing a lack of provided definition of “*residential development*,” and the absence of limits on the size and scope of such a use. Other Hearings Board cases discussing RCW 36.70A.070(5)(d)(ii) do not appear to provide instruction on this specific issue.

D. Recommended Corrective Action: Add a new definition to SCC 14.04.020 for “owner operator / caretaker quarters” as well as amendments to 14.16.130(4)(b) to further limit the size and scope of employee housing. In the County’s response to the Hearings Board, the existing definition of “accessory use” will be highlighted to attempt to alleviate the fears of “one or more freestanding units comprising new residential development.”

Compliance Issue #2 - Comprehensive Plan Policies 3C-1.4 and 3C-2.1 in Conflict with Special Uses Allowed in Rural Areas in SCC 14.16.300(4), 14.16.310(4) and 14.16.320(4)

A. Summary of the Hearings Board Ruling: The Hearings Board concluded that Comprehensive Plan Policy 3C-1.4 conflicts with SCC 14.16.300(4) that allows numerous commercial uses in the Rural Intermediate zone via a Hearing Examiner special use permit. The stated purpose of the Rural Intermediate zone is to protect land for residential living and give priority to residential uses over commercially-oriented uses; because of this unambiguous purpose, SCC 14.16.300(4), which allows numerous commercial uses via a special use permit process, was found to be inconsistent with Policy 3C-1.4, and therefore in violation of the requirements of RCW 36.70A.040.

The Board held further, that Policy 3C-2.1 relating to rural commercial and industrial designations was in conflict with SCC 14.16.300(4), SCC 14.16.310(4) and SCC 14.16.320(4) (i.e., special uses allowed within the Rural Intermediate, Rural Village Residential, and Rural Reserve zones, respectively). The Board stated that many of the uses allowed via special use permit in these zones were in direct conflict with the stated purpose of such areas, and therefore, created a conflict between the Comprehensive Plan and Development Regulations. FDO at page 31.

B. Applicable GMA Provisions: The applicable provisions of the Act relating to Compliance Issue #2 are set forth below.

Among other relevant provisions relating to internal and external consistency, RCW 36.70A.040(3)(d) reads, in pertinent part, as follows:

“(3) Any county or city that is initially required to conform with all of the requirements of this chapter under subsection (1) of this section shall take actions under this chapter as follows:

- (d) if the county has a population of fifty thousand or more, the county and each city located within the county shall adopt a comprehensive plan under this chapter and *development regulations that are consistent with and implement* the comprehensive plan on or before July 1, 1994 . . . “
[Emphasis added].

C. Brief Discussion: The Hearings Board holding on this issue is scant on guidance, and appears to conclude, perplexingly, that most of the Hearing Examiner special uses delineated in SCC 14.16.300(4), .310(4) and .320(4) are commercial and industrial in nature. This simply is not the case. The great majority of the listed uses are institutional (pre-schools), public or quasi-public (utility installations), or residential (group homes) in character. Few, if any of the listed uses involve retail commercial uses, though some may reasonably be construed as service-oriented commercial uses (e.g., kennels, riding clubs, etc.). Some, like outdoor storage of processed or unprocessed natural materials could be understood as industrial uses, though none of the special uses listed in any of the sections found to be non-compliant involves manufacturing.

It should also be observed that the finding of non-compliance was limited to one of an inconsistency between Plan policy and the Skagit County Code; the listed special uses were not found, per se, to violate any provision of RCW 36.70A.070(5).

With this as context, it would appear that clarifications both to the Plan policies as well as Code are necessary in order to accomplish the following:

- Clarify the purpose of the RI designation specifically (i.e., Policy 3C-1.4);
- Refine the treatment of non-residential uses within the rural land use designations intended chiefly for residential purposes (i.e., Policy 3C-2.1);
- Further differentiate the special uses allowed in the Rural Intermediate (RI), Rural Village Residential (RVR) and Rural Reserve (RRv) zones to reflect the variations in development densities and lot sizes permitted in each designation/zone; and
- Ensure that the zoning code is consistent with, and implements, the revised Plan policies.

These recommended clarifications and revisions are discussed more fully in subsection D, below.

D. Recommended Corrective Actions: The corrective actions proposed in this section seek to both clarify Plan Policies 3C-1.4 and 3C-2.1, and revise the list of Hearing Examiner special uses permitted in the RI, RVR, and RRv zones to be consistent with the revised policies. The proposed changes provide the ability to permit limited non-residential uses within these zones, while preserving the predominantly residential character of each. The amendments would also treat certain uses in the RI, RVR and RRv zones quite differently, reflecting the variations in the permissible densities and character of residential development in each zone.

For instance, certain noisome uses that might be capable of being separated, buffered and screened in a low-density rural area like the RRv zone might be inappropriate in the more densely settled RI and RVR zones. Similarly, uses which require significant aggregations of land are both unlikely and inappropriate in the higher density RI and RVR zones. Uses that clearly involve commercial services that do not require a location in a low-density rural residential area have been deleted.

Compliance Issue #3 – Establishment of New Rural Centers in Areas Developed After July 1, 1990 Under Comprehensive Plan Policy 3C2-18(b).

A. Summary of the Hearings Board Ruling: The Board found that Policy 3C-2.18(b) deviates from the LAMIRD requirements of RCW 36.70A.070(5)(d)(v) by allowing the expansion of Rural Centers to include areas developed after July 1, 1990. The GMA makes no provision for adding new areas to LAMIRDs on the basis that they “*serve substantially the same function*” as other LAMIRDs that existed on July 1, 1990, as stated by Policy 3C-2.18(b). The Board found further that this policy was not merely non-compliant with the GMA, but invalid, as it substantially interfered with Goals 1 and 2 of the Act. FDO at pages 38 and 39.

B. Applicable GMA and CP Provisions: The provisions of the Act and Comprehensive Plan pertaining to Compliance Issue #3 are set forth below.

RCW 36.70A.070(5)(d)(v)(A) reads as follows:

- (5) Rural element. Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The following provisions shall apply to the rural element:
 - (d) Limited areas of more intensive rural development. Subject to the requirements of this subsection and except as otherwise specifically provided in this subsection (5)(d), the rural element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:
 - (v) For purposes of (d) of this subsection, *an existing area or existing use is one that was in existence:*
 - (A) *On July 1, 1990, in a county that was initially required to plan under all of the provisions of this chapter.*
[Emphasis added].

County Comprehensive Plan Policy 3C-2.18(b) reads as follows:

3C-2.18 Any new Rural Center designations shall meet the following criteria:

- b. The commercial area existed predominantly as an area or use of more intensive commercial development on July 1, 1990. Limited exceptions may be provided where uses or areas that developed after July 1, 1990 serve substantially the same function as other Rural Centers that were existing commercial areas as of July 1, 1990.

C. Brief Discussion: Because the Hearings Board found the “limited exceptions” language of the Policy to be both noncompliant and invalid, the only clear avenue available to the County to achieve compliance is to strike the offending language in its entirety.

D. Recommended Corrective Action: Amend Comprehensive Plan Policy 3C-2.18(b) to eliminate the potential to expand LAMIRDs to include areas developed after July 1, 1990.

Compliance Issue #4 – Establishment of New Rural Marine Industrial (RMI) Designations on Lands Contiguous to Existing Areas of RMI Zoning Under Comprehensive Plan Policy 3C-6.4.

A. Summary of Hearings Board Ruling: The Hearings Board concluded that Comprehensive Plan Policy 3C-6.4, which allows designation of new Rural Marine Industrial LAMIRDs contiguous to existing LAMIRDs, noncompliant with RCW 36.70A.070(5)(d)(iii), which requires LAMIRDs to be isolated from one another. The Board stated further that to allow the establishment of new LAMIRDs in this manner substantially interferes with Goals 1 and 2 of the GMA by encouraging development outside UGAs and encouraging sprawl. FDO at pages 38 and 39.

B. Applicable GMA and CP Provisions: The provisions of the Act and Comprehensive Plan pertaining to Compliance Issue #4 are set forth below.

RCW 36.70A.070(5)(d)(iii) reads as follows:

- (5) Rural element. Counties shall include a rural element including lands that are not designated for urban growth, agriculture, forest, or mineral resources. The following provisions shall apply to the rural element:
 - (d) Limited areas of more intensive rural development. Subject to the requirements of this subsection and except as otherwise specifically provided in this subsection (5)(d), the rural element may allow for limited areas of more intensive rural development, including necessary public facilities and public services to serve the limited area as follows:
 - (iii) The intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses that are not principally designed to serve the existing and projected rural population and nonresidential uses, but do provide job opportunities for rural residents. Rural counties may allow the expansion of small-scale businesses as long as those small-scale businesses conform with the rural character of the area as defined by the local government according to RCW 36.70A.030(14). Rural counties may also allow new small-scale businesses to utilize a site previously occupied by an existing business as long as the new small-scale business conforms to the rural character of the area as defined by the local government according to RCW 36.70A.030(14). Public services and public facilities shall be limited to those necessary to serve the isolated nonresidential use and shall be provided in a manner that does not permit low-density sprawl.

County Comprehensive Plan Policy 3C-6.4 reads as follows:

3C-6.4 It is the intention both to retain the rural character of Skagit County’s shoreline and to allow new areas for rural marine industry on a minimal scale that are in concert with the rural character. Therefore, only lands contiguous to areas with existing RMI zoning may be redesignated/rezoned to RMI.

C. Brief Discussion: As was the case with compliance issue #3, above, because the Hearings Board found Policy 3C-6.4 to be both noncompliant and invalid, the only clear avenue available to the County to achieve compliance is to strike the offending language in its entirety.

D. Recommended Corrective Action:

Strike Comprehensive Plan Policy 3C-2.2(b) in its entirety.

Compliance Issue #5 – Inconsistency Between Countywide Planning Policy 1.2 and Comprehensive Plan Policy 3A-2.2

A. Summary of Hearings Board Ruling: The Hearings Board held that the GMA draws a clear distinction between urban, rural and resource lands and that Comprehensive Plan policy 3A-2.2 fails to distinguish between rural and resource lands. By referring only to “*rural*,” rather than “*rural and resource*” areas, the current policy language inadvertently implies that no growth may occur in the resource areas of the County. Although unintentional, this oversight has resulted in an inconsistency with Skagit Countywide Planning Policy 1.2 that must be corrected. FDO at page 40.

B. Applicable GMA, Countywide Planning Policies and CP Provisions: The provisions of the Act, Skagit Countywide Planning Policy and Comprehensive Plan pertaining to Compliance Issue #5 are set forth below.

RCW 36.70A.030(16) reads as follows:

- (16) "Rural development" refers to development outside the urban growth area and outside agricultural, forest, and mineral resource lands designated pursuant to RCW 36.70A.170. Rural development can consist of a variety of uses and residential densities, including clustered residential development, at levels that are consistent with the preservation of rural character and the requirements of the rural element. Rural development does not refer to agriculture or forestry activities that may be conducted in rural areas.

Skagit Countywide Planning Policy 1.2 reads as follows:

- 1.2** Cities and towns and their urban growth areas, and non-municipal urban growth areas designated pursuant to CPP 1.1, shall include areas and densities sufficient to accommodate as a target 80% of the county's 20 year population projection.

Comprehensive Plan Policy 3A-2.2 reads as follows:

- 3A-2.2** The rate of development in rural areas should be in accordance with adopted Countywide Planning Policies stating that urban areas should accommodate 80 percent of new population growth, with the remaining 20 percent locating in the rural area. Monitor the pace of development in conjunction with the maintenance of data describing the inventory of available buildable land.

C. Brief Discussion: CPP 1.2 sets forth the sizing criterion or target for urban growth areas in Skagit County, requiring that they be sized to accommodate 80% of the 20-year countywide growth projection. Policy 3A-2.2 was an attempt to adopt consistent language within the County Plan. However, by including imprecise language that states that only “rural” areas comprise that portion of the unincorporated area where the remaining 20% of growth is expected to occur, it could be interpreted as potentially prohibiting all growth within resource areas of the County. This oversight may be easily corrected by making clear reference to both “rural” and “resource” areas within amended policy language.

Beyond the very straightforward implications of the Hearings Board ruling lies the potentially more fundamental misreading of CPP 1.2, if not the Act itself, which gave rise to Policy 3A-2.2 in the first instance. CPP 1.2 was intended to provide guidance for Skagit County and the cities within the County to effectively coordinate and implement RCW 36.70A.110, “Urban Growth Areas.” RCW 36.70A.110(2) requires that the “*county and each city within the county shall include areas and densities sufficient to permit the urban growth that is projected to occur in the county or city for the succeeding twenty-year period*” . . . “ Consistent with this statutory provision, CPP #1.2 was intended to help define how Skagit County’s UGAs should be sized. It did not seek to direct the actual rate and timing of growth in either urban or non-urban areas of the County. Thus, policy language within the Plan that purports to somehow limit growth in non-urban areas of the County (i.e., rural and resource areas) to 20% of the 20-year growth projection misconstrues both the Act and the CPP. The County may wish to give consideration to clarifying and correcting this policy language in a future periodic Plan amendment cycle.

D. Recommended Corrective Action:

Amend Comprehensive Plan Policy 3A-2.2 to clearly indicate that resource areas are part of the non-urban area.

III. Related Issues

During the course of review for the above described compliance issues, other related issues were identified and have been included for revision. Uses that lacked a definition completely or sufficiently to determine compliance are proposed to be included or amended. Such uses include Active recreational facilities, Outdoor outfitters enterprises, Outdoor recreation facility and Natural resources training/research facility. The removal of uses within the Rural Village Residential (RVR) zone necessitated a review of uses within the Rural Village Commercial (RVC) zone in order to offset some undesired effects. Due to the entwined relation to the changes required for compliance, amendments to the RVC zone are included in this proposal. Also included with this proposal is an additional category of Home Based Business (HBB3). These changes became necessary when considering the effects of changes required for compliance.

² See also RCW 36.70A.115, which requires that amendments to comprehensive plans and development regulations “[P]rovide sufficient capacity of land suitable for development within their jurisdictions to accommodate their allocated housing and employment growth, as adopted in the applicable countywide planning policies and consistent with the twenty-year population forecast from the office of financial management.”

Skagit County Comprehensive Plan

Compliance Issue #2 - Comprehensive Plan Policies 3C-1.4 and 3C-2.1 in Conflict with Special Uses Allowed in Rural Areas Under SCC §§14.16.300(4), 14.16.310(4) and 14.16.320(4)

- 3C-1.4** The purpose of the Rural Intermediate designation is to provide and protect land for residential living in a rural atmosphere, taking priority over, but not precluding, limited non-residential uses appropriate to the density and character of this designation, resource land uses and commercially-oriented special uses. Long-term open space retention and critical area protection are encouraged.
- 3C-2.1** New rural commercial and industrial uses ~~will be located~~ should be located principally within designated commercial areas to avoid the proliferation of commercial businesses throughout the rural area. However, certain limited commercial uses, resource-related uses, home based businesses and other non-residential uses may be permitted if carefully reviewed, conditioned and found to be compatible with rural areas. To encourage efficient use of the land, the broadest range of commercial and industrial uses should be allowed in areas already accommodating such use and development, with greater limitations placed upon such uses within areas devoted predominantly to residential use (i.e., Rural Intermediate, Rural Village Residential and Rural Reserve areas). To encourage efficient use of land, priority consideration will be given to the siting of new rural commercial and industrial uses in areas of existing development. In order of priority, these are Rural Villages and existing Rural Centers, followed by already developed sites in the rural area, and only lastly by wholly undeveloped sites in the rural area. Comprehensive Plan and Zoning designations ~~permitting~~ devoted principally to commercial and industrial uses in the unincorporated portions of the county are:
- a. Rural Village Commercial
 - b. Rural Center
 - c. Rural Freeway Service
 - d. Small-Scale Recreation and Tourism
 - e. Natural Resource Industrial
 - f. Rural Marine Industrial
 - g. Major Industrial Developments
 - h. Master Planned Resorts
 - i. Small-Scale Business
 - j. Rural Business

~~The Home Based Business special use also permits certain rural commercial activities.~~

Compliance Issue #3 – Establishment of New Rural Centers in Areas Developed After July 1, 1990 Under Comprehensive Plan Policy 3C2-18(b).

- 3C-2.18** Any new Rural Center designations shall meet the following criteria:
- a. No change.

- b. The commercial area existed predominantly as an area or use of more intensive commercial development on July 1, 1990. ~~Limited exceptions may be provided where uses or areas that developed after July 1, 1990 serve substantially the same function as other Rural Centers that were existing commercial areas as of July 1, 1990.~~
- c. – h. No change.

Compliance Issue #4 – Establishment of New Rural Marine Industrial (RMI) Designations on Lands Contiguous to Existing Areas of RMI Zoning Under Comprehensive Plan Policy 3C-6.4.

~~3C-6.4 — It is the intention both to retain the rural character of Skagit County’s shoreline and to allow new areas for rural marine industry on a minimal scale that are in concert with the rural character. Therefore, only lands contiguous to areas with existing RMI zoning may be redesignated/rezoned to RMI.~~

Compliance Issue #5 – Inconsistency Between Countywide Planning Policy 1.2 and Comprehensive Plan Policy 3A-2.2

3A-2.2 The rate of development in rural and resource areas should be in accordance with adopted Countywide Planning Policies stating that urban areas should accommodate 80 percent of new population growth, with the remaining 20 percent locating in ~~the rural area~~ non-urban areas. Monitor the pace of development in conjunction with the maintenance of data describing the inventory of available buildable land.

Skagit County Unified Development Code 14.04.020 Definitions.

Active recreational facilities: facilities usually of a formal nature and offers activities that are often performed with others, requiring equipment and taking place at prescribed places. This includes outdoor recreational facilities, as defined by this Chapter, plus other facilities such as go-cart tracks, paint ball courses, and mini-golf and tennis courts utilized as businesses that might occur within an enclosed structure. Not included in this category are outdoor race tracks or shooting ranges.

~~**Festival site:** An indoor and/or outdoor site which may be used year round for musical and/or cultural events.~~

Home Based Business: Home based businesses are home occupations that remain incidental to the use of a residence for general dwelling purposes and are compatible with rural character. ~~Two~~ Three categories of home based businesses are allowed in Skagit County: Home Based Business 1, ~~and~~ Home Based Business 2, and Home Based Business 3. Home Based Business 1 is generally a permitted use while Home Based Business 2 and 3 requires a special use permit.

Outdoor outfitters enterprises (OOE): are hunting, fishing, bird watching and similar outdoor outfitting enterprises that are allowed as a special use; on natural resource lands OOE must remain incidental to the primary resource use of a natural resource the land and are allowed as a special use. Outdoor outfitting opportunities may be provided by the ~~farm~~ land owner or members of his/her immediate family on a trip basis or through direct lease to a hunt club, individual or group or through sublease to a professional outdoor outfitter. For the purposes of this definition, “incidental” shall mean resulting in income and land use that supplements, but does not exceed the primary use of the natural resource land for agricultural or forestry use. ~~A~~ No net loss of the designated resource land may occur as a result of OOE. These enterprises must comply with specific criteria for special uses outlined in SCC 14.16.900(2)(d). This definition shall not be considered to apply to private hunting and fishing.

Outdoor recreation facility: a privately owned, publicly used outdoor facility for recreation, with minimal associated structures and buildings, that relies on the natural environment and which does not involve overnight stays, or include continuous operation of motorized vehicles as an inherent part of the facility’s operation. Examples include public boat launches, U-fish ponds, hot springs, ~~mini-golf,~~ and tennis courts for public use.

Owner operator / caretaker quarters: One dwelling unit, accessory to a primary use, for persons who live on premises for the necessary purposes of managing, operating, maintaining, or guarding a primary non-residential use. Quarters may be occupied by either the owner of the principle use and his/her immediate family, or employees of the owner as well as their immediate family members.

Natural resources training/research facility: a facility dedicated to training and/or research that is directly related to a natural resource, a natural resource operation, or a natural resource industry. Natural resources consist of soil (including minerals), water, animals, plants and air.

14.16.100 Rural Village Commercial (RVC).

(1) Purpose. The Rural Village Commercial zoning districts are located within each Rural Village identified in the Comprehensive Plan. This zoning district provides an activity center where rural residents and others can gather, work, shop, entertain and reside. This district is intended to provide for a range of commercial uses and services to meet the everyday needs of rural residents and natural resource industries, to provide employment opportunities for residents of the rural area, and to provide goods, services, and lodging for travelers and tourists to the area.

(2) Permitted Uses. The following uses that primarily serve the needs of the surrounding rural population, visitors to the rural area, or natural resource industrial uses in the rural area:

(a) Art galleries and studios;

(b) Business offices;

(c) Caretaker quarters or owner/operator dwelling unit accessory to primary ~~main~~ use;

(d) Church

(e)~~(d)~~ Community club/grange hall;

(f)~~(e)~~ Family day care provider;

(g)~~(f)~~ Gas stations;

(h)~~(g)~~ Historic sites open to the public;

(i)~~(h)~~ Kennel, day-use.

(j)~~(i)~~ One loft living quarter above store fronts;

(k)~~(j)~~ Mini-storage;

(l)~~(k)~~ Minor public uses;

(m)~~(l)~~ Natural resource support services, including office uses and wholesale, retail and service businesses serving local natural resource industries, and sales, storage, parts and repair of equipment and supplies for natural resource industries;

(n)~~(m)~~ Overnight lodging and related services for visitors to the rural area;

(o)~~(n)~~ Pre-school;

(p)~~(o)~~ Professional offices;

(q)~~(p)~~ Retail and wholesale nurseries/greenhouses;

(r) Seasonal roadside stands under 300 square feet.

(s)~~(q)~~ Small animal clinic/hospital;

(t)~~(r)~~ Small retail and service businesses, including restaurants; and

(u)~~(s)~~ Outpatient medical and health care services.

(3) Administrative Special Uses.

(a) Expansion of existing major public uses up to 3,000 square feet.

(b) Group care facility

(c)~~(b)~~ Kennel, boarding.

(d)~~(c)~~ Large animal clinic/hospital.

(e)~~(d)~~ Minor utility developments.

(f)~~(e)~~ Parks, specialized recreational facility.

(g)~~(f)~~ Personal wireless services towers, subject to SCC 14.16.720.

(h) Seasonal roadside stands over 300 square feet.

(i)~~(g)~~ Temporary events.

(j)~~(h)~~ Trails and primary and secondary trailheads.

(4) Hearing Examiner Special Uses.

(a)~~(b)~~ Adult ~~G~~group care facility.

(b)~~(a)~~ Churches.

(c) Indoor shooting clubs.

(d)~~(c)~~ Major public uses and expansions of existing major public uses, 3,000 square feet and greater.

(e)~~(d)~~ Major utility developments.

(f) Mortuary.

(g) Public marinas with no more than 20 slips.

(h) Retail nurseries/greenhouses.

(i)~~(e)~~ Storage of unlicensed/inoperable vehicles.

(5) - (7) No change.

14.16.130 Small Scale Recreation and Tourism (SRT).

(1) Purpose. This district provides for small scale recreational and tourist uses that ~~make available~~ create opportunities to diversify the economy of rural Skagit County by utilizing, in an environmentally sensitive manner, the County's abundant recreational opportunities and scenic and natural amenities.

(2) Permitted Uses.

(a) No change.

(3) Accessory Uses.

(a) Office use, accessory to the primary permitted use.

(b) Owner operator/~~caretaker quarters, dwelling unit.~~

(4) Administrative Special Uses.

(a) Expansion of existing major public uses up to 3,000 square feet.

(b) In remote areas only, such as east of Concrete and on saltwater islands without ferry service, employee housing sufficient to operate the SRT operation, provided that such housing shall not be for permanent residential use and is limited in size and quantity to only that necessary to house active, existing employees.

Any employee housing shall be incidental in scale to the primary SRT use.

(c) Kennel, boarding.

(d) Minor public uses.

(e) Minor utility developments.

(f) Parks – specialized recreational facility.

(g) Retail and wholesale nurseries/greenhouses.

(h) Temporary events.

(5) Hearing Examiner Special Uses.

(a) Animal preserve.

(b) ~~Festival sites.~~

(c) Impoundments greater than 1-acre feet in size.

(d) Major public uses and expansions of existing major public uses, 3,000 square feet and greater.

(e) Major utility developments.

(f) Marinas with greater than 20 slips.

(g) Personal wireless services towers, subject to SCC 14.16.720.

(h) Racetrack – recreational.

(i) Shooting clubs, indoor and outdoor.

(j) Storage of unlicensed/inoperable vehicles.

(6) – (7) No change.

14.16.300 Rural Intermediate (RI).

(1) Purpose. The purpose of the Rural Intermediate district is to provide and protect land for residential living in a rural atmosphere, taking priority over, but not precluding, limited non-residential uses appropriate to the density and character of this designation, resource land uses. Long-term open space retention and critical area protection are encouraged. CaRDs are the preferred development pattern within this district.

(2) – (3) No change.

(4) Hearing Examiner Special Uses. *Note to code publisher: employ numbering changes as necessary for section*

(a) Adult group care facility.

~~(b) Aircraft landing field, private.~~

(c) Animal clinic/hospital.

~~(d) Animal preserve.~~

~~(e) Campgrounds, primitive or developed.~~

(f) Cemetery.

(g) Church.

(h) Community club/grange hall.

~~(i) Display gardens.~~

(j) Fish hatchery.

(k) Group care facility.

(l) Historic sites open to the public.

(m) Home Based Business 2.

~~(n) Indoor shooting club.~~

(o) Impoundments greater than 1-acre feet in-size volume.

(p) Kennels.

(i) Day-use kennel.

(ii) Boarding kennel.

(iii) Limited kennel.

(q) Major public uses and expansions of existing major public uses, 3,000 square feet and greater.

(r) Major utility developments.

(s) Mortuary.

(t) Outdoor recreational facilities.

~~(u) Outdoor storage of processed and unprocessed natural materials in quantities greater than 500 cubic yards that do not have a potential health hazard.~~

~~(v) Outdoor storage of processed and unprocessed natural materials in quantities greater than 50 cubic yards that may have a potential health hazard. Does not include storage of hazardous materials.~~

(w) Parks, community.

(x) Personal wireless services towers, subject to SCC 14.16.720.

(y) Pre-school.

(z) Public marinas, with no more than 20 slips.

(aa) Retail and wholesale nurseries/greenhouses.

~~(bb) Retriever/dog training facility.~~

(cc) Seasonal worker housing.

(dd) Seasonal roadside stands over 300 square feet.

(ee) Stables and riding clubs.

(ff) Storage of unlicensed and/or inoperable vehicles.

(5) – (6) No change.

14.16.310 Rural Village Residential (RVR).

(1) Purpose. The purpose of the Rural Village Residential district is to preserve the residential character of those portions of identified Rural Villages designated for residential use, while allowing for limited non-residential uses appropriate to the village through the special use permit process. Allowed densities within this district are based on the availability of public water and on environmental considerations.

(2) – (3) No change.

(4) Hearing Examiner Special Uses. *Note to code publisher: employ numbering changes as necessary for section*

~~(a) Animal clinic/hospital.~~

(b) Cemetery.

(c) Community club/grange hall.

~~(d) Group care facility.~~

(e) Historic sites open to the public.

(f) Home Based Business 2.

~~(g) Indoor shooting clubs.~~

(h) Kennels.

(i) Day-use kennel.

(ii) Boarding kennel.

(iii) Limited kennel.

(i) Major public uses and expansions of existing major public uses, 3,000 square feet and greater.

(j) Major utility developments.

~~(k) Mortuary.~~

(l) Parks, community.

~~(m) Personal wireless services towers, subject to SCC 14.16.720.~~

(n) Pre-school.

~~(o) Retail and wholesale nurseries/greenhouses.~~

~~(p) Seasonal roadside stands over 300 square feet.~~

~~(q) Storage of unlicensed/inoperable vehicles.~~

(r) Outpatient medical and health care services; provided, that total gross floor area is limited to 6,000 square feet and accessory storage and noncommercial uses are limited to 1,500 square feet and the number of practitioners does not exceed 10.

(5) – (7) No change.

14.16.320 Rural Reserve (RRv).

(1) Purpose. The purpose of the Rural Reserve district is to allow low-density development and to preserve the open space character of those areas not designated as resource lands or as urban growth areas. Lands in this zoning district are transitional areas between resource lands and non-resource lands for those uses that require moderate acreage and provide residential and limited employment and service opportunities for rural residents. They establish long-term open spaces and critical area protection using CaRDs as the preferred residential development pattern.

(2) – (3) No change.

(4) Hearing Examiner Special Uses. *Note to code publisher: employ numbering changes as necessary for section*

~~(a) Adult group care facility.~~

(b) Aircraft landing field, private.

(c) Animal clinic hospital.

(d) Animal preserve.

(e) Campground, developed.

(f) Cemetery.

(g) Church.

(h) Community club/grange hall.

(i) Display gardens.

~~(j) Festival site.~~

(k) Fish hatchery.

(l) Golf course.

~~(m) Group care facility.~~

(n) Historic sites open to the public.

(o) Home Based Business 2.

(p) Impoundments greater than 1-acre feet in volume.

~~(q) Indoor shooting clubs.~~

(r) Kennels.

(i) Boarding kennel.

(ii) Limited kennel.

(s) Major public uses and expansions of existing major public uses, 3,000 square feet and greater.

(t) Major utility developments.

(u) Manure lagoon.

(v) Natural resources training/research facility.

(w) Off-road vehicle use areas and trails.

(x) Outdoor outfitters enterprises.

(y) Outdoor recreational facilities.

(z) Outdoor storage of processed and unprocessed natural materials in quantities greater than 500 cubic yards that do not have a potential health hazard.

(aa) Outdoor storage of processed and unprocessed natural materials in quantities greater than 50 cubic yards that may have a potential health hazard. Does not include storage of hazardous materials.

(bb) Parks, community.

(cc) Personal wireless services towers, subject to SCC 14.16.720.

~~(dd) Pre school.~~

~~(ee) Public marinas with no more than 20 slips.~~

(ff) Racetrack, recreational.

(gg) Retail and Wholesale nurseries/greenhouses.

~~(hh) Retriever/dog training facility.~~

(ii) Seasonal roadside stands over 300 square feet.

(jj) Seasonal worker housing.

(kk) Stables and riding clubs.

~~(ll) Storage of unlicensed/inoperable vehicles.~~

(mm) Temporary asphalt/concrete batching, subject to the applicable provisions of SCC 14.16.440.
(5) - (6) No change.

14.16.730 Home Based Business 1.

(1) There are ~~2~~ 3 types of Home Based Business: Home Based Business 1, ~~and~~ Home Based Business 2, and Home Based Business 3. Home Based Business 2 and 3 requires a Special Use Permit, and ~~is~~ are discussed in SCC 14.16.900. Uses specifically identified in this Chapter shall only be allowed in the zoning districts for which they are designated and shall not be eligible for consideration as a Home Based Business in any other zone.

(2) Home Based Business 1 shall meet the following criteria:

- (a) Is carried out exclusively by a member or members of a family residing in the dwelling unit;
- (b) Is clearly incidental and secondary to the use of the property for dwelling purposes, with the floor area devoted to the home occupation not exceeding 25% of the living area of the dwelling unit;
- (c) Has no outside storage, no outside signs of any size or type, nor other exterior indication of the home occupation or variation from the residential character of the property;
- (d) Does not require the installation of heavy equipment, large power tools or power sources not common to a residential dwelling;
- (e) Does not create a level of noise, vibration, smoke, dust, odors, heat or glare beyond that which is common to a residential area; and
- (f) Does not have clients come to the site.

(3) ~~It should be noted that~~ The intent of this use category is to allow a home based business to operate with the above-noted limitations. When the business grows beyond the criteria established above, the business shall apply for a Home Based Business 2 or 3 Special Use permit (if allowed by the applicable zone) or shall relocate to a zoning classification which would permit the activity. Special Use permits issued after June 1, 1997, shall not be used as justification for Comprehensive Plan Amendment and/or rezone requests. (Ord. 17938 Atch. F (part), 2000)

14.16.900 Special use permit requirements.

(1) No change.

(2) Special Uses with Specific Criteria.

(a) – (d) No change.

(e) Home Based Business 2. Special Use permits are subject to the following criteria:

(i) Is carried out by a member or members of a family residing in the dwelling ~~and may include up to 3 additional employees;~~

(ii) Is clearly incidental and secondary to the use of the property for dwelling purposes;

~~(iii) The business activity may be conducted in other than the dwelling;~~

~~(iii)(iv)~~ Has no outside storage nor other exterior indication of the home occupation or variation from the residential character of the property with the exception of 1 sign not to exceed 4 square feet, provided such sign shall not be illuminated;

(iv) Does not require the installation of heavy equipment, large power tools or power sources not common to a residential dwelling;

(v) Does not create a level of electrical interference, line voltage fluctuation, noise, vibration, smoke, dust, odors, heat, glare, traffic and other environmental impacts beyond that which is common to a residential area;

(vi) Does not create a level of parking demand beyond that which is normal to a residential area; and

(vii) May have clients come to the site.

(viii) If established after June 1, 1997, shall not be used as justification for future Comprehensive Plan Amendment and/or rezone requests.

(f) Home Based Business 3. Special Use permits are subject to the following criteria:

(i) Is carried out by a member or members of a family residing in the dwelling and may include up to 3 additional employees;

(ii) Is clearly incidental and secondary to the use of the property for dwelling purposes;

(iii) The business activity may be conducted in buildings other than the dwelling provided that the size of such building shall be consistent with the residential area and such building is properly permitted for the use;

(iv) Has no outside storage nor other exterior indication of the home occupation or variation from the residential character of the property with the exception of 1 sign not to exceed 4 square feet, provided such sign shall not be illuminated;

(v) Does not create a level of electrical interference, line voltage fluctuation, noise, vibration, smoke, dust, odors, heat, glare, traffic and other environmental impacts beyond that which is common to a residential area;

(vi) Does not create a level of parking demand beyond that which is normal to a residential area; and

(vii) Maintains the character, landscape and lifestyle of the rural area. For new uses, proximity to existing businesses operating via Special Use permit shall be reviewed and considered for cumulative impacts.

(viii) May have clients come to the site.

(ix) If established after June 1, 1997, shall not be used as justification for future Comprehensive Plan Amendment and/or rezone requests.

(f) – (h) No change. *Note to code publisher: continue numbering changes as necessary for remainder of section*

(3) No change

Note to code publisher: Change any instance of caretaker quarters, owner operator dwelling unit, or any combination of those terms to “Owner operator / caretaker quarters” in the following zones:

- 14.16.100 Rural Village Commercial (RVC).
- 14.16.110 Rural Center (RC).
- 14.16.120 Rural Freeway Service (RFS).
- 14.16.130 Small Scale Recreation and Tourism (SRT).
- 14.16.140 Small Scale Business (SSB).
- 14.16.150 Rural Business (RB).
- 14.16.160 Natural Resource Industrial (NRI).
- 14.16.170 Rural Marine Industrial (RMI).
- 14.16.175 Hamilton Industrial (H-I).
- 14.16.180 Bayview Ridge Light Industrial (BR-LI).
- 14.16.190 Bayview Ridge Heavy Industrial (BR-HI).
- 14.16.195 Urban Reserve Commercial-Industrial (URC-I).

Note to code publisher: in the following zones: 1) change all instances of Home Based Business 2 to Home Based Business 3 and 2) insert Home Based Business 2 as an Administrative Special Use (for 14.16.400, .410, .420, and .430 include caveat language “provided no conversion of agricultural land is required to accommodate the business activity”, and 3) renumber sections accordingly.

- 14.16.300 Rural Intermediate (RI).
- 14.16.310 Rural Village Residential (RVR).
- 14.16.320 Rural Reserve (RRv).
- 14.16.330 Residential District (R).
- 14.16.340 Bayview Ridge Residential (BR-R).
- 14.16.350 Bayview Ridge Urban Reserve (BR-URv).
- 14.16.370 Urban Reserve Residential (URR).
- 14.16.380 Hamilton Residential (HR).
- 14.16.385 Hamilton Urban Reserve (H-URv).
- 14.16.400 Agricultural—Natural Resource Lands (Ag-NRL).
- 14.16.410 Industrial Forest—Natural Resource Lands (IF-NRL).
- 14.16.420 Secondary Forest—Natural Resource Lands (SF-NRL).
- 14.16.430 Rural Resource—Natural Resource Lands (RRc-NRL).

Amend 14.16.160, Natural Resource Industrial, and 14.16.175, Hamilton Industrial, as follows, also renumber as necessary:

- (5) Hearing Examiner Special Uses.
 - (a) Billboards.
 - ~~(b) Home Based Business 2.~~
 - (c) Major public uses and expansions of existing major public uses, 3,000 square feet and greater.
 - (d) Major utility developments.
 - (e) Permanent or temporary asphalt or concrete batching and recycling.
 - (f) Petroleum products and gas storage—bulk.
 - (g) Personal wireless services towers, subject to SCC 14.16.720.
 - (h) Stockyards greater than 40 acres.

Also, Amend 14.16.850(4) General Provisions, as follows:

(e) In the natural resource land zones, if the proposed use for the substandard lot of record is any of the uses permitted in the respective natural resource land zone other than the following residential uses, it may be allowed regardless of the determination pursuant to SCC 14.06.045(1)(b):

- (i) Agricultural-NRL: co-housing, as part of CaRD, subject to SCC 14.18.300 through 14.18.330; farm-based business carried on exclusively by a member or members of a family residing on the farm and employing no more than 3 nonresident full-time equivalent employees; family day care provider as defined in Chapter 14.04 SCC; Home Based Business 1; single-family detached residential dwelling unit and residential accessory uses, when accessory to an agricultural use; temporary manufactured homes as permitted in SCC 14.16.900(2)(b); Home Based Business 2, provided no conversion of agricultural land is required to accommodate the business activity; Home Based Business 3, provided no conversion of agricultural land is required to accommodate the business activity.
- (ii) Secondary Forest-NRL: accessory residential structures; co-housing as part of a CaRD, subject

to SCC 14.18.300 through 14.18.330; detached single-family residential dwellings; family day care provider; Home Based Business 1; Home Based Business 2, provided no conversion of agricultural land is required to accommodate the business activity; Home Based Business 3, provided no conversion of agricultural land is required to accommodate the business activity.

(iii) Rural Resource-NRL: detached single-family residential dwelling, Home Based Business 1, family day care provider, residential accessory structures, Home Based Business 2, provided no conversion of agricultural land is required to accommodate the business activity, Home Based Business 3, provided no conversion of agricultural land is required to accommodate the business activity.

(iv) Industrial Forest-NRL: co-housing, as part of CaRD, subject to SCC 14.18.300 through 14.18.330; single-family residential dwellings; Home Based Business 1 Home Based Business 2, provided no conversion of agricultural land is required to accommodate the business activity; Home Based Business 3, provided no conversion of agricultural land is required to accommodate the business activity.