



PLANNING & DEVELOPMENT SERVICES

GARY R. CHRISTENSEN, AICP, DIRECTOR

BILL DOWE, CBO, DEPUTY DIRECTOR

PATTI CHAMBERS
Administrative Coordinator

TIM DEVRIES, CBO
Building Official

MEMORANDUM

To: Skagit County Planning Commission
From: Carly Ruacho, Senior Planner
Date: July 17, 2009
Re: Open Space Concept Plan Revisions

Per your request, the Department has worked with consultants to make revisions to the Open Space Concept Plan per your direction. For ease of review, we are forwarding to you only those portions of the plan that have been amended per your suggestion. We are not forwarding sections where typographical errors or other similar editorial corrections were made.

The attachments reflect the following changes:

1. New definition section added to preface of Plan;
2. Clarified explanation regarding strategy for acquisition/prioritization of properties added to FAQ's of Plan;
3. Map legends changed to 'trails' vs. 'public access' throughout Plan;
4. Map legends changed from 'existing trails' vs. 'possible trails' throughout Plan;
5. Removed arrows from open space indicators on maps throughout Plan;
6. Removed zoning designations from maps;
7. Added North arrow to maps;
8. Added new OSRSI/Federal/State lands map to App. A (A-1);
9. Added new section to App. B (B-101) outlining Washington State Dept. of Transportation information.

The attachments reflect all desired changes requested by the Planning Commission at our last meeting on June 30, 2009, as well as one additional change. Comments were recently received from the Washington State Department of Transportation, and staff recommends inclusion of the information at this time.

Also attached is a draft Recorded Motion for your review and use should you desire to take final action on the Open Space Plan at your upcoming meeting on July 30, 2009.

Please feel free to contact me at extension 5582 with any questions you may have.

Open Space Definitions

Following are some alternative approaches to defining the term "open space" in the Skagit Countywide UGA Open Space Plan:

Open space and UGA open space definitions

The 2007 Skagit County Comprehensive Plan, Chapter 2: Urban, Open Space and Land Use Profile, pages 4 and 5 define open space as:

A. Open Space

Land and water that is in its natural state or is developed or restored consistent with the following:

Greenbelts - are made up of combinations of public and private properties of various ownerships with varying levels of access including no public access including the following categories:

1. Private
 2. Public
 3. Access
 4. No-Access
1. Greenbelts within and around urban growth areas;
 2. Greenbelts connecting critical areas;
 3. Lands receiving open space tax incentives;
 4. Resource lands (*agriculture, forest, and aquatic*);
 5. Conservation easements;
 6. Rural areas (created by low-density zoning);
 7. Park and recreation lands, including trails; and
 8. Significant historic, archaeological, scenic and cultural lands.

B. Urban Growth Area (UGA) Open Space

A system of open space and greenbelts that weaves within and between urban growth areas and helps define the edge between urban and rural areas.

Open Space Areas

There are a variety of types of open space lands in Skagit County. Open space areas include greenbelt corridors within

and around urban growth areas, greenbelts which connect critical areas, lands receiving open space tax incentives, resource lands, conservation easements, rural open space areas, park lands, and significant historic, archaeological, scenic and cultural lands.

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; any potential acquisition for land for open space or greenbelts shall only be achieved by voluntary donation, CaRD subdivision, or mutually agreeable sale.

Public Open Space

Public open space areas include publicly owned lands 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. However, certain areas may not be open to the public, such as utility corridors, road easements, etc., where ownership or public safety reasons may preclude public access, even though these areas may provide open space benefits to wildlife.

Private Open Space

There are several private organizations in Skagit County that in some way set aside lands for conservation purposes, such as for their ecological, scenic, or natural resource values. Private land

trusts, such as the Skagit Land Trust, the San Juan Preservation Trust, and the Nature Conservancy, among others, own or in some way administer a significant amount of land in Skagit County.

These private organizations contribute to the preservation of wildlife habitat, biodiversity, natural and scenic greenbelts and open-space corridors. Through the use of such techniques as conservation easements, purchase of development rights, or the outright purchase of land, development of these lands is limited or precluded altogether.

Open Space Taxation

Lands enrolled in a taxation program as defined in RCW 84.34 are identified in the Current Use Open Space Taxation Program map. This map also may change over time according to participation.

Open space lands public accessibility

The degree of public access on open space lands is determined on a case-by-case basis. While three types of open space are shown below with no public access, individual cases could have access depending on the owner's desires. For example, certain rural CaRD subdivisions may choose to make their open space area accessible to the public. The same holds for urban clustered subdivisions. A range of public access is illustrated below, using the types of open space listed in the Comprehensive Plan.

Public Access Array

	None	Limited	Extensive
1. Greenbelts within and around urban growth areas	X	X	X
2. Greenbelts connecting critical areas	X	X	
3. Lands receiving open space tax incentives	X		
4. Resource lands	X		
5. Conservation easements	X	X	

6. Rural open space areas	X		
7. Park lands	X	X	X
8. Significant historic, archaeological, scenic, and cultural lands	X	X	X

Passive and active open space

The terms "passive" and "active" are used in park planning literature in a very general manner. The following scale was derived from examples in various parks plans.

Parks tend to have both passive and active features and the goal is to balance the two. For example, if an open space area has habitat protection as its primary function, it may have only passive uses and access limited to soft-surface trails or a small interpretive area. An example at the "active" end of the scale is a sports field with parking and high numbers of people visiting and using the site. Trails are described as either passive or active, depending on the intended use. Further trail definitions originate with transportation regulations that require non-motorized planning. Trails that are part of a UGA open space area may also be part of the non-motorized system.

Intensity of Public Use - Examples

Passive	Moderate	Active
Habitat area Resource land Community forest	Scenic overlook Interpretive kiosk Trailhead Soft-surface trail Picnic Shelter	Ballfield Off-leash area High-volume, hard-surfaced trail Boat launch

FAQs - Skagit Countywide UGA Open Space Concept Plan

Following are answers to some of the basic questions that have been asked about this plan:

1 Background

1.1: What is an Urban Growth Area (UGA) Open Space Concept Plan?

State law (RCW 36.70A.160) of the Growth Management Act - GMA requires every county and city covered by the Growth Management Act to **identify open space corridors within and between urban growth areas**.

In the 3-part system of Parks, Recreation, and Open Space, this plan identifies a system of open spaces that are in and near the county's current and future UGAs.

1.2: What are the benefits of a UGA Open Space Plan?

A UGA open space concept plan differs from more familiar parks and recreation plans in that it helps to shape urban form, particularly where the developed area ends and rural begins. The concept plan provides boundaries between incompatible uses and breaks from continuous development. The concept plan can shape land use patterns to promote more compact development. The goal is to provide a continuous system of open spaces, linking those from within the cities into the edges and rural areas.

Other benefits of a UGA Open Space Concept Plan may include protection of:

- Flood control measures, water supply protection, air quality, separation from hazards
- Wildlife and habitat
- Commercially significant resources including agricultural products, forestry, fisheries, minerals
- Economic development through improved quality of life
- Natural features and spaces important to defining community image and distinctive character
- Healthy lifestyles

- Historic and cultural preservation opportunities

1.3: What are the Skagit County UGAs?

Skagit County has 10 UGAs including Concrete, Hamilton, Lyman, Sedro-Woolley, Burlington, Mount Vernon, Bayview, La Conner, Swinomish, and Anacortes.

The legal definition of UGAs includes both the area within the existing city or town limits and any area in the unincorporated county identified for future growth. In common use, many people use the term UGA to specify only the unincorporated growth area.

1.4: Why is the plan being prepared now?

The plan is being developed now because of a decision in an appeal to the Western Washington Growth Management Hearings Board by Friends of Skagit County. The provisions for UGA open space were found to be inadequate and not explicitly mapped. The appeal was settled when the County adopted the following policy in the Skagit County Comprehensive Plan:

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.

Note – instead of including a list of prioritized open space and greenbelt land acquisitions, the implementation program for this concept plan (Chapter 4, task 6) proposes to establish a funding source and solicit competitive proposals on an annual basis from interested parties including local public jurisdictions,

nonprofit interest groups, and private property owners that will implement the open space preservation, restoration, enhancement, interpretive, and recreational benefits defined herein. During the planning process for this plan, it was determined that this competitive proposal approach will result in a more responsive and implementable series of projects, which may include open space and greenbelt enhancements in manners other than outright acquisition, than a simple list of presumed acquisition targets would be.

1.5: Who updates or makes revisions to the proposed UGA open space concept plan?

In accordance with GMA requirements (RCW 36.70A.130(4)), each jurisdiction reviews, and if needed, revises all its GMA plans, including this one every 7 years.

1.6: Where can I get more information about the GMA requirements, case law, and open space planning?

Detailed information about GMA requirements and planning for UGA Separators and Parks, Recreation, and Open Space planning elements is available on the state's website:

http://www.cted.wa.gov/_CTED/documents/ID_1691_Publications.pdf

2 The Skagit County plan

2.1: How was the Skagit County Plan developed and funded?

This plan is a cooperative project between the cities and the county. It was overseen by the Skagit Council of Governments (SCOG) using funds provided by a grant from the Washington State Department of Community, Trade & Economic Development (CTED) with additional money from Skagit County. Cities are responsible for planning for open space within their incorporated city limits. Outside the city limits, most cities have expansion areas, or unincorporated UGAs. The county is responsible for integrating all of the individual city UGA open space corridors into a **countywide network of UGA defining open spaces** and is working with the cities to do so. The countywide network may include, as appropriate, areas "between" urban growth areas.

The staff and consultant team met with representatives of each of the 10 UGA jurisdictions to review the open space proposals in their adopted comprehensive plans.

The planning team integrated all of the individual city's UGA concept graphics into a countywide UGA open space network. To address the "between" portion of the state mandate, the plan includes lands protected by Skagit County critical area ordinances, lands or development rights acquired by public agencies and non-profit organizations for open space preservation, and lands that presented potential open space linkages between and into/out of the UGAs.

These integrated countywide UGA concepts were then reviewed with each UGA jurisdiction's planning and park staff representatives, Planning or Parks Commission, or City Council to obtain their suggestions, criticisms, and to resolve their accuracy during public workshops and official meetings.

2.2: Who else was consulted during this planning process?

In addition to the UGA jurisdictions, the planning team met with other public agencies and non-profit organizations involved in open space. These organizations included:

- **Regional** – Port of Skagit County, PUD #1, Seattle City Light,
- **State** – Washington State Department of Fish & Wildlife (DFW), Natural Resources (DNR), Transportation (WSDOT), Padilla Bay National Estuarine Research Reserve (NERR)
- **Tribes** – Samish, Upper Skagit, Swinomish (a UGA jurisdiction)
- **Federal** – US Forest Service (USFS),
- **Non-profits and private** – Skagitians for Farmland Preservation, The Nature Conservancy, Skagit Land Trust, Puget Sound Energy
- **Advisory groups** – Skagit County Agricultural Advisory Board, Forest Advisory Board, Active Community Task Force, Physical Activity Coalition (SCPAC), among others.

2.3: Aren't there already enough organizations working to save open space in the County?

Numerous private organizations in Skagit County are actively involved in conserving open space assets including fish and wildlife habitat, working farmlands, and unique forestlands.

These groups have accomplished a great deal through their efforts to conserve important county open space assets and are actively involved in the management, restoration, and enhancement of these conserved lands.

However, their missions do not include a focus on the urban growth areas. With a few exceptions, most lands they protect are located in more remote parts of the county. As a consequence, some of the most threatened remaining open spaces are located within or adjacent to the designated urban growth areas (UGAs) of the county.

Therefore, the task of meeting the GMA open space goals has not been accomplished. And, **there is a "gap" or lack of sufficient funds** with which to make up the cost differences necessary to protect open space lands adjacent or within the UGAs compared to the lower cost of such lands in the rural areas.

2.4: What happens next and how can I get involved?

The cities, towns, county, and SCOG board will be asked to adopt the plan. The Skagit County Planning Commission will schedule public hearings before making a recommendation to the Board of County Commissioners. The schedule for public hearings will be posted on the county web site.

3. Public involvement and survey

3.1: How is the public involved in creating, updating, and approving these UGA open space plans?

Cities were consulted at public meetings of their choice and included Planning Commissions, Parks Commission, and joint meetings of Planning Commissions and City Councils.

Two public information meetings were held April 14 and June 24, 2008, with announcements in the local newspapers and county web site with email notifications to various groups that have expressed interest.

A survey of public opinion was conducted during the summer of 2007 and the county web site was used to publicize it. Results are summarized below.

Future comment opportunities will be available when each jurisdiction considers the final plan for adoption. The Skagit County Planning Commission is expected to take the plan under advisement in late 2008, at which time at least one public hearing will be held.

The county and the cities are subject to RCW 36.70A.140, which requires early and continuous public participation in the development and amendment of comprehensive land use plans including this open space plan.

3.2: What are the results of the public survey?

In June 2007 a random sample of resident voter households in Skagit County was contacted to participate in a controlled sample survey concerning open space needs and priorities in general and the proposed concepts in this plan in particular.

450 households agreed to participate in the survey and were mailed a copy of a summary description of the plan and a copy of the questionnaire. Survey results were compiled for the first 200 households who completed the surveys by follow-up telephone call - the number planned for in the original survey scope.

The resulting survey results are accurate to within +/-8% of the opinions of the county's registered voter household population. Key findings include:

o: Existing open space protection and conditions - most of the respondents felt existing protections are inadequate for each of the following:

- farmland,

- scenic areas,
- wildlife habitat,
- historical landmarks,
- forests,
- parks,
- trails, and
- other access features

b: Open space trends and values - respondents agreed that Skagit County:

- Has some of the most valuable wildlife habitats, woodlands, and farms in the region if not country (90%),
- UGA open spaces should be interconnected (70%),
- Unacceptable amounts of these open spaces are being lost to urban development (64%),
- Open space efforts should do more than preserve land – but should also restore, enhance, and manage the land 59%),

c: Priorities for open space include:

- Productive and working farmlands adjacent to UGAs (74%),
- Forestlands adjacent to UGAs (67%),
- Wildlife habitat and corridors within UGAs (62%),
- Scenic landscapes and roadside views (61%),
- Historical & cultural landmarks (55%),
- Public access trails extending through and outwards from UGAs (64%),
- Day-use parks within UGA open space (65%), and
- Interpretive trails within UGA open space corridors (52%).

d: Specific UGA concept maps:

When shown maps of each UGA concept, respondents from throughout the county supported each illustrated plan with high ratings given by more than 50%

e: Specific trail proposals:

Respondents also gave high ratings to each of the following trails: Anacortes-Burlington, Cascade, Swinomish Channel, Pacific Northwest/Interurban, Centennial, and Skagit-Snohomish Trails.

f: How to organize and pay for an open space program - respondents were asked for their opinion about how to implement and fund an open space plan.

- Regarding organization - survey respondents favored a coordination role for the county and cities, rather than a more active role as “principal agent.”
- Regarding funding - survey respondents were informed about and then asked to rate funding sources available to counties and cities. 59% said they would pay some amount for a property tax levy (the mean dollar amount was \$89.40 per household per year. Survey participants were marginally supportive of a local option sales tax dedicated to open space and not at all in favor of a 3rd real estate excise tax (REET), local option fuel tax, or local option vehicle license fee where each option would be dedicated to open space.

4 Farms and forests

4.1: How will this plan protect farmland?

County residents place a high value on protecting farmland and forests, as borne out in the survey results above. Farms and forests have inherent open space qualities as a secondary benefit to their productive value.

RCW 36.70A.160 stipulates the open space corridors shall include lands useful for recreation, wildlife habitat, trails, and connection of critical areas as defined in RCW 36.70A.030. Identification of a corridor under this section of the RCW by a county or city ***shall not restrict the use or management of lands within the corridor for agricultural or forest purposes.***

Farm and forest protection is accomplished by a variety of tools outside the scope of this plan. Examples are restrictive zoning, purchase of development rights, and limits on urban expansion.

This plan can help protect farms and forests by providing “urban separators” where UGAs are close to the agriculture and forest zones. It is in these areas that the potential for “edge” conflicts exist.

Advisory groups to both agriculture and forestry expressed concerns that the open space plan could create more conflicts with their operations by bringing more people. While such conflicts are occurring even without a UGA open space concept plan, this plan has been modified to address these concerns by emphasizing passive forms of open space next to working farms and forests, the careful location of trail corridors, and providing interpretive information about their productive value.

5 Property rights

5.1: If the officially adopted open space plan map shows open space on my property, does that mean I am restricted to open space uses?

The open space plan map does not change the uses currently allowed by the property's zoning.

According to the Central Puget Sound Growth Management Hearings Board: "RCW 36.70A.160 does not require regulating to protect open space corridors, it does not provide that mere identification is protection of an open space corridor, not does it provide an independent source of authority for regulating land use activities within an open space corridor. Any authorized land uses, or limitation, restriction, or prohibition of land uses that a jurisdiction might choose to employ within an identified open space corridor must be grounded in separate legal authority, not RCW 36.70A.160." [LMI/Chevron, 8312, FDO, at 54.]

5.2: Are there other techniques that can be used to protect UGA open space corridors besides acquisition of development rights or property title?

RCW 36.70A.090 stipulates that a city or county comprehensive plan should provide for innovative land use management techniques, including, but not limited to, **density bonuses, cluster housing, planned unit developments, and the transfer of development rights.**

6 Implementing the UGA open space concept plan

6.1: How would the Skagit Countywide UGA Open Space Concept Plan be implemented?

Consistent with the Skagit County Comprehensive Plan policy 2B-1.3 directive to develop a "program," this plan proposes the following mechanism:

- A countywide funding source would be established with a "bottom-up" approach to allocating funds.
- Community groups, parks departments, non-profits, or private groups could propose projects that meet the program goals and compete for funding.
- The Board of County Commissioners would establish a UGA Open Space Advisory Committee to provide citizen advice regarding the use of any UGA open space funds.
- The funds would be used to acquire and maintain UGA open space.

6.2: Who would be on a Skagit Countywide UGA Open Space Advisory Committee?

Committee membership could include 9 or more members appointed by the Board of County Commissioners. Members could be appointed from among community-minded citizens who are active in civic matters, supportive of the intent and objectives of the UGA Open Space Plan and Program, and geographically representative of the county's UGAs.

6.3: What would be the responsibilities of the Advisory Committee?

The Skagit Countywide UGA Open Space Advisory Committee would be authorized to do the following:

- Evaluate current and future conditions, needs, opportunities, and priorities.
- Develop procedures and processes for soliciting requests-for-proposals (RFPs).
- Develop public benefit evaluation and selection criteria for RFP submissions.
- Award (on the Board of County Commissioners behalf) Skagit Countywide UGA open space funds.
- Monitor compliance and expenditures.

- Issue annual evaluation reports and consult with the Board of County Commissioners and the public-at-large.
- Issue any revisions, modifications, or other actions that should be undertaken.

6.4: What public benefit criteria would the Skagit Countywide UGA Open Space Advisory Committee likely use to rate and award UGA funds on a competitive basis?

The following criteria (not listed in any priority order) could be used to evaluate properties or programs submitted for funding consideration under the proposed UGA open space program:

- **Land use** – benefits for UGA separators, public/private network opportunities, flood control,
- **Natural resources** – benefits for agricultural lands, woodlands, aquatic habitat, wildlife habitat,
- **Scenic resources** – benefits for scenic landscapes, scenic byways, and viewpoints,
- **Cultural resources** – benefits for landmark preservation, **Interpretive opportunities** – benefits for interpretive exhibits, trails, centers, and programs,
- **Recreation** – benefits for regional multiuse trails, community connections, trail linkages, water trail linkages, and accessibility,
- **Transportation and leveraging** – benefits for interconnections, water trails, land use policy, leverage local monies, match state and federal funding opportunities, elicit public support, and
- **Feasibility and timing** – resolving land threatened status, restoration, stewardship, geographic distribution, feasibility, resolving hazards.

6.5: Impact fees – can new growth be tapped to contribute to the open space “funding gap”?

Skagit County could expand upon the growth impact fee provisions provided in the Growth Management Act (GMA). Park and/or traffic impact fees could be applied to all new residential developments within the unincorporated county to maintain existing park, recreation, and open space and traffic levels-of-service (LOS).

The cities and county could determine an equitable means to collect and allocate impact fees where the county and city maintain the same local and regional or citywide level-of-service (LOS) presently existing within the incorporated (city) and unincorporated (county) sections, and for the urban growth area in total.

A common fee could be collected by each agency then shared on a project by project basis for open space improvements benefiting the residents of the UGAs as well as the county-at-large. Impact fees are not likely to raise the same level of funding as most of the methods identified above.

Impact fees **cannot** be used to expand or improve facilities that do not increase the capacity of these systems to meet the needs of new growth, nor can they be used for maintenance or management.

6.6: What are the other potential funding sources and how much would these sources create?

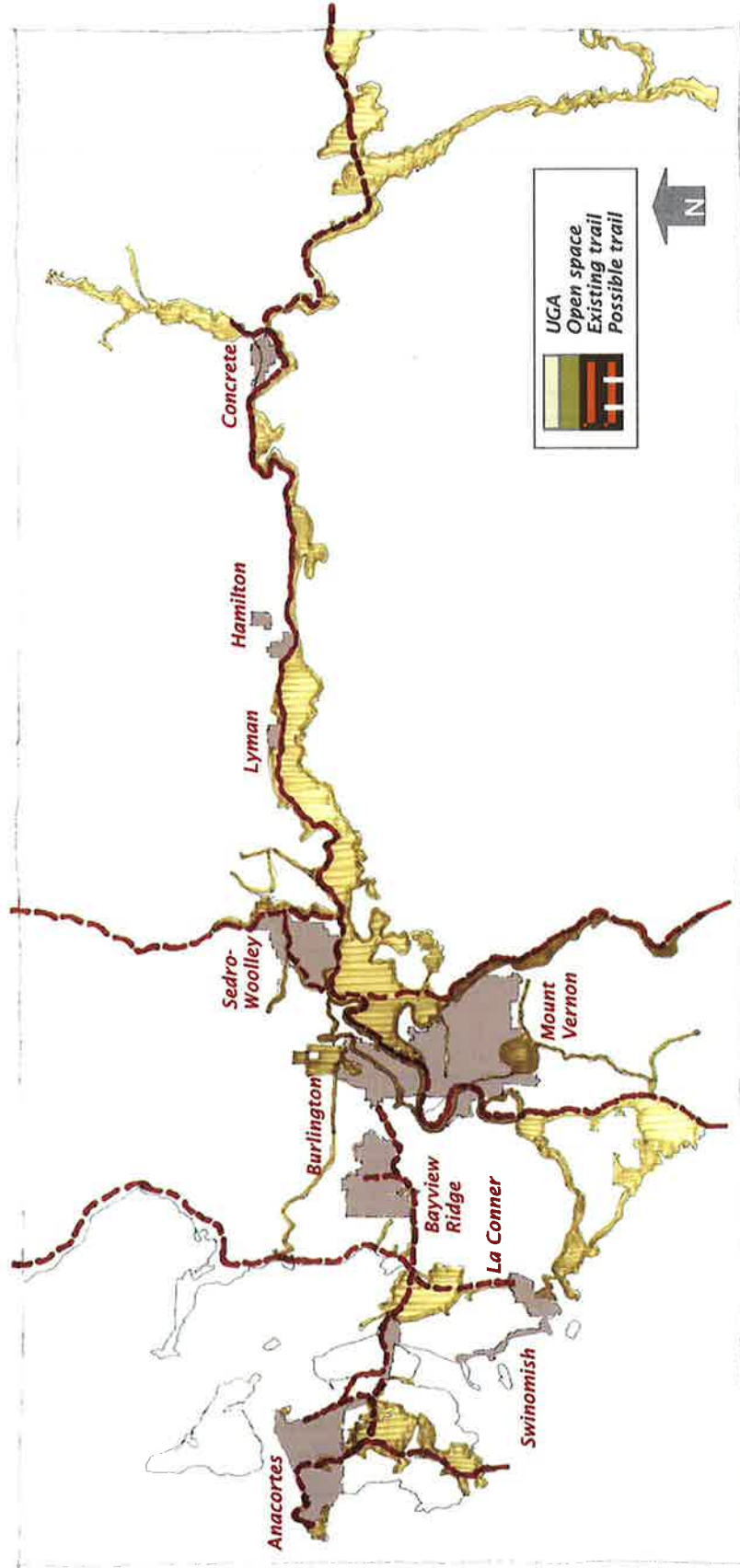
Based on the results of the survey, the plan analyzed the potential amount a Local Option Sales Tax (LOST) or Property Tax Levy (PTL) could raise in Skagit County over a 6 year funding period assuming county voters would prefer a 6-year pilot project be used to demonstrate program success and to build public support for a more long-term commitment. This approach has been successfully used in other Western Washington communities.

- **Local Option Sales Tax (LOST)** - if approved by voter referendum, LOST would add an additional \$0.010 per \$1.00 of retail sales to be dedicated exclusively for open space purposes and be paid by in-county residents as well as out-of-county residents and tourists. ***The annual proceeds from the LOST option would likely be \$924,868 based on recent annual sales tax trends.***
- **Property Tax Levy (PTL - Levy Lid Lift)** - if approved by voter referendum, would add ***on a limited duration*** (typically 6 years) an additional property tax to be dedicated exclusively for open space purposes. The following 3 alternative amounts are

based on the 2005 assessed value of average county house at \$222,500:

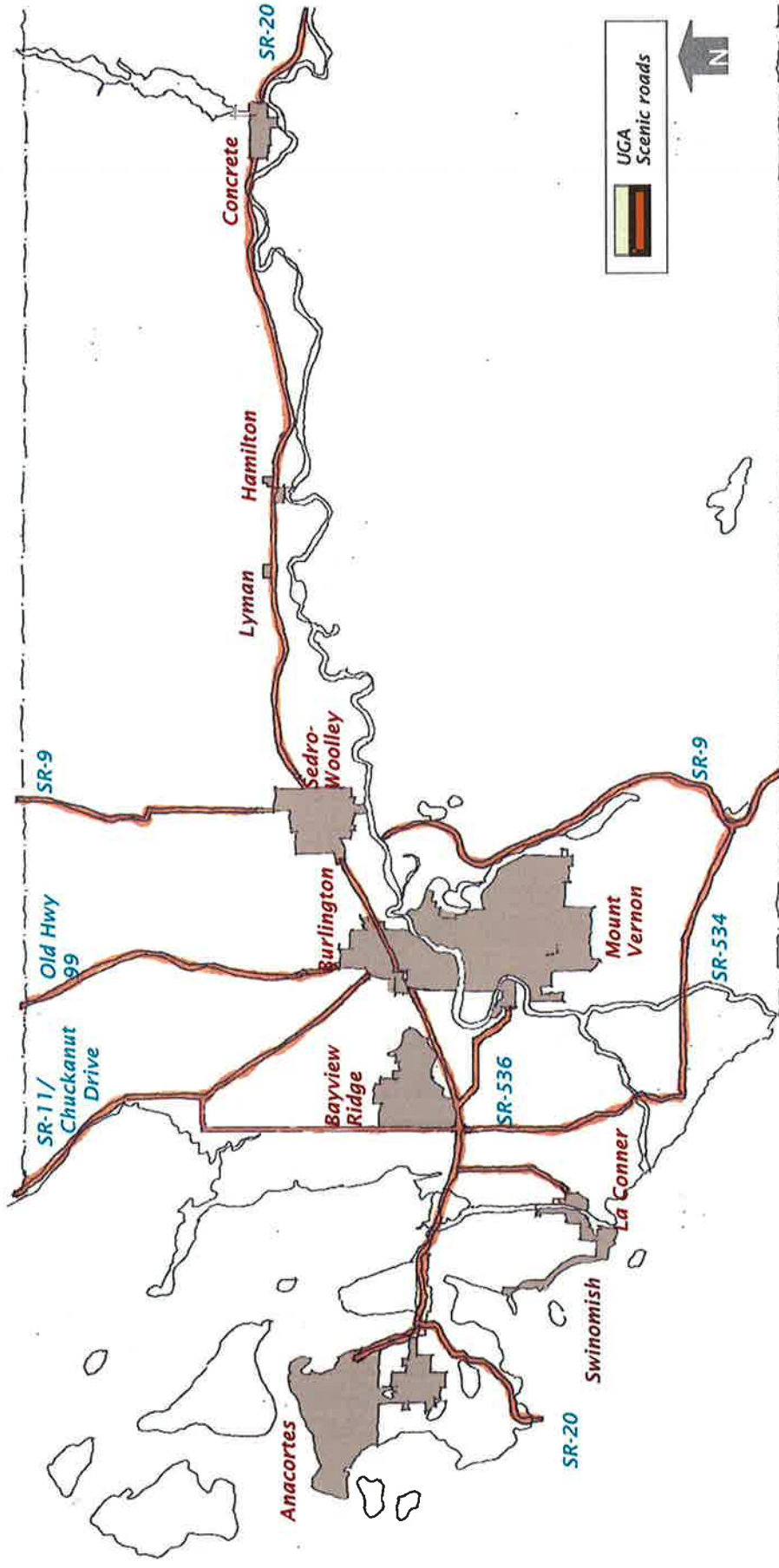
<i>Rate/\$1.00 value</i>	<i>Annual cost</i>	<i>Annual proceeds</i>
\$0.00011	\$24.68	\$1,641,082
\$0.00016	\$35.60	\$2,387,028
\$0.00022	\$48.95	\$3,282,163

Approval to use either the Local Option Sales Tax (LOST) or Property Tax Levy (PTL) would likely depend on what extent a referendum on the issue would motivate the respondents who rated the proposal a 3 or mid-level priority. A proposal to use either approach will require more detailed descriptions of how much would be raised how it would be used.

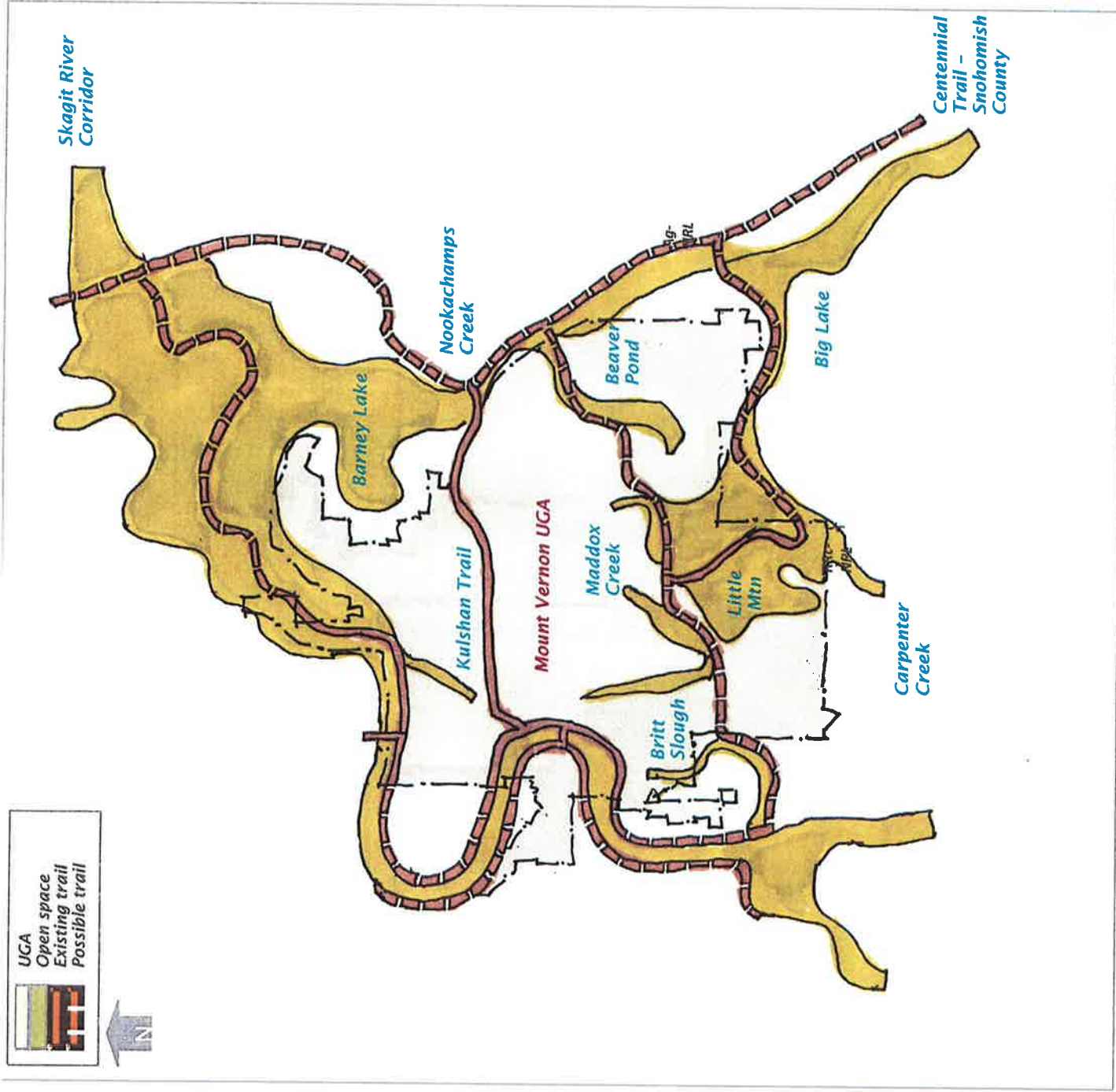


Skagit Countywide Open Space Concept Plan

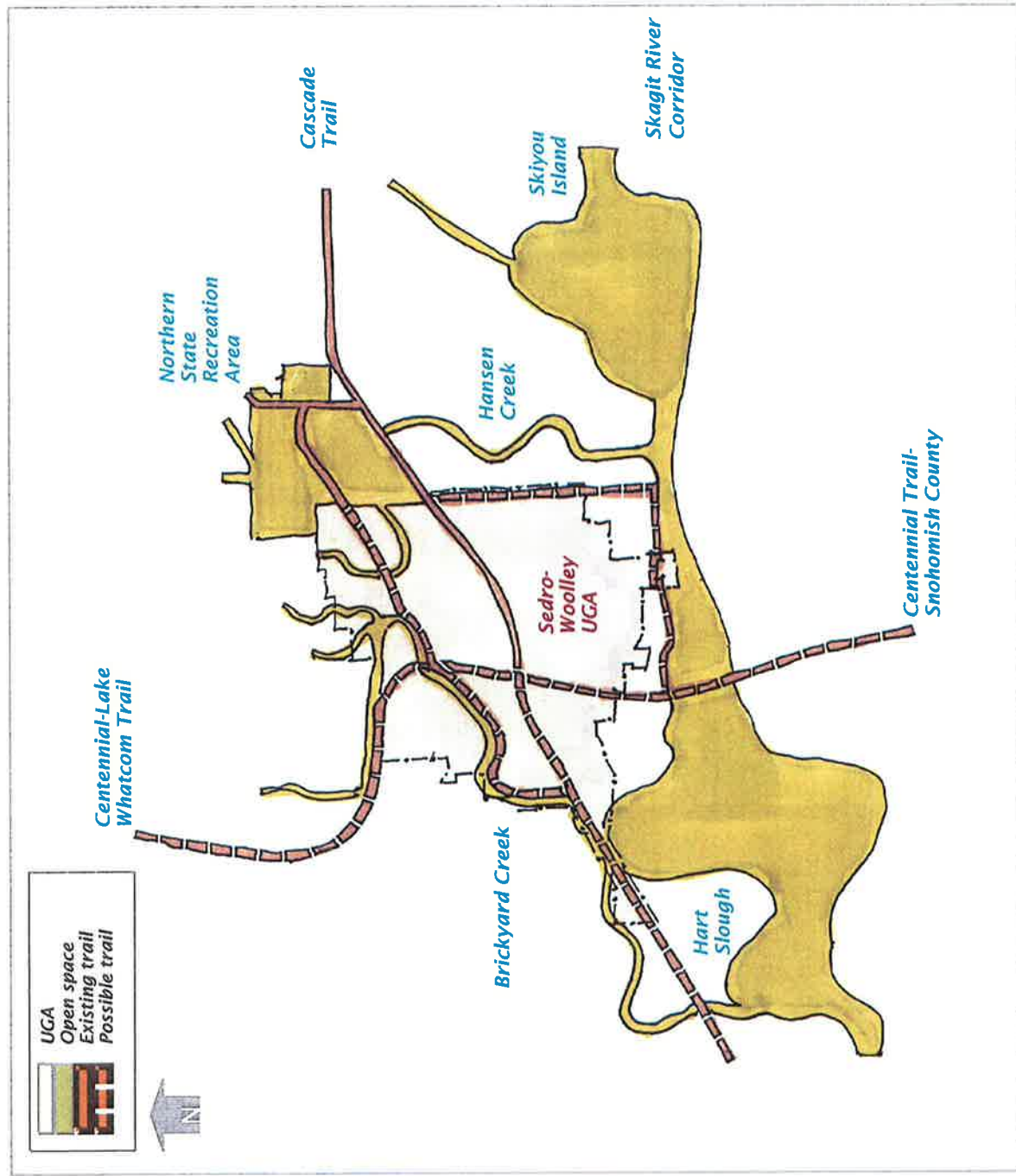
29 July 2008



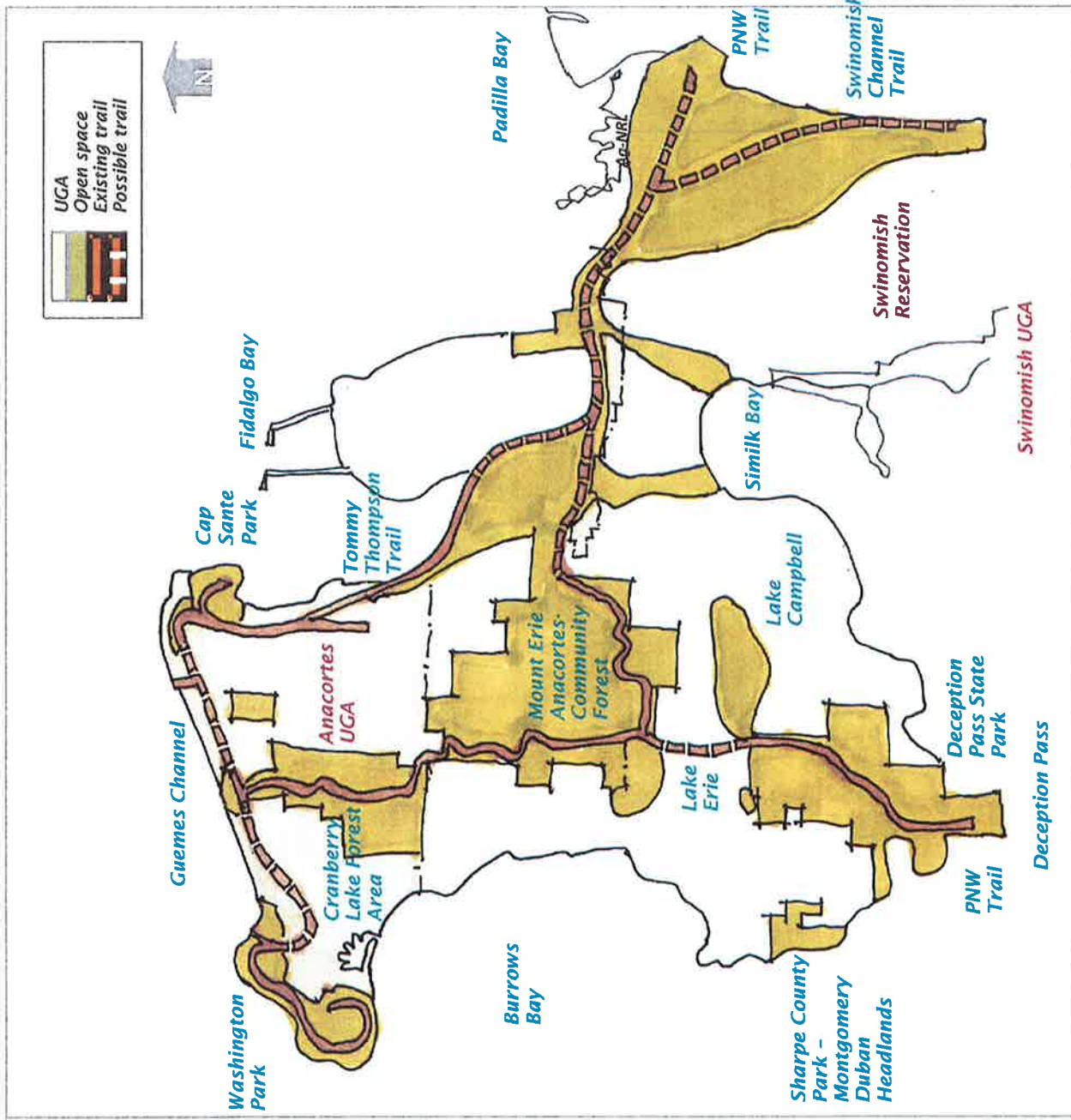
Scenic Roads



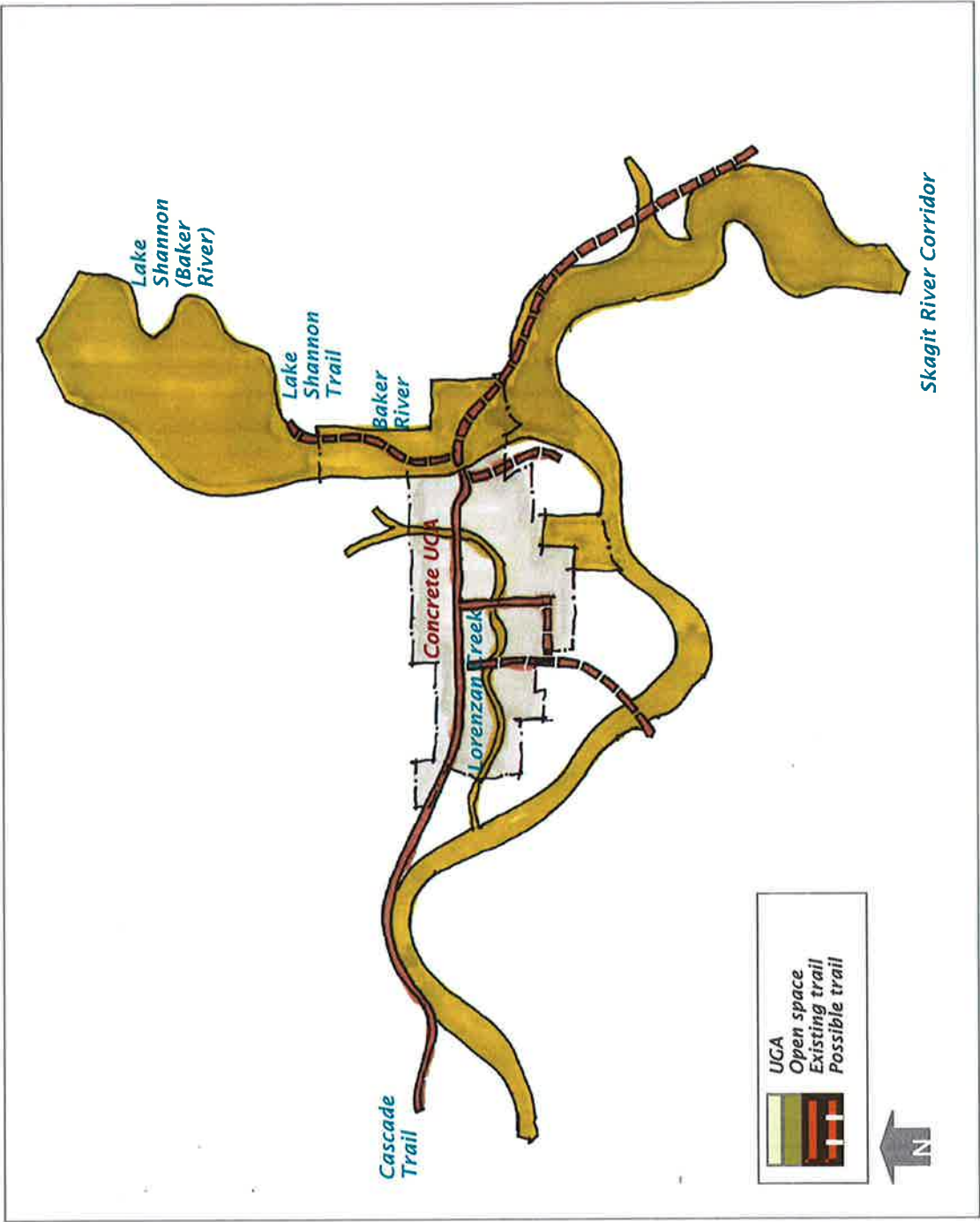
Mount Vernon UGA Open Space Concept Plan



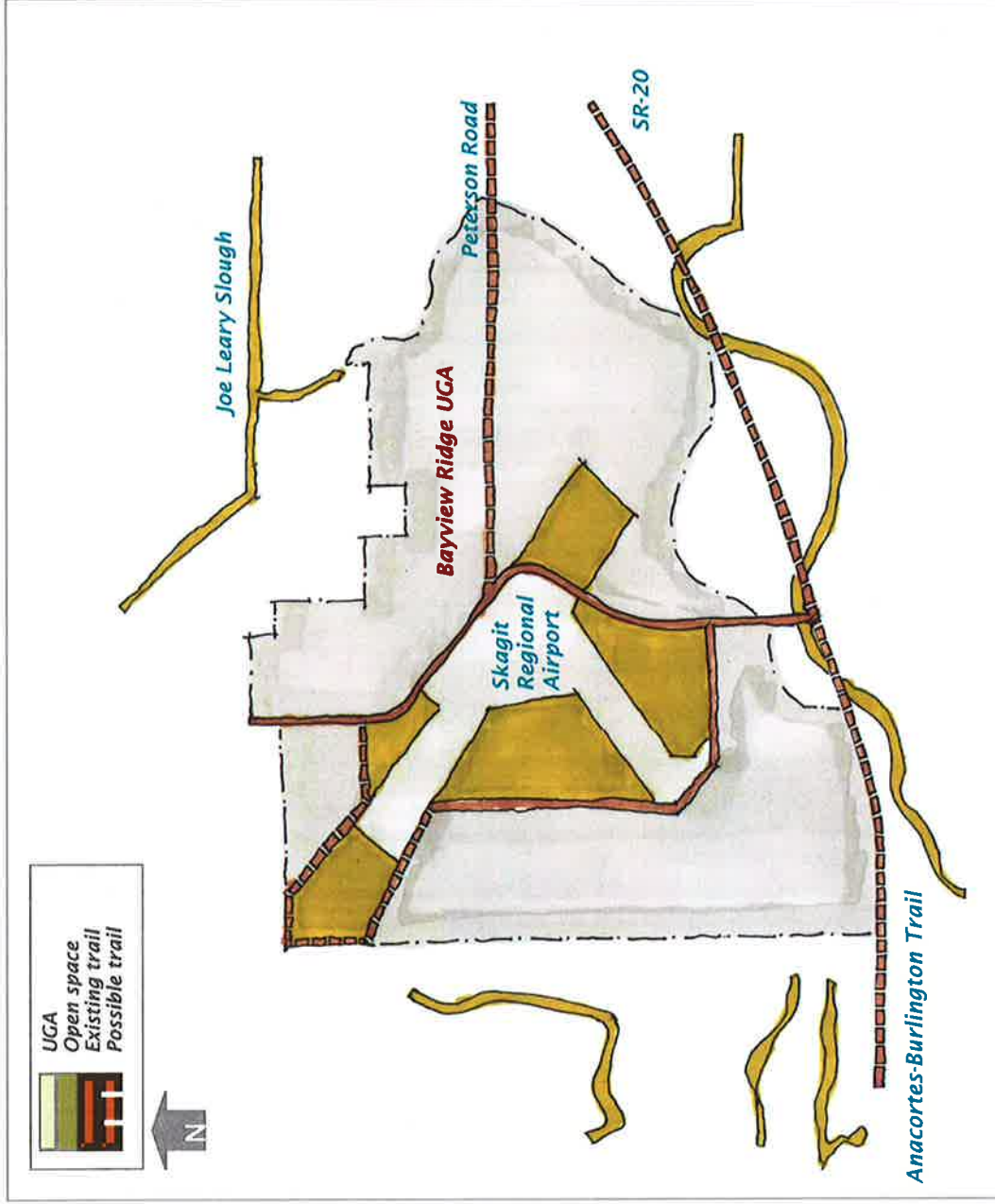
Sedro-Woolley UGA Open Space Concept Plan



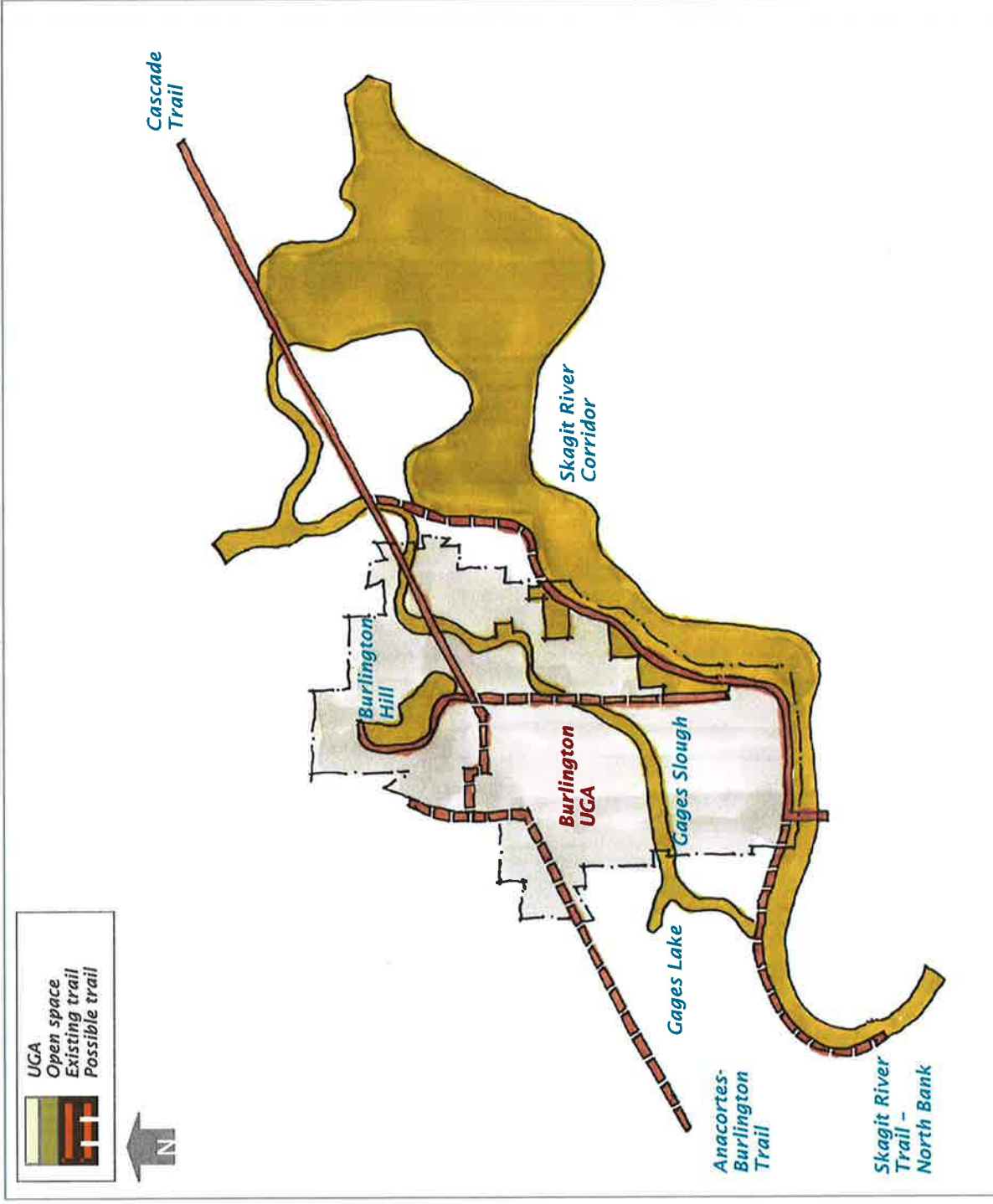
Anacortes UGA Open Space Concept Plan



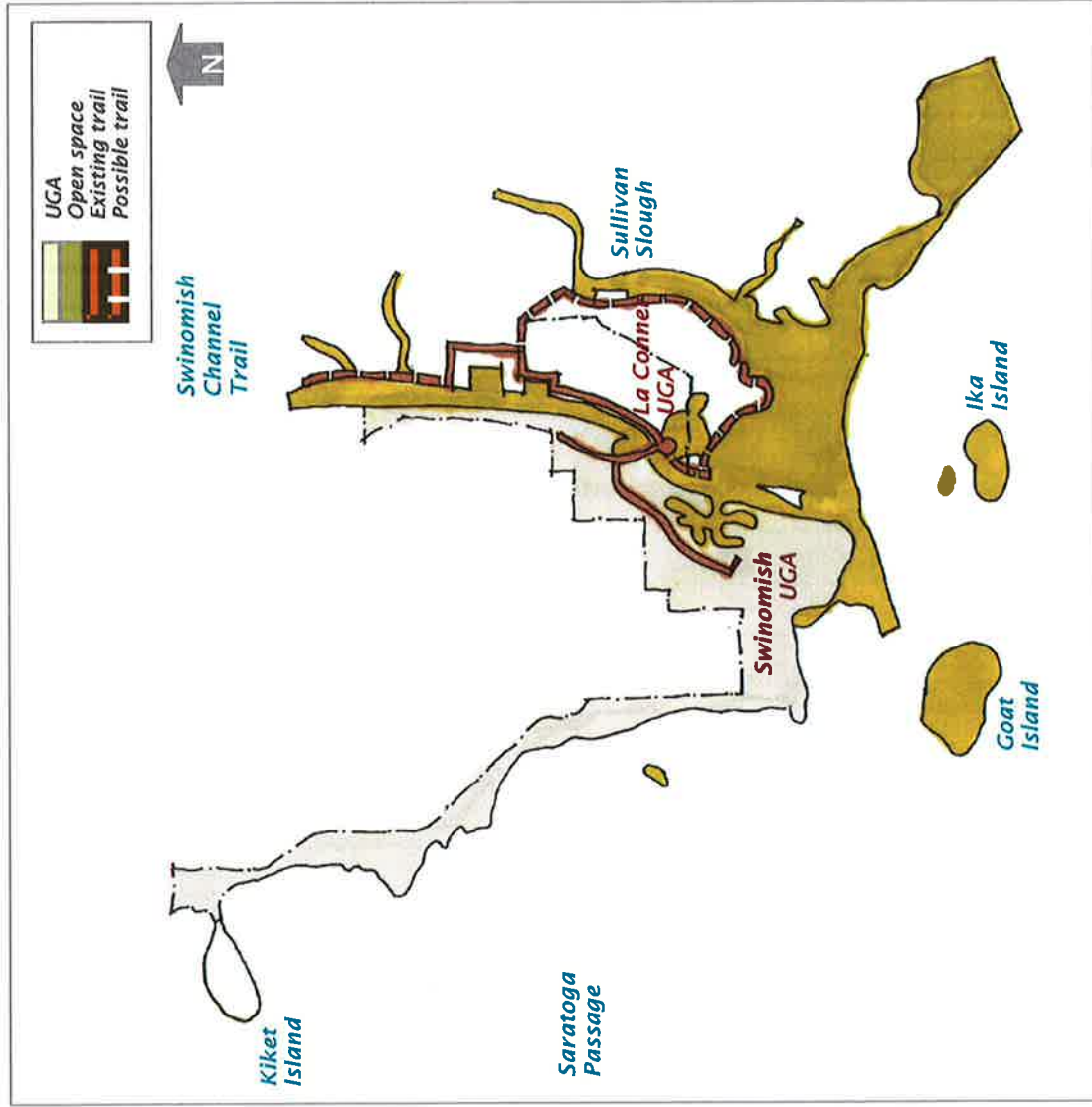
Concrete UGA Open Space Concept Plan



Bayview Ridge UGA Open Space Concept Plan



Burlington UGA Open Space Concept Plan



Swinomish UGA Open Space Concept Plan



La Conner UGA Open Space Concept Plan



Appendix A: GMA UGA open space requirements & Skagit County policies

Following are abstracted sections of the Washington State Growth Management Act (GMA – RCW 36.70A) that define urban separator requirements and provisions that deal with the designation, acquisition, management, and other issues involving open space separators.

The sections are presented in the sequence as adopted or described in the RCW. *Specific text is highlighted that contains language and/or provisions that are most pertinent to the objective of creating UGA open space.*

The full text of these sections and the RCW proper is available on the Washington State website at:

<http://apps.leg.wa.gov/Rcw/default.aspx?Cite=36.70A>

A.1: RCW 36.70A.011 – Findings – Rural lands

The legislature finds that this chapter is intended to recognize the importance of rural lands and rural character to Washington's economy, its people, and its environment, while

respecting regional differences. Rural lands and rural-based economies enhance the economic desirability of the state, help to preserve traditional economic activities, and contribute to the state's overall quality of life.

The legislature finds that to retain and enhance the job base in rural areas, rural counties must have flexibility to create opportunities for business development. Further, the legislature finds that rural counties must have the flexibility to retain existing businesses and allow them to expand. The legislature recognizes that not all business developments in rural counties require an urban level of services; and that many businesses in rural areas fit within the definition of rural character identified by the local planning unit.

Finally, the legislature finds that in defining its rural element under RCW 36.70A.070(5), a county should foster land use patterns and develop a local vision of rural character that will: Help preserve rural-based economies and traditional rural lifestyles; encourage the economic



B.34: Washington State Department of Transportation (WSDOT) www.wsdot.wa.gov



**Washington State
Department of Transportation**

As a partner in regional transportation planning, WSDOT supports Skagit County's efforts to guide development of multi-modal links between and through Skagit County communities. Close coordination will be required as open space connection concepts that involve state highways are more fully developed. In order to help define WSDOT's role in implementation of the *Skagit Countywide UGA Open Space Concept Plan*, the following summary provides general information about WSDOT; describes statewide strategies to improve partnerships and support bicycling and walking as an integrated part of Washington's transportation network; and describes WSDOT's role in ongoing planning for non-motorized transportation in Skagit County.

Who we are and what we do

The Washington State Department of Transportation (WSDOT) is the steward of a large and robust transportation system, and is responsible

for ensuring that people and goods move safely and efficiently. In addition to building, maintaining, and operating the state highway system, WSDOT is responsible for the state ferry system, and works in partnership with others to maintain and improve local roads, railroads, airports, and multi-modal alternatives to driving.

WSDOT at a glance

- 18,389 state highway lane-miles
- 3,600 bridges including the 4 longest floating bridges in the US
- 42 safety rest areas
- 23 ferry vessels active in the largest vehicle-ferry system in the world
- 20 ferry terminals
- 24,000,000 ferry passengers annually
- \$15,000,000,000 capital improvement program
- 7,200 full-time employees

Source: www.wsdot.wa.gov/about/

Skagit State Routes

State Routes	Miles in Skagit County
Interstate 5	24.97
SR-9	29.15
SR-11	14.11
SR-20	85.53
SR-20 Spur	7.78
SR-530	14.96
SR-534	5.08
SR-536	5.38
SR-538	3.67
Anacortes Terminal	Marine highway connection
Total	191.63

WSDOT works towards achieving 5 goals: safety, preservation, mobility, environmental quality, and system stewardship. These goals are consistent with the statewide transportation policy goals established by the Legislature. The mission of the Washington State Department of Transportation is to keep people and business moving by operating and improving the state's transportation systems vital to our taxpayers and communities.

In pursuit of this mission, the Department is responsible for developing strategies to improve bicycle and walkway connections; increase state, regional, and local coordination; and reduce congestion. (RCW 47.06.100) We support all modes of transportation to give people transportation choices.

Washington State Bicycle Facilities and Walkway Plan
Plan Web site: <http://www.wsdot.wa.gov/bike/PDF/BikePedPlan.pdf>

The state law (RCW 47.06.100) calls for the Washington State *Bicycle Facilities and Pedestrian Walkways Plan* to provide an assessment of statewide bicycle and pedestrian transportation needs and include strategies for: improving connections, increasing coordination, and reducing traffic congestion. The plan also satisfies the federal requirement for a long-range bicycle transportation and pedestrian walkways plan.

Established goals:

This plan established important goals for reducing bicycle and pedestrian injuries and fatalities by five percent per year, while doubling biking and walking over the next 20 years. Achieving these goals will require Regional Transportation Planning Organizations and local agencies, in particular, to prioritize improving conditions for bicycling and walking. The goals and associated performance measures are as follows:

- **Preservation:** Ensure no net loss in pedestrian and bicycle safety, and mobility.
- **Safety:** Target safety investments toward known risk factors for pedestrians and bicyclists.
- **Mobility:** Increase bicycling and pedestrian transportation choices.
- **Environment:** Walking and bicycling will be part of Washington State's strategy to improve public health and address climate change.
- **Stewardship:** Improve the quality of the transportation system by improving transportation access for all types of pedestrians and bicyclists, to the greatest extent possible.

Plan Summary:

Biking and walking are increasing in Washington, particularly in cities where housing infill is occurring. Bicycle commuting has increased 75% in the past 10 years. Biking and walking currently account for about 6% of statewide commute trips. In the Puget Sound Region, bicycling and walking account for 9% of all trips. In several urban core areas across Washington, bicycling and walking account for 15% of all trips.

Doubling current levels of bicycling and walking is achievable. In Washington State, more than half of all trips are less than 3 miles, yet 80% of these trips are made by car. Commuting to work accounts for about 20% of all vehicle miles traveled, so 80% of all the vehicle miles we drive are for other purposes. Bicycling and walking account for 5-7% of non-commute trips currently and many more of these trips could be accomplished by biking and walking as gas prices rise.

The State's safety record must continue to improve. In the 10 year period between 1997 and 2006, 103 cyclists and 706 pedestrians died on Washington's roads. Walkers and cyclists are killed at a

disproportionate rate. Bicyclists and pedestrians account for 6% of all trips statewide and are involved in 13% of all fatal traffic collisions.

The highest priority investments are connections within cities and urbanizing areas, particularly where housing and employment mix. Based on analysis of the data and information available, the greatest opportunity for improving bicycle and pedestrian safety and mobility is improving crossings, connections, and trail systems within cities and urbanizing areas. Higher speed, higher volume arterials within cities often act as barriers to bicycling and walking.

Public support is strong for building safe places to walk and ride bikes. The statewide survey conducted by WSDOT showed that 86% of Washington residents have biked or walked for transportation over the past year. 70% percent of Washington residents surveyed support an increase in spending to create more safe places to bike and walk if current transportation funds are used; over 50% of citizens supported a tax increase.

Washington has limited resources to improve the built environment for biking and walking, for enforcement of biking and walking laws, and for providing public education. Bicycle and pedestrian engineering improvements are approximately 2% of the transportation budget.

WSDOT identified more than \$1,600,000,000 in unfunded bicycle and pedestrian improvements statewide. A review of adopted 6 and 10 year local plans and state highways found \$1,600,000,000 in conceptual solutions to make that transportation system safer and better for bicycling and walking. Of this \$1,600,000,000, approximately 20% has been grouped by WSDOT into the categories of Gap Projects, School Related Projects, and No Net Loss in Safety Projects on state highways.

Washington needs more and better intra-county bicycle and pedestrian connections and links to schools, transit, and ferries. The most frequent comment received during plan development was the recognition of the need for more and better intra-county connections and links to schools, transit, and ferries. This underscores the important role Regional Transportation Planning Organizations play in bicycle and pedestrian transportation.

Washington needs more commitment and better coordination to improve conditions for bicycling and walking. In order to continue to improve conditions for bicycling and walking and help reverse the rising rate of obesity in Washington State, local governments, transit providers, regional and state agencies will have to take coordinated implementation steps.

Next Steps:

WSDOT's *Bicycle Facilities and Pedestrian Walkways Plan* lists more than \$1,600,000,000 in unfunded bicycle and pedestrian improvements identified by local communities. Continued coordination with local and regional agencies, transit providers, and developers is needed to secure funding and implement identified improvements. It is important that local comprehensive plans identify bicycle and pedestrian facility needs so they can be addressed when capital programs are developed and included in the cost estimate of these programs.

Regional coordination

There are over 190 miles of state highways in Skagit County that provide important regional connections. The volume and speed of vehicles on these routes sometimes limit safe bicycle and pedestrian access when designated facilities do not exist. It is important to establish appropriately designed crossings and create corridors that safely connect these communities. Many times these routes can be accommodated along state facilities; but sometimes a safer, more cost effective connection could be located on other separated trails, paths and roadways. Multi-modal corridors identified as either needing to adjoin or cross state highways, require that safety standards can be met prior to approval. Several items in the state bicycle and pedestrian transportation plan are focused on these issues.

Community planning undertaken through the Skagit Council of Governments (SCOG) and the Active Community Task Force (ACT) has focused on a region-wide approach that will facilitate governmental coordination. The cities, Skagit County, WSDOT and Skagit Transit worked together to ensure that strategic corridors are aligned and are included in long range planning. The result of these discussions was the identification of a network of practical corridors that, if fully developed, would increase multi-modal mobility between cities and establish inter-county connections to Whatcom, Snohomish, Island, and

San Juan counties. This process identified areas that were needed to safely complete these corridors. These “gaps” in the system will be the priority for future development. They still need to be fully scoped and included in regional plans so they can be eligible for future public private partnerships.

Regional partners understand that funding is too limited to address all roadways, so the group is focused on routes that provide the greatest connectivity. These improvements would have the greatest impact on future bicycle and pedestrian use, but even these do not have dedicated funding. Partnerships must be established and coalitions needed for these plans. Skagit County’s Open Space planning is one step towards providing the predictability and guidance necessary to develop appropriate countywide connections. It is expected that this work will be further refined, routes established, scopes of work developed that meet safety and community standards, and that this work will be included in the long-range planning for participating jurisdictions.

**SKAGIT COUNTY PLANNING COMMISSION
RECORDED MOTION
UGA OPEN SPACE CONCEPT PLAN**

WHEREAS RCW 36.70A.110(2) and .160 require each Urban Growth Area (UGA) to include greenbelt and open space areas and cities and counties to identify open space corridors within and between UGAs; and

WHEREAS on July 24, 2000, Skagit County adopted amendments to its Comprehensive Plan through Ordinance No. 17938; and

WHEREAS the Friends of Skagit County (FOSC) challenged the County's adoption of Ordinance No. 17938 before the Western Washington Growth Management Hearings Board (Hearings Board) in Case No.00-2-0046c, arguing, among other things, that it failed to identify greenbelts and open space corridors within and between UGAs per RCW 36.70A.110(2) and .160; and

WHEREAS the Hearings Board, in its February 6, 2001, Final Decision and Order (FDO) in Case No. 00-2-0046c, held that "(t)his generalized discussion in the [Skagit County Comprehensive Plan], plus city maps (that do not show green belts in unincorporated UGAs) and County parks plan maps (which do not show open space corridors between UGAs), do not adequately meet the requirements of RCW 36.70A.110(2) and .160." The Hearings Board further ordered the County to within 180 days "adopt maps or some other clear mechanism to identify greenbelts and open space areas within UGAs and open space corridors within and between UGAs"; and

WHEREAS the Board of County Commissioners adopted Ordinance No. R20020036 on January 28, 2002, amending the Skagit County Comprehensive Plan in response to the 2001 FDO; and

WHEREAS FOSC appealed the adoption of Ordinance No. R20020036 to the Hearings Board in Case No. 02-2-0005 arguing continued violation of RCW 36.70A.110(2) and .160 relating to open space corridors and greenbelts; and

WHEREAS the County entered into settlement negotiations with FOSC, and the parties agreed to proposed language amending the Skagit County Comprehensive Plan to address the open space corridors and greenbelts issue in Case No. 02-2-0005; and

WHEREAS on May 13, 2003, the Board of County Commissioners adopted Ordinance O20030013 as part of the settlement agreement with FOSC, which overrides the Ordinance No. R20020036 and adopts the language subsequently added to the Skagit County Comprehensive Plan in Policy 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;" and

WHEREAS in October 2006, the Skagit Council of Governments (SCOG) and Planning and Development Services (Department) were awarded a Regional Collaboration Competitive Grant from the Washington State Department of Community, Trade and Economic Development (CTED) to prepare the open space plan called for in Comprehensive Plan Policy 2B-1.3; and

WHEREAS the Department conducted an extensive public involvement program in 2007 and 2008 as listed in Attachment A of the proposed plan; and

WHEREAS on January 9, 2009, the Department issued a Determination of Non-Significance (DNS) for the proposed open space plan; and

WHEREAS also on January 9, 2009, the Department sent the proposed plan to CTED for 60-day review under RCW 36.70A.106; and

WHEREAS on January 8 and January 22, 2009, the Department published a Notice of Availability, Public Comment Period, and Public Hearing Notice regarding the proposed plan; and

WHEREAS on March 17, 2009, the Planning Commission held a public hearing on the proposed plan and heard testimony from fourteen (14) individuals and organizations; and

Whereas 35 written comment documents were received by the March 20, 2009, extended deadline for written comments; and

WHEREAS on April 21, 2009, the Planning Commission held deliberations on this matter; and

WHEREAS during deliberations, the Planning Commission determined that an additional work session to discuss issues raised during public comment and deliberations would be helpful; and

WHEREAS a work session was held on June 16, 2009, during which the Planning Commission and staff agreed to make certain changes to the draft plan prior to final Planning Commission deliberation and action; and

WHEREAS the changes included the following items:

1. New definition section added to preface of Plan;
2. Clarified explanation regarding strategy for acquisition/prioritization of properties added to FAQ's of Plan;
3. Map legends changed to 'trails' vs. 'public access' throughout Plan;
4. Map legends changed from 'existing trails' vs. 'possible trails' throughout Plan;
5. Removed arrows from open space indicators on maps throughout Plan;
6. Removed zoning designations from maps;

7. Added North arrow to maps;
8. Added new OSRSI/Federal/State lands map to App. A (A-1); and

WHEREAS final deliberations were held on July 30, 2009, and the Planning Commission voted ___ to ___ for approval of the revisions to the draft plan (Attachment 1) and directed that a Recorded Motion be forwarded to the Board of County Commissioners, containing the following findings and recommendations:

Findings

1. Open Space Plan is conceptual only and not a regulatory program.

The requirement to identify open space areas does not mandate that these areas be regulated or protected. The Skagit County UGA Open Space Plan does not create a regulatory land use designation or allow public access by default.

RCW 36.70A.160 does not require regulating to protect open space corridors, it does not provide that mere identification is protection of an open space corridor, nor does it provide an independent source of authority for regulating land use activities within an open space corridor. Any authorized land uses, or limitation, restriction, or prohibition of land uses that a jurisdiction might choose to employ within an identified open space corridor must be grounded in separate legal authority, not RCW 36.70A.160. [LMI/Chevron, 98-3-0012 FDO at 54, Jan. 8, 1999.]

This decision and a similar one were affirmed in the following case:

Based upon these two cases' [*AFT*, 5356, FDO and *LMI/Chevron*, 8312, FDO] interpretation of RCW 36.70A.160, which the Board affirms, Kitsap County is required to identify open space corridors pursuant to .160, but there is no GMA requirement that these areas be regulated or protected. [*Suquamish II*, 07-3-0019c FDO, at 61, Aug. 15, 2007.]

In addition to the non-regulatory status, the GMA specifically forbids interference with the use or management of lands within the corridor for agricultural or forest purposes. The proposed plan identifies priority areas within the county to be considered for the strictly voluntary program outlined within the plan.

2. Trails and/or Public Access on Dikes/Levees

Pursuant to the conditions of the Mitigated Determination of Nonsignificance (MDNS) issued by Skagit County April, 24, 2002, establishing the Skagit County Non-motorized Transportation Plan:

- "1. Any future trail projects proposed on dikes or levees shall require the Planning and Permit Center [now Planning and Development Services] to meet, consult and obtain the approval of any involved dike district and affected property owner.
2. Complete necessary and adequate environmental review prior to issuing a Mitigated Determination of Non-significance for each specific project proposal on dikes or levees".

3. **Dike Road/Britt Slough**

The Dike Road/Britt Slough area shown to the southwest of the City of Mount Vernon in the draft Open Space Plan presented to the Planning Commission is amended to be shown only as open space in green, with no future trail as originally proposed.

4. **Preferential Tax for Open Space**

Open space/current use taxation provides important, though short-term protection of lands that contribute open space functions. The Current Use Open Space Taxation Program includes properties utilized for agricultural, timber and open space uses as provided in RCW 84.34. Lands enrolled in the Current Use Open Space Taxation program receive significant reductions in property tax liabilities. Public access on participating parcels is required in certain circumstances in specific taxation categories.

5. **Limits on Liability for Recreational Use of Private Land**

RCW 4.24.210 states that “Except as otherwise provided in subsection (3) or (4) of this section, any public or private landowners or others in lawful possession and control of any lands whether designated resource, rural, or urban, or water areas or channels and lands adjacent to such areas or channels, who allow members of the public to use them for the purposes of outdoor recreation, which term includes, but is not limited to, the cutting, gathering, and removing of firewood by private persons for their personal use without purchasing the firewood from the landowner, hunting, fishing, camping, picnicking, swimming, hiking, bicycling, skateboarding or other non-motorized wheel-based activities, hang gliding, paragliding, rock climbing, the riding of horses or other animals, clam digging, pleasure driving of off-road vehicles, snowmobiles, and other vehicles, boating, nature study, winter or water sports, viewing or enjoying historical, archaeological, scenic, or scientific sites, without charging a fee of any kind therefore, shall not be liable for unintentional injuries to such users”.

6. **Appendix Additions**

A map depicting Wilderness areas, National Forests and Parks/Recreation areas designated as Open Space of Regional and Statewide Importance is added to Appendix A along with all (Department of Natural Resources) DNR trust lands to illustrate the extent of Skagit County included in such designations.

7. **New Trailheads in Rural Area**

The South Fidalgo Community Council asked that the County locate new rural trailheads only on arterial roads so as to minimize impacts on neighbors.

8. **Future uses classified as open space**

Current emerging uses such as dike/levee setback areas and mitigation banks, as well as unknown potential future uses that result in open space in the County. The existence of open space areas are not limited to those mapped in the proposed plan and will necessarily change over time.

9. **Identification of open space within the Bayview Ridge UGA**

Because the County is currently in the early implementation stages of establishing a non-municipal UGA at Bayview Ridge, it is not currently known where parks and other open

space areas will be located within the UGA boundaries. The County is engaged in a multi-phased planning approach for the UGA and specific open space areas will be identified during master site planning.

10. Definitions

The definitions for open space are added to provide increased specificity to the plan.

11. Photo Captions

Per citizen requests, photos in the plan are captioned to identify locations, structures, and/or features.

12. Errata

The attached errata sheet lists technical corrections made to the draft plan document (Attachment 2).

Recommendations

R1. Regarding implementation of an adopted plan, due to the current economic downturn, the Planning Commission urges the County to defer funding options that involve tax measures, but to proceed with efforts to use existing funding sources that achieve protection of open space areas identified in the plan.

R2. The Planning Commission recommends that the Board of County Commissioners work with SCOG municipalities to implement setbacks within incorporated and unincorporated UGAs adjacent to Natural Resource lands per the Countywide Planning Policies.

R3. The Planning Commission recommends that Ordinance R20020036 be rescinded as Ordinance O20030013 overrides it.

Motion

Based on the above findings, and the record in this matter, the Planning Commission recommends approval of the UGA Open Space Concept Plan as amended as well as adoption of the above specified recommendations.

Motion for approval/denial: _____

Seconded by: _____

Vote

William Stiles III, Chair
Jason Easton, Vice Chair
Carol Ehlers
Dave Hughes
Jerry Jewett
Annie Lohman
Matt Mahaffie
Mary J. McGoffin
Kristen Ohlson-Kiehn

TOTAL

Support	Oppose	Abstain	Absent

NOW, THEREFORE, on July 30, 2009, the Skagit County Planning Commission voted, as recorded above, to forward to the Board of County Commissioners the foregoing recommendations.

**SKAGIT COUNTY PLANNING COMMISSION
SKAGIT COUNTY, WASHINGTON**

William Stiles III, Chairman

Date

Carly Ruacho, Secretary

Date

Open Space Concept Plan

(PC Recommended Plan to be attached
to final recorded motion)

Errata List

The following items are factual, as distinguished from policy items.

1	Spelling errors:	Run through spell check again.
2	Anacortes web site:	Should be www.cityofanacortes.org
3	Anacortes area demographics:	Per communication with Anacortes parks department and Carol, edit the last sentence in the first section as follows. "Anacortes city is expected to increase from 16,400 persons to 18,300 by the year 2025." <i>Delete remainder of sentence.</i>
4	Reference to County Council, throughout:	Change to Board of County Commissioners
5	Discussion of condemnation and inverse possession in FAQ 5.1 is inaccurate	Substitute language attached
6	Map changes	Per Gary's email
7	Table of contents	Check for consistency with revised Appendix B
8	Appendix B.27 Town "of" not "on" Concrete	
9	Add Appendix for WSDOT	

Errata item #5
Proposed edit to FAQs

5.1 If the officially adopted open space plan map shows open space on my property, does that mean I am restricted to open space uses?

The open space plan map does not change the uses currently allowed by the property's zoning.

~~The state legislature recognizes that the preservation of urban greenbelts is an integral part of comprehensive growth management in Washington. The legislature further recognizes that if certain greenbelts were subject to adverse possession action (condemnation) it would threaten the comprehensive nature of the GMA.~~

~~Therefore, RCW 36.70A.165 specified that a party shall not acquire by adverse possession property that is designated as a plat greenbelt or open space area or that is dedicated as open space to a public agency or to a bona fide homeowner's association.~~

~~Individuals may voluntarily sell property or easements to an open space program agency should they desire.~~
From the Central Public Sound Growth Management Hearings Board: "RCW 36.70A.160 does not require regulating to protect open space corridors, it does not provide that mere identification is protection of an open space corridor, nor does it provide an independent source of authority for regulating land use activities within an open space corridor. Any authorized land uses, or limitation, restriction, or prohibition of land uses that a jurisdiction might choose to employ within an identified open space corridor must be grounded in separate legal authority, not RCW 36.70A.160." [LMI/Chevron, 8312, FDO, at 54.]