



Snohomish County

Planning and Development Services

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MEMORANDUM

TO: Snohomish County Planning Commission

Dave Somers
County Executive

FROM: Hilary McGowan, Planner

SUBJECT: Proposed Code Amendments Relating to Density Fringe Exemptions

DATE: November 28, 2022

INTRODUCTION

The purpose of this staff report is to outline and provide information regarding a proposal to amend certain development restrictions for pre-1984 buildings within the density fringe, an area within the Special flood hazard area as shown on the Digital Flood Insurance Rate Maps. Flood Hazard Areas were originally assessed in 1983 for a Flood Insurance Study to be in compliance with the National Flood Insurance Program, and development regulations for flood hazard areas were codified in 1984. This proposed code amendment would allow pre-1984 building footprints' square footage to be exempt from density fringe regulations, as their building footprints' square footage was previously accounted for in the 1984 flood modelling study. Any additional development from the original pre-1984 building footprint square footage would still be subject to all density fringe area regulations. The proposed code would better allow for redevelopment of structures within the density fringe area that sustain flood mitigation requirements.

BACKGROUND

Snohomish County Planning and Development Services (PDS) staff have identified the need for greater flexibility in redeveloping and modifying buildings within the density fringe area that accounts for vested development.

The density fringe area is a part of the Digital Flood Insurance Rate Maps (DFIRMS) that allow for some development that is regulated by maximum density restrictions. The density fringe area defines how development was regulated within the Flood Hazard Areas (FHAs). The current definition of density fringe area comes from SCC 30.91D.100, which states: " 'Density fringe area' means that portion of the special flood hazard area of the lower Snohomish and Stillaguamish rivers in which floodway areas cannot reasonably be established an in which development is regulated by maximum development density criteria."

The National Flood Insurance Program (NFIP) is a federal program administered by the Federal Emergency Management Agency (FEMA) that was established to allow property owners in participating communities to purchase insurance protection against losses from flooding. Participation in the NFIP is based on an agreement between local communities and the federal government that states if a community adopts and enforces a floodplain management ordinance to reduce future flood risks to new

construction and substantial improvements in Special Flood Hazard Areas, the Federal Government will make flood insurance available within the community at a low cost.

On March 15, 1984, Snohomish County became a member of the NFIP and adopted flood hazard regulations and mapping. The NFIP required that the county create a mapping that determined how much more development could occur in the floodplain and will not increase the water surface elevation of the base flood by more than one foot. This mapping was included in the FEMA produced Flood Insurance Study for Unincorporated Snohomish County published on September 15, 1983. The Flood Insurance Study investigated the existence and severity of flood hazards, analysing data from existing conditions of development within the identified floodplains. Floodplain development regulations were created to prevent a cumulative increase in the base flood elevation of more than one foot.

These floodplain development regulations revised the 1982 Title 18 Snohomish County Zoning Code on February 27, 1984, via Ordinance No. 84-014. The Special flood hazard area was defined as being within the 100-year flood plain. The density fringe area was included as a classification within the special flood hazard area, that was identified by the NFIP Flood Insurance Study. Density fringe areas were identified as areas of high flood damage potential where conventional floodway areas could not be established. Development regulation criteria within the density fringe areas were created to foster the continued agricultural use of prime farmlands in density fringe areas and maintain an acceptable level of flood hazard protection.

Under the 1984 Title 27 Snohomish County Zoning Code Chapter 27.36, the density fringe area development regulations specified maximum allowable density (SCC 27.36.030) and maximum allowable obstruction of development (SCC 27.36.040) in a parcel. Chapter 27.36 SCC also discussed general provisions, permitted uses, prohibited uses, and exemptions. Maximum allowable density was defined as: "The land area occupied by any use or development permitted by this chapter that will displace floodwaters shall not exceed two (2) percent of the land area of that portion of the lot located in the density fringe area." Maximum allowable obstruction was defined as: "The maximum width (sum of widths) of all new construction, substantial improvements or other development shall not exceed fifteen (15) percent of the length of a line drawn perpendicular to the known floodwater flow direction at the point where the development(s) is located. The length of said line shall not extend beyond the property boundary or the edge of the density fringe area, whichever is less." These two development regulations are colloquially identified as the 'two and fifteen' regulations.

The density fringe area regulations now reside within SCC Chapter 30.65 Special Flood Hazard Areas. The density fringe area has been updated several times in the past as new FEMA Insurance Studies have been made available. The most recent Flood Insurance Study that updated Chapter 30.65 SCC was dated June 19, 2020. The Flood Insurance Rate Maps delineates areas of special flood hazards and provides updates to Snohomish County special flood hazard area maps. Development criteria for the density fringe areas are contained in maximum allowable density (SCC 30.65.250) and maximum allowable obstruction (SCC 30.65.255), which are unchanged from the original 'two and fifteen' development regulations of 1984.

Exemptions to maximum allowable density and obstruction limitations within the density fringe area (SCC 30.65.260) are as follows: "(1) Water-dependent utilities, (2) Dikes, (3) Utility facilities; and (4) Public works, when the project proponent demonstrates that the floodwater displacement effects of the proposal when considered together with the maximum potential floodwater displacement allowed by SCC 30.65.250 and 30.65.255 shall not cause a cumulative increase in the base flood elevation of more than one foot. Floodwater displacement information shall be obtained and certified by a professional engineer."

Snohomish County has made changes in code that allow certain businesses within the density fringe to have additional uses that are non-agricultural. Ordinance No. 20-076 revised density fringe area: permitted uses (SCC 30.65.280) to expand the permitted and conditionally permitted uses in the portions of the density fringe area that coincide with an urban growth area to allow certain uses that would be allowed in the underlying zone. These additional permitted uses are specified in SCC 30.65.280(14) and include permitted or conditionally permitted uses in the underlying zones under SCC 30.22.100 as long as the ‘two and fifteen’ development standards are met. These changes have prompted a need from the community to have the flexibility to redevelop and modify certain properties within the density fringe area.

The proposed code would allow for an additional exemption for existing buildings or former building footprint square footage that existed during the 1983 Flood Insurance Study to be credited when redeveloping lots within the density fringe area. Any further development beyond the 1983 footprint would continue to be subject to density fringe area regulations. All development, including the one-time exemption, is still subject to density fringe development regulations in SCC 30.65.270. This building footprint credit would allow property owners greater flexibility while sustaining the original and subsequent Flood Insurance Studies allowance for a one-foot rise from the base flood level elevation. This code would allow for the redevelopment of buildings, utilizing the same pre-1984 building footprint to ensure equilibrium with current flood hazard area regulations.

Allowing redevelopment of pre-existing buildings within the density fringe area would also ensure that redeveloped structures are subject to all current building standards. These updated structural components account for additional flood protection measures and more stringent restrictions on environmental impacts from building materials. This proposed code would allow property owners to use a one-time credit for redevelopment that does not negatively impact the flood hazard area. Building footprints can be assessed either through standing buildings or building footprints that were developed in 1983 or earlier found from Assessor records.

PROPOSED CODE AMENDMENTS

The following table provides an overview of the proposed changes to Snohomish County Code.

TABLE 1: SUMMARY OF PROPOSED CODE CHANGES	
Proposed Language	Finding
<p>SCC 30.65.260 Density fringe area: exceptions to maximum allowable density and obstruction limitations</p> <p>The following uses shall be exempt from the maximum allowable density and obstruction limitations of SCC 30.65.250 and 30.65.255:</p> <ul style="list-style-type: none"> (1) Water-dependent utilities; (2) Dikes; (3) Utility facilities; and (4) Public works, when the project proponent demonstrates that the floodwater displacement effects of the proposal when considered together with the maximum potential floodwater displacement allowed by SCC 30.65.250 and 30.65.255 shall not 	<p>This amendment would add a density fringe area exemption to allow for greater flexibility for redevelopment within the density fringe area that sustains flood mitigation requirements.</p> <p>The proposed code amendment would allow pre-1984 building footprint square footage to be exempt from density fringe regulations SCC 30.65.250 and 30.65.255, as their building footprints were previously accounted for in the 1984 flood modelling study. Exemption credit</p>

<p>cause a cumulative increase in the base flood elevation of more than one foot. Floodwater displacement information shall be obtained and certified by a professional engineer.</p> <p><u>(5) Existing and former buildings that were established in 1983 or earlier will have a one-time credit exemption to redevelop overall existing and former building square footage. All development, with credits applied, will be subject to maximum allowable density and obstruction limitations of SCC 30.65.250 and 30.65.255.</u></p>	<p>redevelopment of square footage would still be subject to SCC 30.65.270 density fringe area general provisions that regulate development in the density fringe. Any additional development beyond the original pre-1984 building footprint would still be subject to all density fringe area regulations.</p>
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ANALYSIS

The following analysis provides a summary of the proposed code amendments' compliance with state law, regional, and countywide planning policies, and county comprehensive plan policies.

Compliance with State Law

The Growth Management Act (GMA) contains planning goals, contained in Revised Code of Washington (RCW) 36.70A.020, which guide the development of local comprehensive plans and development regulations. The following planning goals apply to these proposed code changes:

GMA Goal 5- Economic development. Encourage economic development throughout the state that is consistent with adopted comprehensive plans, promote economic opportunity for all citizens of this state, especially for unemployed and for disadvantaged persons, promote the retention and expansion of existing businesses and recruitment of new businesses, recognize regional differences impacting economic development opportunities, and encourage growth in areas experiencing insufficient economic growth, all within the capacities of the state's natural resources, public services, and public facilities.

Analysis: The proposed amendments would support the economic development goal through promoting redevelopment of certain businesses within the density fringe that was recently expanded through Ordinance No. 20-076. The redevelopments would promote the retention and expansion of businesses while continuing to protect and preserve the natural environment.

GMA Goal 10 – Environment. Protect the environment and enhance the state's high quality of life, including air and water quality, and the availability of water.

Analysis: The proposed amendments would better allow for redevelopment for certain permitted uses that would be subject to existing development standards. These standards contain more rigorous environmental protections for development.

Compliance with the Multi-County Planning Policies

The proposed amendments are consistent with the following multicounty planning policies (MPPs) from the Puget Sound Regional Council VISION 2050:

MPP-En-5 – Locate development in a manner that minimizes impacts to natural features. Promote the use of innovative environmentally sensitive development practices, including design, materials, construction, and on-going maintenance.

Analysis: The proposed changes would encourage redevelopment of permitted uses within the density fringe, allowing for new construction to be held to the current development standards that minimize impacts to natural features and floodways.

MPP-DP-36 – Use existing and new tools and strategies to address vested development to ensure that future growth meets existing permitting and development standards and prevents further fragmentation of rural lands.

MPP-DP-46 - Support and provide incentives to increase the percentage of new development and redevelopment— both public and private—to be built at higher-performing energy and environmental standards.

Analysis: The proposed amendments would promote redevelopment of structures that existed prior to 1984, which would encourage development in existing permitted areas. The proposed changes would also encourage certain older buildings to be redeveloped and would meet existing permitting and development standards.

Compliance with the Countywide Planning Policies

The proposed amendments are consistent with the following countywide planning policies:

CPP-DP-33 - Jurisdictions should minimize the adverse impacts on resource lands and critical areas from new developments through the use of environmentally sensitive development and land use practices.

Analysis: The proposed changes would better allow for redevelopment of buildings that are subject to existing permitting and development standards. These development standards require construction to use more environmentally sensitive materials in addition to standards that better protect the floodways.

CPP-ED-9 - As appropriate, the County and cities should adopt plans, policies, and regulations that preserve designated industrial, commercial, agricultural, and resource land base for long-term regional economic benefit.

Analysis: The proposed amendments would support the preservation of vested development of permitted uses, which include businesses that create a regional economic benefit, through encouraging redevelopment of permitted commercial and agricultural structures within the density fringe.

Compliance with the Snohomish County Comprehensive Plan

The proposed amendments would be consistent with and help implement a number of policies contained within the Snohomish County Growth Management Act Comprehensive Plan (GMACP) – General Policy Plan (GPP). The following policies apply to the code amendments as proposed in this report.

LU 1.A.12 - Urban growth areas which are located within the floodplain, as identified in chapter 30.65 SCC (Special Flood Hazard Areas), shall comply with all provisions of that chapter. Annexation agreements shall ensure the continued implementation of this policy except that the annexing city or town may revise the list of allowed uses in the density fringe area once the area is annexed, provided that the city or town complies with the two percent maximum allowable density and the fifteen percent maximum allowable obstruction regulations in chapter 30.65 SCC and the purpose and intent of chapter 30.65 SCC are upheld.

Objective LU 6.B - Encourage land use activities and development intensities that protect the character of rural areas, avoid interference with resource land uses, minimize impacts upon critical areas, and allow for future expansion of UGAs. (See the resource sections of the land use element for protection of resource lands and the natural environment element for protection of critical areas.)

Analysis: The proposed code change would better serve the density fringe area's permitted development that would minimize impacts on the floodway and other critical areas. Redevelopment would also reduce pressure for future UGA expansion.

Objective NE 1.A - Balance the protection of the natural environment with economic growth, housing needs, and the protection of property rights.

Analysis: The proposed amendment would allow for redevelopment that enhances economic growth while ensuring the protection and maintenance of the floodway within the density fringe.

Objective NE 3.A.1 – The county shall designate and protect critical areas including fish and wildlife habitat conservation areas, wetlands, critical aquifer recharge areas, frequently flooded areas, and geologically hazardous areas and include the best available science in the development of programs, policies and regulations relating to critical areas.

NE 3.D.2 - The county shall allow only those developments and land uses in floodplains that are compatible with floodplain processes.

Analysis: The proposed changes would promote redevelopment within the floodplains, which would update buildings to reflect existing development regulations that are more environmentally rigorous and protects critical areas. The building credits were accounted for in the 1983 Flood Insurance Study that measured the 100-year floodplain and would not additionally impact floodplain processes.

Environmental Review

Staff has completed a SEPA checklist for this proposed code amendment and will be issuing a Determination of Nonsignificance on **November XX, 2022**. The fourteen-day public comment period will conclude prior to the briefing at Planning Commission on **December XX, 2022**.

Notification of State Agencies

Pursuant to RCW 36.70A.106, a notice of intent to adopt the proposed regulations and standards will be transmitted to the Washington State Department of Commerce on **November XX, 2022**.

Staff Recommendation:

Staff recommends approval of the proposed code amendments and findings contained in this staff report.

Action Requested

The Planning Commission is requested to hold a public hearing, consider the proposed code amendments, and provide a recommendation to the County Council. The Planning Commission can recommend approval of the amendments with supporting findings of fact as proposed or modified, deny the proposal with findings, or amend the proposal with appropriate findings.

cc: David Killingstad, PDS Manager
Michael Dobesh, PDS Manager

