



Planning & Development Services

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2021 Planning Docket Memo #2

To: Skagit County Planning Commission
From: Peter Gill, Planning and Development Services
Date: November 24, 2021
Re: Petitions for 2021 Docket of Comprehensive Plan Policy, Map, and Code Amendments

Summary

This memo provides the public information on the upcoming planning commission work session. The memo includes a subset of petitions that were docketed by the Board of County Commissioners for consideration with the annual Comprehensive Plan and development code amendments. The petitions included in this memo are:

- PL19-0419: Nielsen Brothers Map Amendment & Rezone
- LR21-02: Clarify CaRD function
- LR20-04: Fully Contained community Proposal
- C21-1: 2020 Comprehensive Parks & Recreation Plan
- C21-4: Front setback reduction in Bayview Ridge Residential zone
- C21-5: Removal of Pre-Application Requirement

The following petitions were included in 2021 Planning Docket Memo #1, discussed in a Planning Commission meeting on July 13, 2021:

- LR20-02: Small Scale Business Zone Use Modification
- LR20-05: Public Amendment for Mineral Resource Extraction area
- LR20-07: Accessory Dwelling Unit code Amendment
- LR21-04: Agricultural processing facilities in BR-Light Industrial
- C21-2: SEPA Determination Review Timing
- C21-3: Hamilton Zoning & Comprehensive Plan Text Amendment

Background

The Growth Management Act (GMA) provides that “each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation” and requires Skagit County to periodically accept petitions for amendments or revisions to the Comprehensive Plan policies or land use map. Skagit County implements this requirement through Skagit County Code Chapter 14.08, which describes the process for annual amendments.

Skagit County received eighteen timely petitions for consideration through the annual Comprehensive Plan, Map, and Development Regulation Docket. A public comment period on the docketing of petitions was open from April 15 – May 5, 2021. Following the public comment period, petitioner presentations, a public hearing, and consideration of nearly 800 comments the Board of County Commissioners established a docket. This was established by resolution [R20210084¹](#), on May 11, 2021, to include twelve petitions for further review.

Those comments can be located listed by petition number and name on our project webpage. The previous staff reports, draft maps, citizen comments, public noticing documents, and other supporting materials concerning this year's Docket are available at the following project webpage: www.skagitcounty.net/2021cpa.

Additional review, specific code and policy language, and Department recommendations will be provided in the staff report prior to the public hearing.

Petitions

PL19-0419 Nielsen Brothers Comprehensive Plan & Zoning Map Amendment (14.08.060 Petitions—Approval criteria for map amendments and rezones.)

Summary

This proposal aims to rezone 11.89 acres of Agriculture-Natural Resource Lands (Ag-NRL) designation to Natural Resource Industrial (NRI). The property is located at 25046 State Route 20 (SR-20) east of Sedro Woolley. Nielsen Brothers Inc. is interested in expanding the current shop building to create larger work bays and make other improvements to the drainage and operational layout of the site including installation of a zero- discharge closed loop water recycling wash rack for heavy equipment. In May 2019, the petitioner was informed that the current use of the property is considered "non-conforming" in the Ag-NRL zone, and as such, no enlargement, alteration, expansion or change is allowed.

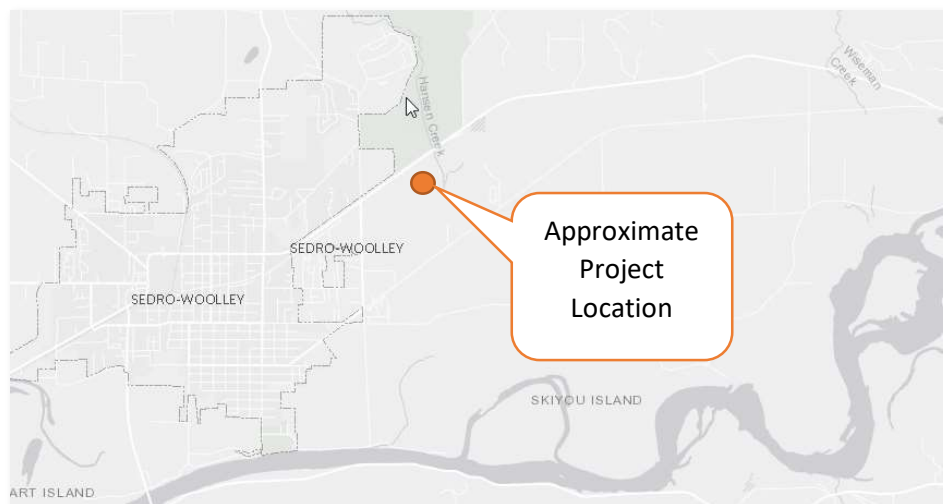


Figure 1: General location of proposed rezone, east of Sedro-Woolley.

¹ <http://www.skagitcounty.net/Common/Documents/LFDDocs/COMMISSIONERS000017/00/00/4d/00004d49.pdf>

Analysis

The use of the site is currently considered non-conforming, it is used as a forest industry maintenance shop and storage yard. The site has been used for natural resource operations for approximately twenty years. Adjacent uses include the Hansen Creek Reach 5 Channel Restoration Project located adjacent to the applicant's property on the east and south. The three parcels west of the site are zoned AG-NRL, but generally less than 20 acres in size with agricultural uses limited to low intensity livestock grazing and hay production. The Cascade Trail runs along the north property line.



Figure 2: Aerial Image of site proposed for rezone from Agricultural – NRL to Natural Resource Industrial

New Natural Resource Industrial designations are allowed in the County consistent with the Comprehensive plan and are allowed as such under the Growth Management Act (GMA). Uses allowed in Natural Resource Industrial (NRI) are generally consistent with existing uses on the property. This includes the maintenance, repair, and storage of logging equipment including yarders, loaders, processors, skidders, dozers, rock crushers, road builders, commercial vehicles, work trucks, trailers, steel containers, and miscellaneous items. With direct east/west access to SR-20 and nearby north/south access to Highway 9, the shop facility is ideally located between the major forest resource lands and the lumber mills where the logs are delivered.

“The Natural Resource Industrial (NRI) designation is intended to support the production of agricultural, forest, and aquatic products by allowing processing facilities, limited direct resource sales, and limited natural resource support services. Examples of typical NRI uses include saw mills, agricultural or forest industry equipment maintenance, agricultural processing plants, and seafood processing and on-site sales. Mineral processing activities are generally guided by separate policies found in the Natural Resource Lands Element of the Comprehensive Plan. The NRI designation provides a location for natural resource processing and support services that does not

remove designated natural resource lands from production. The NRI designation may qualify as a LAMIRD under RCW 36.70A.070(5)(d)(i), if the site has been in industrial use since 1990, or under RCW 36.70A.070(5)(d)(iii), if the use is new.”

This change supports a Natural Resource Land use, forestry and it is compatible with surrounding uses, including agriculture and salmon enhancement. The majority of NRI designations show up adjacent to AG-NRL zones, as these uses are compatible and often complimentary. Figure 3 shows the locations on NRI zones (Red) and proximity to Ag – NRL (brown).

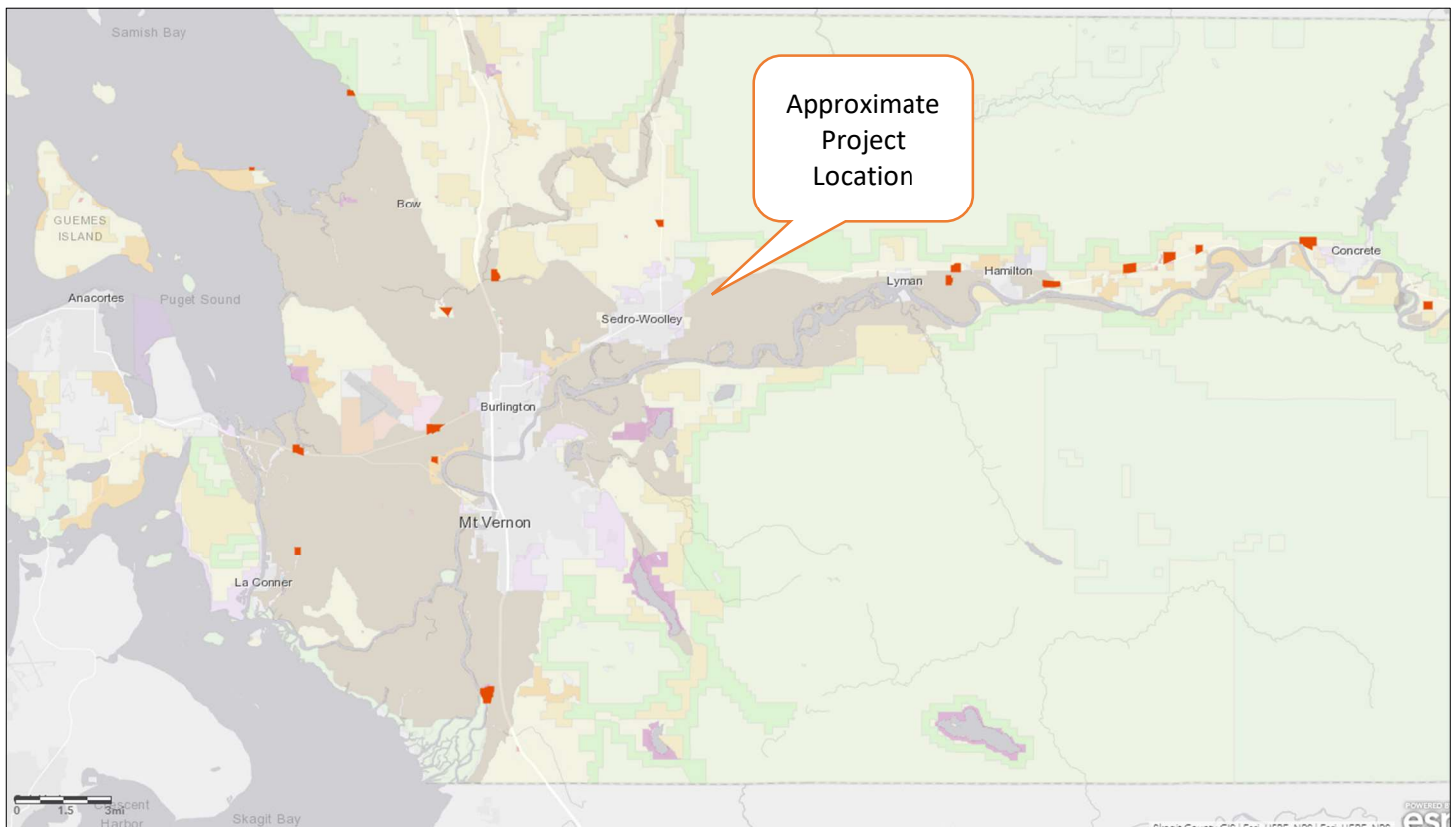


Figure 3 NRI zone (Red) distribution and zoning.

Analysis of the existing Comprehensive Plan map designation (Ag-NRL) is applicable. The current use, parcel size, location characteristics, and surrounding uses may disqualify the property as long term commercially viable agricultural lands.

A change from a natural resource land map designation must also recognize that natural resource land designations were intended to be long-term designations. The petitioner was issued permits by the County to utilize the property for a natural- resource based industry nearly 20 years ago and the land has been altered to accommodate that use in a way that precludes future agricultural uses.

Further, agricultural uses would not be compatible with the Hansen Creek Reach 5 Restoration Project which impacts approximately 200 adjacent acres. Restoring critical habitat for salmon is a high priority for the County and the Hansen Creek project has received public funding in support of this priority.

Currently, the conversion of Ag-NRL to NRI is not consistent with **Comprehensive Plan Policy 3C-5.5**,

“Designation of an agricultural industrial park is the only instance where Ag-NRL land may be converted to a NRI designation, and only based on a finding that the agricultural sector is better served by having the land in NRI designation to permit an agricultural industrial park.” There is currently no such designation defined in the Skagit County Code or the Skagit County Comprehensive Plan.

Public Comments:

The Skagit River System Cooperative, on behalf of the Swinomish Indian Tribal Community and the Sauk-Suiattle Indian Tribe, and Woods Logging Supply wrote to support the proposed zone change for Nielson Brothers, Inc. SRSC oversees the restoration project at Hansen Creek, directly next to Nielson Brother’s property, and noted the proposed facility to treat wastewater would be beneficial to the nearby surface waters. There were a number of comments in opposition to the zone change because they would prefer to keep ag-NRL land as is.

LR21-02 Clarify CaRD Land Divisions and the “Reserve” Function

Summary

This citizen-initiated petition requests a clarification of the intent of Conservation and Reserve Developments (CaRD) within the Comprehensive Plan. The petitioner requests that the definition in the Comprehensive Plan and the Skagit County Code be made consistent and their function clarified so the public can fully understand the intent of CaRD land divisions. More specifically, the petitioner is requesting changes to the Comprehensive Plan definition of CaRD and clarification of when the “reserve” function is used for future development and when it is for conservation.

Analysis

CaRD land divisions consist of building lots and a reserve tract. The number lots and size of the reserve tract are determined by allowed density in each zone and the size of the parcel to be divided. There are multiple requests for clarification stated by the petitioner relative to Conservation and Reserve Developments. The first is regarding the definition of CaRDs in the Comprehensive Plan versus the Development Code (SCC 14.04) as shown below.

Comprehensive Plan

A technique of land division characterized by the placement of dwellings and accessory buildings in a pattern of development which reduces impervious surface area, lowers costs of development and maintenance and retains larger expanses of property available for agriculture, forestry, or continuity of ecological functions characteristic of the property to be developed

Development Code

A technique of residential land development characterized by the placement of lots, dwellings and accessory buildings in a pattern of development which reduces impervious surface area, lowers costs of development and maintenance, and retains larger expanses of property available for agriculture, forestry, recreation, future development or continuity of open space or ecological functions characteristic of the property to be developed. A CaRD, in some cases, allows higher densities than normally permitted in the zone, but also has greater design requirements. A CaRD may also modify certain requirements of the zone, as specifically allowed by this Code. When the creation of lots is desired, a CaRD is done in conjunction with a land division.

The added specificity in the develop code definition is fairly common, since the Comprehensive Plan is a policy document. They do not need to be the same as long as they are consistent.

Another point of clarification requested by the petitioner is around the designation of the open space tract. *“The current definition does not state that it is not a zoning regulation, nor how a CaRD development interfaces with zoning. Nor does it state that in some instances the reserve parcels can be developed and how that might happen – a future Comprehensive Plan amendment or other mechanism”*

There are two parts to this request, how CaRDs interface with zoning and when an open space reserve parcel can be developed.

CaRD Interface with Zoning

CaRDs are land divisions and located in SCC 14.18. This section states that CaRDs are “an overlay permit that allows for variations in the underlying zoning regulations but are not intended as and do not constitute rezoning.” There is also text in the definition to clarify this, “... A CaRD, in some cases, allows higher densities than normally permitted in the zone, but also has greater design requirements. A CaRD may also modify certain requirements of the zone, as specifically allowed by this Code. When the creation of lots is desired, a CaRD is done in conjunction with a land division.”

The Comprehensive Plan recognizes the need to allow flexibility to zoning dimensional standards in order to achieve the stated purpose.

Policy 2G-1.3 CaRD land divisions may achieve some or all of the following benefits:

- (a) Flexibility in site development, which may result in more compact, clustered lots or environmentally sound use of the land, while maintaining the County’s rural character.
- (f) Allowance of bonus development lots when a landowner meets the various requirements of the CaRD provisions.
- (g) Large tracts of open space land held for recreation, natural resource management, and protection of critical areas and significant cultural resources.

In order to better understand the historical use and intention of CaRD land divisions an analysis of 155 of the 182 total CaRDs since 2000 was completed.

The zoning decides the number of residential building lots and the type of reserve tract that can be established. The table below shows the number of building lots and open space by zone type. All of which were created as a result of the 155 CaRDs included in this analysis. This is a strategy the County has taken to protect sensitive critical areas and working landscapes.

Zoning	Sum of Building lots	Sum of Open Space (ac)
Agriculture-NRL	31	1103.07
Rural Intermediate	26	54.6

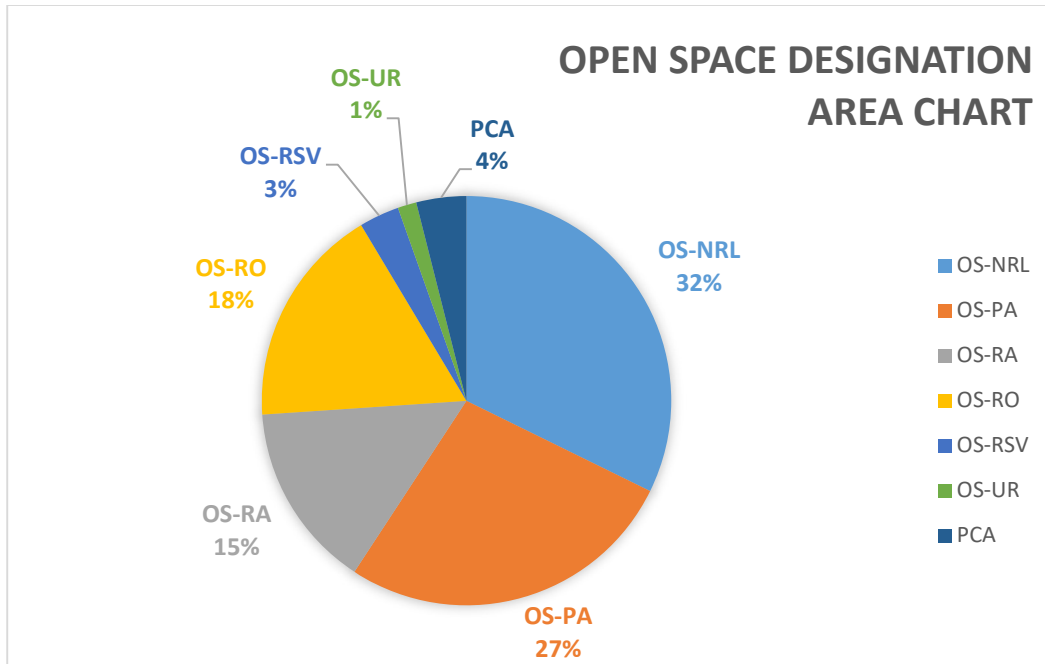
RRc	11	97.8
Rural Reserve-NRL	40	436.66
Rural Reserve	428	1943.6
Rural Village Residential	34	18.33
Secondary Forest-NRL	15	269.74
Urban Reserve Residential	4	15.48
Industrial Forest-NRL	3	265.68
Grand Total	592	4204.96

Table 1 shows how many building lots have resulted from CaRDs and how much open space has been designated with those building lots.

The next table shows the open space designation of the reserve tract and how many acres of open space are within each designation as compared to the number of building lots in the associated subdivision. Of the two open space tracts that can be further divided, OS-RSV and OS-UR (Bolded below), there are 195.61 acres of the total 4202.96 acres in reserve tracts. This amounts to 4.6% of total reserve tract acreage that could be further divided.

OS-Designation	Sum of Open Space (ac)	Number of Building lots
OS-NRL	1357.54	59
OS-PA	1133.47	116
OS-RA	617.33	179
OS-RO	734.45	197
OS-RSV	134.01	24
OS-UR	61.6	16
PCA	166.56	1
Grand Total	4204.96	592

Table 2 shows open space area by type and number of associated building lots.



This chart shows a sample of how many acres have been designated as each type of open space as a result of CaRD development since 2000. See the Table 2 above for exact figures.

Development of the Open Space Reserve Parcel

The second part of the request had to do with how the reserve tract could be further developed. The Comprehensive Plan and development code is clear that the reserve tract of a CaRD can be further developed in limited situations. When CaRD land divisions are created the reserve lot of the subdivision is given an open space designation that is maintained through a plat restriction. There are six open space categories for the reserve lot depending on the underlying zoning (see table in SCC [14.18.310](#)).

The applicable sections of the Comprehensive Plan are shown in bold below.

Policy 2G-1.3 CaRD land divisions may achieve some or all of the following benefits:

(e) More flexible land development options in areas with potential to be designated urban growth areas in the future.

There are two open space designations in the code that allow for future development of the open space lot:

1. Open Space Reserve, (OS-RSV) this is used only when the development rights of the parent parcel are not extinguished in the development of the CaRD.
2. The second instance is when the Open Space Urban Reserve (OS-UR) is applied, which allows future development when the area is rezoned. This designation is only allowed on lands zoned Rural Village Residential, Rural Intermediate, or Rural Reserve, and only if these areas are located on a parcel of which 50% or greater is located within one-quarter mile of urban growth areas or Rural Villages.

Staff believe it would be useful to clarify in which instances the reserve parcels can be redeveloped and how that might happen. In the second instance the ability to redevelop the reserve portion of the CaRD rests with the ability to rezone the underlying zoning. This can only occur within one-quarter mile of urban growth areas or Rural Villages where future residential growth is intended to occur. The only way to get additional density is to rezone to Rural Village Residential, Rural Intermediate, or be annexed by a city. None of these changes can be initiated by individuals. All lands designated Rural Intermediate and Rural Village Residential are considered to be part of a LAMIRD (limited areas of more intense rural development) that was predominantly developed by 1990 and contained by a logical outer boundary consisting of the “built environment.” Rural Village Residential and Rural Intermediate cannot be added outside the boundary without a change to state laws. Additional density through annexation is initiated with a municipality.

The table below shows how many acres of the Open Space – Urban Reserve (OS-UR) and Open Space – Reserve (OS-RSV) exist within the 155 CaRDs reviewed in Skagit County. These are the two types of open space which can be further split. According to [SCC 14.18.310](#), the OS-UR designation is assigned to retain areas of open space until such time that urban development is deemed appropriate for that area and then to continue to require a portion of that original space to be preserved. This open space may only be used within CaRDs on lands zoned Rural Village Residential, Rural Intermediate, or Rural Reserve, and only if these areas are located on a parcel of which 50% or greater is located within one-quarter mile of urban growth areas or Rural Villages. The OS-RSV designation is only for those parcels which have not exhausted all of their development rights otherwise permitted under the zoning designation. Of all the reserve tracts reviewed in the 155 CaRD subdivisions, only three open space designations are the subject of this petition.

Open Space- Designation	Zoning	Sum of Open Space (ac)		Reserve Tracts
OS-UR	RRv	61.6	3	
OS-UR Total		61.6	3	
OS-RSV	RRc-NRL	11.71	1	
	RRv	122.3	8	
OS-RSV Total		134.01	9	

Table 3 shows the Open Space – Urban Reserve and Open Space – Reserve designations and underlying zone.

LR20-04 Fully Contained Communities

Summary

This petition seeks to amend the Comprehensive Plan to establish criteria for consideration of a new fully contained community, consistent with Growth Management Act (RCW 36.70A.350). The petition does not propose a project-specific Fully Contained Community (FCC).

The Board of County Commissioners only docketed the Comprehensive Plan amendments related to this petition. Due to the significant changes to code and policies, GMA legal issues, and significant public interest, this petition is being addressed incrementally starting with amendments to the Comprehensive Plan.

The Department has begun the process for an environmental impact statement (EIS). Staff will use the EIS process to evaluate impacts of fully contained communities and alternatives including a no change option.

The Department will be leading an Environmental Impact Statement to evaluate the potential effects of a fully contained community in Skagit County. The Department will hire a consultant to conduct the study in December 2021 and expected to begin work in January 2022. The study will take at least twelve months to be completed. The EIS will be policy driven, meaning the study will not look at a fully contained community in one particular, but instead look at the overall impacts on the entire county.

Recommendation and public comment on this petition will be sought through the EIS review process and not as a part of the 2021 docket review.

C21-1 2020 Comprehensive Parks & Recreation Plan

Summary

The proposal is to “incorporate by reference” the recently updated 2020 Parks and Recreation Comprehensive Plan into the Skagit County Comprehensive Plan. The Parks and Recreation Comprehensive Plan will not become a chapter in the Comprehensive Plan and will remain a separate functional planning document. This includes review of zoning and consistency of park classifications.

Analysis

The Skagit County Parks and Recreation Comprehensive Plan is a subset of the County’s regional comprehensive plan. The Parks and Recreation Comprehensive Plan is defined as a “functional plan” whose purpose is to focus on specific regional governmental services and/or utilities (i.e., water, wastewater, transportation, housing). Functional plans must be consistent with the Skagit County Comprehensive Plan and serve to implement its goals, policies and programs. The Plan was last updated in 2013 and required by the Washington State Recreation and Conservation Office (RCO) to be updated every six years. This update allows for Skagit County to be eligible for RCO grants.

On February 3, 2020, by Resolution [#R20200017](#), the Skagit County Board of Commissioners adopted the 2020 Skagit County Parks and Recreation Comprehensive Plan. The 2020 Skagit County Parks and Recreation Comprehensive Plan update relied on: four (4) public meetings in 2018 and the review and recommendations of a citizen-based Skagit County Parks and Recreation Advisory Board adoption in January 2020.

Currently there are a number of existing parks in zones not in support of a park use. The addition of these parks as a permitted use will allow the Skagit County Parks and Recreation Department to make the necessary upgrades, such as building safety upkeep and infrastructure expansions, to ensure the park continues to meet the needs of the community.

There are fifteen parks located in zones without the designated park classification as a permitted use. Existing parks shown in Table 4 should be considered in the zones where consistent with Comprehensive Plan policies, including: Rural Reserve, Rural Village Residential, Urban Reserve Residential, Industrial Forest – NRL, and Secondary Forest – NRL.

Park Classification	Name	Zone
<i>Community</i>	Samish Island Park	Rural Intermediate
	Donovan Park	Rural Intermediate
	Guemes Island School House Park	Rural Reserve
	Allen Community Park	Rural Reserve
	Clear Lake Park	Rural Village Residential
<i>Open Space/Undeveloped</i>	Frailey Mountain Park	Industrial Forest – NRL
	Ann Wolford Park	Agricultural – NRL
	Sharpe Park	Public Open Space of Regional/Statewide Importance
	Pressentin Park	Public Open Space of Regional/Statewide Importance
	Squires Lake Park and Trail	Rural Reserve
	Pilchuck Tree Farm	Secondary Forest – NRL
	Hoag Memorial Park	Urban Reserve Residential
<i>Regional</i>	Padilla Bay Shore Trail – South Trailhead	Agricultural – NRL
	Conway Boat Launch	Agricultural – NRL
	Swinomish Channel Boat Launch	Agricultural – NRL
	Grandy Lake	Industrial Forest – NRL
	Sauk Park	Industrial Forest – NRL
	Young’s Park	Rural Reserve
	Pomona Grange and Interpretive Trail	Rural Reserve
	Padilla Bay Shore Trail – North Trailhead	Rural Village Residential
	Howard Miller Steelhead Park	Rural Village Residential
	Conway Ballfield	Rural Village Residential
	Cascade Trail - West	Urban Reserve Residential
	Northern State Recreation Area - Trailhead	Urban Reserve Public Open Space

Table 4. Parks under Skagit County jurisdiction and the corresponding classification.

C21-4 Reduced Front Setback to Include Class 19 roads

Summary

The proposed amendment allows for 20 foot residential setbacks for all local access roads in the Bayview Ridge Residential zone (BR-R). Currently local access, class 09 roads and private roads qualify for a 20 foot setback in the BR-R zone, while local access, class 19 roads require a 35 foot front setback. This change would make front setback for the primary residence, consistent for residential development in this zone. The Bayview Ridge Residential zone is only found east of the Port of Skagit County within the Urban Growth Area.

Analysis

14.16.340(5)(c) BR-R zoning - front setback for primary residence should include both Class 09 & 19 for the reduced front setback of 20'. Both are considered local neighborhood or minor access roads. The 20 foot setback meets both of the Washington State Department of Transportation Clear Zone distances and the Vision Clearance Triangle as shown in Figure C-2 of Skagit County Road Standards.

Section 3.2.A of Skagit County Road Standards

A minimum clear zone width of 10 feet from the edge of the traveled way shall be maintained for all roads with shoulder sections with a posted speed of 35 MPH or less. For posted speeds over 35 MPH, the WSDOT Clear Zone distances as per the WSDOT Design Manual shall be used for evaluation, placement and relocation of roadside features within the County right-of-way. In urban curbed sections, the minimum clear zone width is 1.5 feet back of the curb face.

Chapter 1600

Roadside Safety

Exhibit 1600-2 Design Clear Zone Distance Table

Posted Speed (mph)	Average Daily Traffic	Cut Section (Backslope) (H:V)						Fill Section (H:V)					
		3:1	4:1	5:1	6:1	8:1	10:1	3:1	4:1	5:1	6:1	8:1	10:1
35 or Less		The Design Clear Zone Distance is 10 ft											
40	Under 250	10	10	10	10	10	10	*	13	12	11	11	10
	251 – 800	11	11	11	11	11	11	*	14	14	13	12	11
	801 – 2,000	12	12	12	12	12	12	*	16	15	14	13	12
	2,001 – 6,000	14	14	14	14	14	14	*	17	17	16	15	14
	Over 6,000	15	15	15	15	15	15	*	19	18	17	16	15

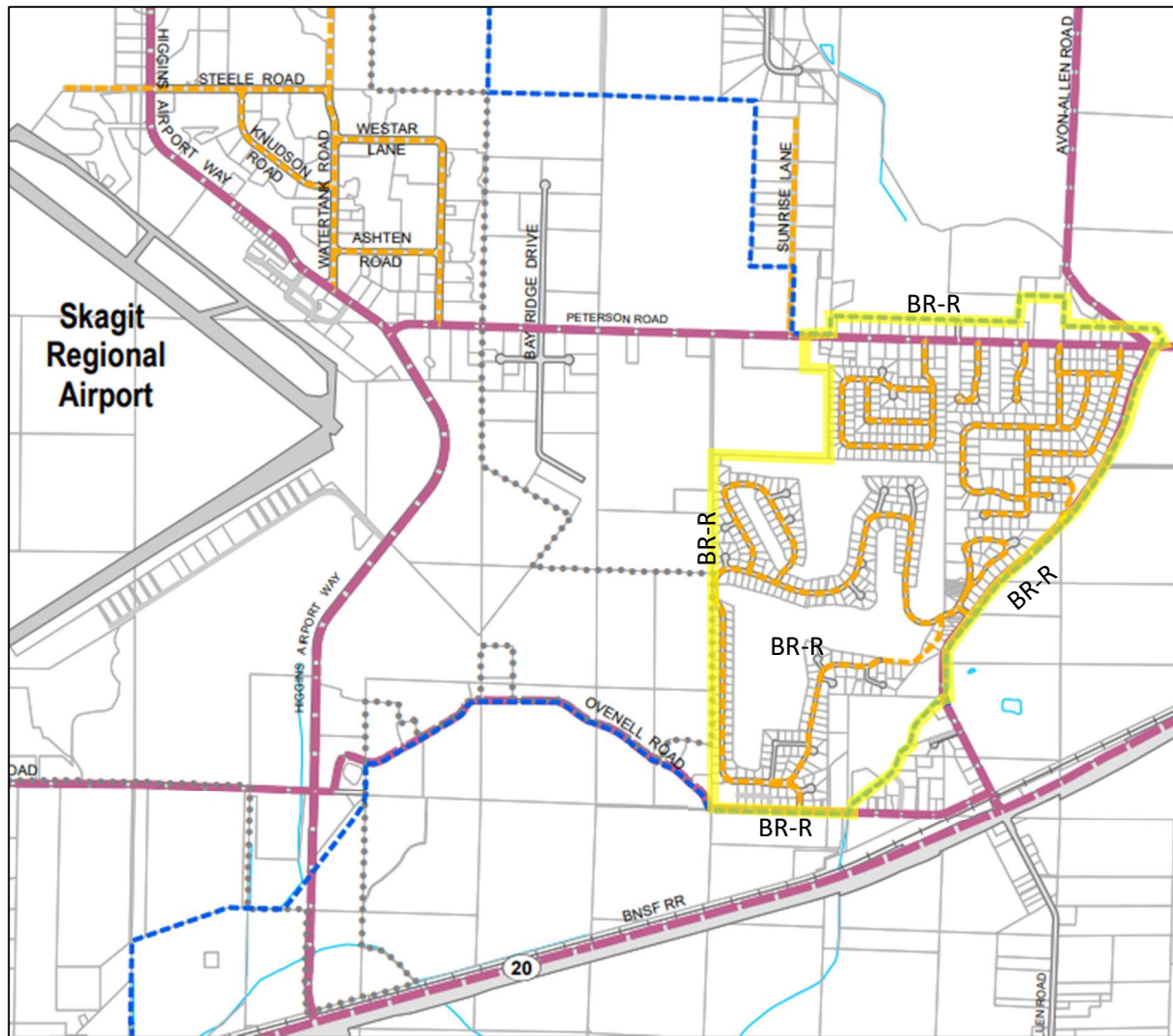


Figure 4: Local Access road class (orange) and Bayview Ridge Residential zone (Yellow) from Bayview Ridge Subarea Plan.

Additionally, the new 20' setback would be more consistent with similar residential zones in nearby localities. In each of the seven cities and counties analyzed, similar road types in residential areas have minimum setback requirements that are closer to the 20' setback than the 35' setback. The table below shows how similar roads would likely be assigned setbacks in other localities. Click on the setback number to view the correlating code.

Locality	Residential Front Minimum Setback
Sedro-Woolley	10'
Mount Vernon	20-25'
Burlington	17'
Marysville	20-25'
Lynden	15-20'
Snohomish County	15'
Whatcom County	20-25'

Table 5 Summarizes the minimum road setbacks for similar residential zones and road types in nearby cities and counties.

C21-5 Pre-application requirement

Summary

This code amendment to SCC 14.06.080 makes the pre- application meeting optional instead of required. Currently, project applicants often take advantage of a free pre-development meeting with staff when their project is in the feasibility stage. The proposed change would make the pre-development meeting required and the pre-application meeting optional.

Analysis

Pre-Development meetings are informal meetings between County staff and the applicant with the purpose to “discuss, in general terms, the proposed development, application requirements, design standards, design alternatives, other required permits and the approval process.”

The Pre-Application meeting is a much more in-depth process with County staff, staff of affected jurisdictions, and the project applicant. “The purpose of the meeting is to conduct a review of the development application prior to submittal to the Department. Pre-application review will include discussion of requirements for application completeness, permit or approval requirements, fees, review process and schedule, and responding to questions from the applicant.” These meetings involve a fee that is incorporated into permit fees at the permit application stage.

This meeting can improve permit review times and quality of proposals by catching issues related to land use, natural resources, stormwater, and building codes. This preliminary project review can save the applicant time and money by catching issues before projects are fully designed and applications submitted. However, the Pre-Application meeting does have a fee which could unnecessarily cost applicants if they don’t need a more in-depth review. Currently, the base rate of the fee is \$539.14 as per the current [fee schedule](#) approved by the Board of County Commissioners. Full credit is applied to any complete project application submitted within six months of the Pre-Application meeting.

This change from requiring a pre-application meeting to a pre-development meeting will be more consistent with current practices while removing the need for pre-application waiver. This will save staff time from preparing for and conducting the more rigorous pre-application meetings when the applicant does not wish to have one.