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**From:** Tim Trohimovich <Tim@futurewise.org>  
**Sent:** Monday, March 7, 2022 6:16 PM  
**To:** Contact Council; Eco, Debbie; Countryman, Ryan  
**Subject:** Comments on proposed Ord 22-006 on Rural ADUs  
**Attachments:** FW Comments to CC on Ord No 22-006 ADUs March 8 2022.pdf

**SNOHOMISH COUNTY COUNCIL**

**EXHIBIT #** 3.3.005

**FILE** ORD 22-006

**CAUTION :** This email originated from outside of this organization. Please exercise caution with links and attachments.

Dear Council Members and Staff:

Enclosed please find Futurewise's comments on proposed Ordinance 22-006 Relating to Growth Management; Revising Accessory Dwelling Unit Regulations; Amending Section 30.28.010 of the Snohomish County Code.

Thank you for considering our comments.

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Director of Planning & Law



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March 8, 2022

The Honorable Megan Dunn, Council Chair  
Snohomish County Council  
Robert J. Drewel Building, Eighth floor  
3000 Rockefeller Ave., M/S 609  
Everett, WA 98201

Dear Council Chair Dunn and Council Members Nehring, Wright, Mead, and Low:

**Subject: Comments on proposed Ordinance 22-006 Relating to Growth Management; Revising Accessory Dwelling Unit Regulations; Amending Section 30.28.010 of the Snohomish County Code**

Sent via email to: [contact.council@snoco.org](mailto:contact.council@snoco.org); [Debbie.Eco@snoco.org](mailto:Debbie.Eco@snoco.org);  
[ryan.countryman@snoco.org](mailto:ryan.countryman@snoco.org).

Thank you for the opportunity to comment on proposed Ordinance No. 22-006 modifying the requirements for Accessory Dwelling Units (ADUs) in rural areas and on natural resource lands. In short, new detached ADUs need to count as a dwelling unit for the purpose of calculating density and must be required to meet the minimum lot size and density requirements applicable to rural and natural resource lands. These requirements are necessary to protect rural character, the rural environment including water quality and water quantity, and to comply with VISION 2050 and the Growth Management Act (GMA).

Futurewise works throughout Washington State to support land-use policies that encourage healthy, equitable, and opportunity-rich communities, that protect our most valuable farmlands, forests, and water resources, and encourage growth in urban growth areas to prevent poorly planned sprawl. Futurewise has members across Washington State including Snohomish County.

Internal and attached accessory dwelling units (ADUs) may be allowed in rural areas without being counted towards the maximum allowed residential density. These are ADUs located inside or attached to a house or in an existing accessory building, such as a garage, located close to the house. Detached or freestanding ADUs count towards and must comply with the maximum allowed density. Detached or freestanding refers to separate dwelling units constructed on the same lot a primary dwelling.<sup>1</sup> This is because of the adverse impacts of the additional housing units on water resources, rural character, and natural resource lands. A county may need to analyze existing conditions, future projections, the need for ADUs, the impacts of future ADUs on public facilities

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<sup>1</sup> *Pierce County Neighborhood Association v. Pierce County (PNA II)*, CPSGMHB Case No. 95-3-0071, Final Decision and Order (March 20, 1996), at \*18 – 19; *Friends of the San Juans, Lynn Babrych and Joe Symons, et al. v. San Juan County*, WWGMHB Case No. 03-2-0003c Corrected Final Decision and Order and Compliance Order p.\*1, 2003 WL 1950153 p. \*1 (April 17, 2003). “The Thurston County Superior Court upheld the Board’s ruling regarding the requirement that a freestanding ADU must be counted as a dwelling unit for the purposes of calculating density on a resource parcel. See *Friends of the San Juans v. Western Washington Hearings Board*, Thurston County Cause No. 03-2-00672-3 (Jan. 9, 2004) at 10 and 11.” *Friends of the San Juans, Lynn Babrych and Joe Symons v. San Juan County*, WWGMHB Case No. 03-2-0003c, Compliance Order 2005 (July 21, 2005), at 12 of 22, 2005 WL 2288088, at 7.

and services, and the impacts of future ADUs on shorelines, critical areas, and resource lands before adopting development regulations that authorize ADUs.<sup>2</sup>

These rules are necessary to conserve the limited water outside of UGAs in Snohomish County.

From 2005 through 2018, 992 permit-exempt wells have been developed in the Stillaguamish Groundwater Reserve, and 174 of those wells have been developed since 2014. The well development limits of the reserve are set for the mainstem, North Fork and South Fork Stillaguamish River sub-basins. This potentially allows small tributary basins within the larger sub-basins to be impacted by permit-exempt well development before the larger sub-basins has reached their well limits.<sup>3</sup>

In 1999, water users in five separate small tributaries within the larger Stillaguamish sub-basins were found to be over consuming groundwater at a rate five percent or more above the average annual groundwater recharge.<sup>4</sup>

In the Snohomish River Basin “[s]ince 2015, nearly 30% of all groundwater well development in the Snohomish River watershed has occurred in tributary basins that have been closed to permitted water withdrawal since the 1950s.”<sup>5</sup> In the two years since the Streamflow Restoration Act was passed in January of 2018, “an estimated 238 wells have been drilled in the Snohomish River basin, and 71 (30%) of those wells were drilled in the seven tributaries watersheds that were previously closed.”<sup>6</sup> In 1999, the *Snohomish River Basin Conditions and Issues Report* documented adverse impacts of rural development on stream flows:

In rural areas, residential development is supported by local well withdrawals, which can have significant impacts on flows in small streams. Low flows in Quilceda and Allen creeks have diminished due to past development, and small streams such as Dubuque, Star, Patterson, Tuck, and Cherry creeks and the Raging River are at risk for summer low-flow reduction due to future development.<sup>7</sup>

The available data shows that rural residences use over half of total water use outdoors and 90 percent of the consumptive water use outdoors.<sup>8</sup> Ecology estimates that irrigating a half-acre “of

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<sup>2</sup> *Friends of the San Juans, Lynn Babrych and Joe Symons, et al., v. San Juan County*, WWGMHB Case No.: 03-2-0003c Corrected Final Decision and Order and Compliance Order (April 17, 2003), at p.\*1, 2003 WL 1950153 p. \*1.

<sup>3</sup> *2020 State of Our Watersheds State of Our Watersheds: A Report by the Treaty Tribes in Western Washington* p. 301 last accessed on March 7, 2022, at: <https://nwifc.org/publications/state-of-our-watersheds/>. and at this Dropbox link: <https://www.dropbox.com/sh/1299org99ievh5f/AACsCeIEZ9tdrrUiYCXww1RFa?dl=0> with the filename: “state-of-our-watersheds-sow-2020-final-web.pdf.”

<sup>4</sup> *2020 State of Our Watersheds State of Our Watersheds: A Report by the Treaty Tribes in Western Washington* p. 305.

<sup>5</sup> *2020 State of Our Watersheds State of Our Watersheds: A Report by the Treaty Tribes in Western Washington* p. 353.

<sup>6</sup> *2020 State of Our Watersheds State of Our Watersheds: A Report by the Treaty Tribes in Western Washington* p. 360.

<sup>7</sup> Pentec Environmental, Inc. and NW GIS, *Snohomish River Basin Conditions and Issues Report Project No. 293-001 Executive Summary* p. 5 (Dec. 17, 1999) last accessed on March 7, 2022, at:

<https://snohomishcountywa.gov/Archive/ViewFile/Item/2098> and at the Dropbox link in footnote 3 and the last page of this letter with the filename: “Executive Summary.pdf.”

<sup>8</sup> Tom Culhane and Dave Nazy, *Permit-Exempt Domestic Well Use in Washington State* p. 19 (Washington State Department of Ecology Water Resources Program Olympia, WA: Feb. 2015 Publication no. 15-11-006) last accessed on March 7,

non-commercial lawn or garden can use from 2,000 to 4,500 gallons per day in the month of July, depending on your location. Most of that water use is consumptive, meaning it does not return to the aquifer.”<sup>9</sup> And summer and fall are the times of year when stream flows are lowest and the high water uses by detached ADUs will be the highest.<sup>10</sup>

So when an internal or attached ADU is built, the net increase in lawn area or garden area is unlikely to increase or increase by very much. So the additional water used is for indoor use, an average of 131 gallons per day (gpd) in one study.<sup>11</sup> Adding a new detached ADU will lead to more lawn and gardens doubling the water consumption to 265 gpd (131 gpd indoor plus 134 gpd outdoor).<sup>12</sup> And Ecology estimates it could be as much as 2,000 to 4,500 gpd in July, 15 to 34 times the water consumed by an internal or attached ADU.<sup>13</sup> And 80 to 90 percent of the water used outside is consumptive, it does not return to the aquifer.<sup>14</sup>

While esthetics and lifestyle play a role in decisions by rural residents to install and water lawns and gardens, that is not the only reason rural residences have lawns and irrigated landscaping. The Firewise program recommends that residences have a landscaped zone that extends from 100 to 200 feet around the home and other structures.<sup>15</sup> With internal and attached ADUs, this zone extends just from one building. With the addition of detached ADUs, the landscaped zone must extend out from two buildings. More if one or both houses have detached garages. Wildfire is a hazard in all of Washington State including Snohomish County.<sup>16</sup> The landscaped zone is necessary to protect the home, the residents, and firefighters. Many residents will chose to irrigate at least some of the landscaped zone to protect the home from wildfire and for esthetic purposes. This is part of the reason why detached ADUs use so much more water than internal and attached ADUs. While we appreciate that the existing ADU regulations in SCC 30.28.010(1)(b) provide that development of accessory dwelling units shall be subject to physical and legal availability of water and the applicant must provide documentation that the water supply is potable and of adequate flow, these regulations do not address the problems of excess water withdrawals affecting the small basins tributary to the

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2022, at: <https://apps.ecology.wa.gov/publications/documents/1511006.pdf> and at the Dropbox link in in footnote 3 and the last page of this letter with the filename: “1511006.pdf.”

<sup>9</sup> Ann Wessel, *Mitigation Options for the Impacts of New Permit-Exempt Groundwater Withdrawals* Draft p. 19 (Water Resources Program Washington State Department of Ecology Olympia, WA: October 2015 Publication No. 15-11-017) last accessed on March 7, 2022, at: <https://celp.org/wp-content/uploads/Ecology-Draft-Mitigation-Alternatives-Report.pdf> and at the Dropbox link in footnote 3 and the last page of this letter with the filename: “Ecology-Draft-Mitigation-Alternatives-Report.pdf.”

<sup>10</sup> *Id.* at p. 10, p. 13.

<sup>11</sup> Tom Culhane and Dave Nazy, *Permit-Exempt Domestic Well Use in Washington State* p. 19 (Washington State Department of Ecology Water Resources Program Olympia, WA: Feb. 2015 Publication no. 15-11-006).

<sup>12</sup> *Id.*

<sup>13</sup> Ann Wessel, *Mitigation Options for the Impacts of New Permit-Exempt Groundwater Withdrawals* Draft p. 19 (Water Resources Program Washington State Department of Ecology Olympia, WA: October 2015 Publication No. 15-11-017).

<sup>14</sup> *Id.* p. 9.

<sup>15</sup> National Fire Protection Association, *Preparing Homes for Wildfire* last accessed on March 7, 2022, at: <https://www.nfpa.org/Public-Education/Fire-causes-and-risks/Wildfire/Preparing-homes-for-wildfire> and at the Dropbox link in in footnote 3 with the filename: “NFPA - Preparing homes for wildfire.pdf.”

<sup>16</sup> State of Washington Department of Natural Resources, *Washington State Wildland Fire Protection 10-Year Strategic Plan Solutions For A Prepared, Safe, Resilient Washington* p. 5 (Second Edition | Aug. 2019) last accessed on March 7, 2022, at: [https://www.dnr.wa.gov/publications/rp\\_wildfire\\_strategic\\_plan.pdf](https://www.dnr.wa.gov/publications/rp_wildfire_strategic_plan.pdf) and at the Dropbox link in in footnote 3 and the last page of this letter with the filename: “rp\_wildfire\_strategic\_plan.pdf.”

Stillaguamish River. Nor will it address the increase in permit-exempt wells in the closed parts of Snohomish River Basin that do not regulate permit-exempt domestic wells. This increased overconsumption of water will adversely impact salmon recovery.

The reduced availability of surface water can have a negative impact on all stages of the salmonid life cycle. Water quality (e.g. temperature, flows) is affected by decreased inputs from groundwater. Lessened groundwater input concentrates pollutants, increases temperature, and diminishing dissolved oxygen. This is detrimental to salmonid migration, spawning and rearing.

Wells are drilled without regard to aquifer sensitivity and stream recharge needs. As Puget Sound Region's freshwater demand increases, something has to change. Unchecked growth and its associated increased demand for groundwater must be addressed, if implementation of the Puget Sound Salmon Recovery plan is to successfully move forward.<sup>17</sup>

Allowing detached ADUs without requiring that they meet the minimum lot size and density requirements effectively doubles the number of allowed detached dwelling units in the rural area or on natural resource lands and will double the water use and will not protect surface and ground water quality and quantity as the Growth Management Act (GMA) requires in RCW 36.70A.070(1) and (5)(c)(iv).

The increased impervious surfaces allowed by freestanding ADUs that do not meet the minimum lot size and density requirements will effectively double the number of allowed detached dwelling units in the rural area and on natural resource lands and will harm water quality and fish and wildlife habitat because more trees and native vegetation will have to be removed to site an additional detached dwelling unit on the lot.

The Snohomish River Basin Salmon Conservation plan suggests impervious surface will have minor geomorphic, hydrologic, and biological impacts on streams if they are covering under 7% of the landscape at the sub-basin scale, but warns that watershed degradation is likely occurring at 12% impervious surface cover at the sub-basin scale. The urban, mainstem and rural watersheds of the lower Snohomish River system are continuing to move away from conservation plan targets toward a worsening watershed condition. The intensification of impervious surface in urban watersheds, and the spread of impervious surface into adjacent mainstem and rural watersheds like the Pilchuck River, Patterson Creek and the Skykomish River are a concern and are continuations of a trend identified in the 2012 and 2016 State of the Watershed Reports.<sup>18</sup>

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<sup>17</sup> 2020 *State of Our Watersheds State of Our Watersheds: A Report by the Treaty Tribes in Western Washington* p. 40.

<sup>18</sup> 2020 *State of Our Watersheds State of Our Watersheds: A Report by the Treaty Tribes in Western Washington* p. 361 footnotes omitted.

“As forest cover drops below 50% in a sub-basin because of forest clearing and development, water quality is more likely to decrease and biota is more likely to show negative impacts.”<sup>19</sup> The majority of lowland forest cover loss between 1992 and 2016 Snohomish River Watershed was in rural residential areas and the forest cover loss in rural residential areas continues.<sup>20</sup> RCW 36.70A.070(1) and (5)(c)(iv) of the GMA require protecting the of rural area and resource lands from these adverse impacts. Allowing detached ADUs that do not comply with the minimum lot size and density requirements will help continue the loss of forest cover and adversely impact water quality and fish habitat because more trees and native vegetation will have to be cleared to site and additional detached house on the lot.

Counties must comply with the Puget Sound Regional Council Multicounty Planning Policies.<sup>21</sup> Multicounty Planning Policy MPP-RGS-14 directs Snohomish County to “[m]anage and reduce rural growth rates over time, consistent with the Regional Growth Strategy, to maintain rural landscapes and lifestyles and protect resource lands and the environment.”<sup>22</sup> Most residents in the Stillaguamish watershed continue to live outside of incorporated towns and Urban Growth Areas (UGA) and the rural population is growing.<sup>23</sup> Allowing detached ADUs that do not comply with the minimum lot size requirements and the maximum density violates MPP-RGS-14 by effectively doubling the allowed detached dwelling units on rural lots.

For all of the reasons described above, we recommend that Snohomish County require that detached ADUs comply with both the minimum lot size and density requirements in rural areas and on natural resource lands. This is necessary to protect water quality and water quantity, protect salmon habitat, and comply with the Growth Management Act and VISION 2050.

Thank you for considering our comments. If you require additional information, please contact me at telephone 206-343-0681 Ext. 102 or email [tim@futurewise.org](mailto:tim@futurewise.org).

Very Truly Yours,



Tim Trohimovich, AICP  
**Director of Planning & Law**

Enclosures at this Dropbox link:

<https://www.dropbox.com/sh/1299org99ievh5f/AACsCeIEZ9tdrrUiYCxww1RFa?dl=0>

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<sup>19</sup> 2020 *State of Our Watersheds State of Our Watersheds: A Report by the Treaty Tribes in Western Washington* p. 362.

<sup>20</sup> 2020 *State of Our Watersheds State of Our Watersheds: A Report by the Treaty Tribes in Western Washington* p. 362.

<sup>21</sup> *Stickney v. Cent. Puget Sound Growth Mgmt. Hearings Bd.*, 11 Wn. App. 2d 228, 244 – 45, 453 P.3d 25, 34 (2019).

<sup>22</sup> Puget Sound Regional Council, *Vision 2050: A Plan for the Central Puget Sound Region* p. 49 (Adopted Oct. 29, 2020) and last accessed on March 7, 2022, at: <https://www.psrc.org/sites/default/files/vision-2050-plan.pdf> and at the Dropbox link in footnote 3 and the last page of this letter with the filename: “vision-2050-plan.pdf.”

<sup>23</sup> 2020 *State of Our Watersheds State of Our Watersheds: A Report by the Treaty Tribes in Western Washington* p. 303.