



Planning & Development Services

1800 Continental Place ▪ Mount Vernon, Washington 98273
office 360-416-1320 ▪ pds@co.skagit.wa.us ▪ www.skagitcounty.net/planning

Public Comments on SEPA DNS issued for 2025 Comprehensive Plan, Development Regulations, and Critical Areas Ordinance Update

Count	Name	Organization/ Address	Comment Method	Date Received
1	Jan Edelstein	17173 West Big Lake Blvd Mount Vernon, WA 98274	Email	05/30/2025
2	Ellen Bynum	Friends of Skagit County PO Box 2632 Mount Vernon, WA 98273-2632	Email	05/30/2025

Jan M. Edelstein
17173 West Big Lake Blvd.
Mt. Vernon, WA 98274
jmeten@comcast.net
208-720-0709

May 30, 2025

Robby Eckroth, AICP
Skagit County Planning & Development Services
Via e-mail: pdscomments@co.skagit.wa.us

SUBJECT: PUBLIC COMMENT: SEPA DNS for Skagit County 2025 Periodic Comprehensive Plan and Development Regulations Update published May 15, 2025 – DNS NOT WARRANTED

I write to urge the County to revise this DNS, or revise the Development Regulations, to address the potential significant adverse environmental impacts to critical areas, with a special focus on anadromous fish habitat, from new development. These impacts include the increase in pollutants carried to critical area surface waters by increased stormwater runoff as well as artificial light at night.

Skagit County's CP and DRs do not protect all critical areas from the adverse impacts of new development surface water. Instead, the County's rules protect only critical areas on the site of the new project or within a 200' perimeter of the project boundary, 300' in the case of wetlands.

The County's DRs do NOT require an Applicant to provide a Critical Areas Site Assessment¹ for critical areas beyond 200 of the project perimeter, 300' for wetlands.

Whether it is the project's off-site impact from stormwater discharge to anadromous fisheries, the impact of Artificial Light at Night (ALAN)² upon those fisheries, or the hazard of fire-fighting sending on-site chemicals to a fishery more than 200' away, that potential impact would not be subject to a Critical Areas site-assessment.

Although the Skagit County CP calls for the protection of Critical Areas to prevent the continued loss and degradation of Critical Areas (Comp. Plan Goal 5A-5) with "...special

¹ SCC 14.24.080

² https://www.govlink.org/watersheds/8/Final%20SRC%20Lighting%20Memo_3_10_20.pdf;
<https://www.usgs.gov/centers/western-fisheries-research-center/news/shedding-some-light-issue-investigating-how> <https://www.usgs.gov/centers/western-fisheries-research-center/news/artificial-light-night-update-field>

consideration to conservation or protection measures necessary to preserve or enhance anadromous fisheries” (policy 5A-5.1(d)(viii), the DRs oppose that goal.

BACKGROUND – STORMWATER MANAGEMENT

1. Skagit County Stormwater Code requires only that the Applicant design the stormwater system using the methods (Best Management Practices) laid out in the current Department of Ecology Stormwater Management Manual. This standard does not require measurement or other identification of the pollutant loading of the stormwater leaving the site, nor its effect on critical areas, particularly anadromous fisheries. Instead, this approach is expected to only minimize, as practical, the adverse impacts associated with the discharge of pollutants carried by stormwater.
2. In the words of the Department of Ecology (Ecology) from the 2024 Stormwater Manual³:
 - a. “Although the ‘best management practices’ advocated by the 2024 manual and other stormwater manuals can reduce the impacts from new development to water quality, these systems cannot remove enough pollutants to replicate the water quality of pre-development conditions”, and
 - b. “Despite using some or all of the practices identified in the manual, some degradation of receiving waters will continue, and some beneficial uses will continue to be impaired or lost due to new development. This is because land development, as practiced today, is incompatible with the achievement of sustainable ecosystems. Unless land use development methods are adopted that cause significantly less disruption of the hydrologic cycle, new development followed by degradation of ‘swimmable, fishable’ surface waters will continue.”
3. For more science regarding the significant impact of municipal stormwater runoff, please see:
 - a. It is well established by Ecology that:

“Polluted stormwater runoff is the leading pollution threat to our lakes, rivers, streams, and Puget Sound. Broadly speaking, the primary contaminants in stormwater runoff are nutrients, bacteria, sediment, and toxic chemicals...”⁴
 - b. Ecology’s and others Puget Sound and related Watershed Management studies.

³ 2024 Stormwater Management Manual for Western Washington, pg. 60.
<https://apps.ecology.wa.gov/publications/documents/2410013.pdf>

⁴ <https://apps.ecology.wa.gov/publications/publications/1103060.pdf>

- c. Washington State University Extension Study by Chaker-Scott: "Potential Contaminants in Residential Rain Barrel Water."
<https://rex.libraries.wsu.edu/esploro/outputs/report/Potential-contaminants-in-residential-rain-barrel/99900924141301842> and related studies.
 - d. Ecology's Focus on: Best Management Practices for 6PPD-q.
<https://apps.ecology.wa.gov/publications/documents/2310001.pdf> and related studies.
 - e. "Effects of Artificial Lighting at Night on Predator Density and Salmonid Predation" <https://onlinelibrary.wiley.com/doi/10.1002/tafs.10286>
 - f. USGS webpage on the adverse impact of Artificial Light at Night (ALAN) on salmon fisheries. Webpage lists a number of studies.
<https://www.usgs.gov/centers/western-fisheries-research-center/news/shedding-some-light-issue-investigating-how>
4. DR only reduces stormwater pollution, it does not prevent impacts to critical areas. The County asserts that its Stormwater Code is sufficient to protect critical areas. It is not. The County assumes compliance with Ecology's Stormwater Code provides adequate protection of the receiving water. Unfortunately, compliance only reduces the threat, it does not remove it. Relying on this compliance to lessen the pollutant load is not a replacement for a critical area site assessment by a qualified professional. The critical area assessment would determine the amount and type of pollutants remaining in the new stormwater following any on-site treatment or dispersion, the state of current critical area functions and values, and the impact of the pollutants carried by the new stormwater runoff on those functions and values.
5. The Growth Management Board, as affirmed by Court of Appeals of Washington, Division Three No. 29191-0-III in Stevens County v. E. Wash. Growth Mgmt. Hearings Bd., rejected a Stevens County ordinance that required only minimizing stormwater impacts. Specifically, the Board concluded:

"Stevens County has failed to enact legislation which complies with the Growth Management Act's requirements to protect the functions and values of critical areas as set forth in RCW. 36.07A.020(10), .060(2), and .172."

In other words, only minimizing the effect of impervious surfaces and stormwater runoff on critical areas, does NOT protect critical areas.

6. The County, operating under its General Municipal Stormwater Management NPDES Permit, has required only that the design of stormwater management facilities for new development comply with the current Department of Ecology Stormwater Management Manual for Western Washington. As the Department of Ecology has acknowledged, such compliance leaves the stormwater runoff polluted with sediments, nutrients, and other pollutants. In other words, critical areas in the path of stormwater runoff, or as the receiving water body, may NOT be protected from the development's polluted stormwater, even if the stormwater design complies with the County Stormwater code.

Respectfully submitted,

Jan M. Edelstein

From: Ellen Bynum <skye@cnw.com>
Sent: Friday, May 30, 2025 3:26 PM
To: PDS comments
Cc: Randy & Aileen Good, FOSC.; FOSC Office
Subject: Comments - SEPA DNS for Skagit County 2025 Periodic Comprehensive Plan and Development Regulations Update

May 30, 2025

TO: Robby Eckroth, AICP, Senior Planner
Skagit County Planning and Development Services
1800 Continental Place
Mount Vernon, WA 98273

FROM: Ellen Bynum, Executive Director
Friends of Skagit County
PO Box 2632
Mount Vernon, WA 98273-2632

RE: Comments on SEPA DNS for the 2025 Skagit County Periodic GMA update of the Comprehensive Plan, Development Regulations and Critical Areas Ordinance.

Thank you for the opportunity to comment on the SEPA DNS.

Since we have not seen final documents for any of the three listed above, we can only speak to the draft documents we have been able to review. As I write these comments at 2:43 pm, I received notice of the 3rd draft Comprehensive Plan update and 2nd draft Development Regulation update via e-mail.

It is our understanding that past practice has been to present final drafts or final documents for SEPA review or to extend the comment deadline until those documents are available.

We suggest an extension or re-noticing of SEPA until draft final documents are available for review be considered.

Areas of concern in no ranked order

The UGA amendment for the City of Anacortes does not appear to include an evaluation of a needs assessment to increase the UGA with these properties. Neither the ownership or the use of the property can be the reason for including the properties in the deadline. Until the city provides a needs assessment including population projections that warrant UGA expansion and later annexation, we oppose the inclusion of the parcels in the UGA.

State law changes about "middle housing"

Historically, some LAMIRDS, including rural villages, have already reached 4 or more DUs per acre, i.e. the minimum "urban" level of development. Allowing additional density in these areas, even with available public services, creates the equivalent of a UGA and does not preserve rural character. Rural villages are NOT UGAs and infill allowed should consider if the changes support the "rural character" of the areas. That said, there may be opportunities in some of these areas for this type of housing, but the decision to allow these should be open for public comment, have review by the PC and BoCC. Ideally, a public process for a community plan should be undertaken and the subject of additional density, "middle housing" and related issues should be part of the planning effort.

These same concerns apply to updating SCC 14.16 to allow unit lot subdivisions, middle housing, manufactured home and mobile home parks. For example, Big Lake already has a mobile home park. Do they need another? Rural villages and LAMIRDS that have not completed a community or sub-area plan, should engage the public in the planning process and complete a community plan. Every LAMIRD, including rural villages, should have their own plan and evaluation process for increasing density.

Stormwater Issues.

We concur with Jan Edelstein's comments regarding the need to change the 200' range from a development's stormwater pollution effects zone as the arbitrary range does not protect critical areas from pollution. We agree with the Department of Ecology's 2024 Stormwater Manual's assessment of the statement that "best management practices "cannot remove enough pollutants to replicate the water quality of pre-development conditions". If the 200' range was created in order to send notices to surrounding property owners, in light of current available electronic notification methods, we propose all property owners in a watershed be notified.

Additionally the Draft Development Regulations do not remove the pollution from developments. A critical areas assessment using best available science would comply with the current rules, but not necessarily prevent or eliminate stormwater run-off impacts. The Stevens County v. Eastern WA Growth Management Hearings Board case and affirmation by the Court of Appeals of WA, Division Three No. 29191-0-III has already examined what is needed to protect the functions and values of critical areas.

Other issues:

We support integrating Administrative Official Interpretations and their citation in the DRs to provide the public a way to track these decisions.

In all documents, we request where Ordinances or other citations were included in the last Comprehensive Plan update, that these be carried forward to the 2025 iteration. Without these references it is unlikely a person unfamiliar with the issue discussed is likely to find the history and prior language on the topic. This is particularly exacerbated by the fact that transcripts of the Planning Commission are no longer available to the public to use to verify information and background as to how the PC made their decisions. We ask that PDS consider restoring the provision of full and accurate transcripts created from the videos and distributed widely.

Thank you for the opportunity to comment. Should you have questions or need additional information please contact us.

Ellen Bynum

Ellen Bynum, Executive Director
Friends of Skagit County
PO Box 2632 (mailing)
Mount Vernon, WA 98273-2632
360-419-0988; friends@fidalgo.net
www.friendsofskagitcounty.org
“A valley needs FRIENDS”
Since 1994 - Common Goals - Common Ground - Common Good
DONATE NOW at Network for Good
nfggive.org