



Snohomish County Council

To: Snohomish County Planning Commission

From: Snohomish County Council
Ryan Countryman, Senior Legislative Analyst

Date: October 8, 2021

Subject: Staff Report on Referral Motion 21-297
Proposed Code Revisions for Detached Accessory Dwelling Units

Consideration

The County Council wishes to obtain a recommendation from the Planning Commission regarding proposed code amendments that would revise regulations for detached accessory dwelling units. Motion 21-297, passed on September 8, 2021 formalizes the request for a recommendation and includes a draft of the proposed ordinance. The motion requests a response from the Planning Commission by December 31, 2021.

Background

This staff report is for an October 26, 2021 briefing of the Planning Commission. It first describes some contextual issues before giving the history of the referral motion. Later it describes the proposed amendments and supporting findings. If so inclined, the Planning Commission could direct council staff to refine the amendments or findings before the commission holds a hearing on the amendments. The anticipated date for the Planning Commission to hold its hearing is November 16, 2021.

Context

During the briefing, Council staff will be asking the planning commissioners several questions related to “rural character.” Rural character is both an abstraction and a term of art used in the Growth Management Act (GMA) and in case law. The proposed amendments affect densities and site design mainly in the rural and resource zones. Amendments must be consistent with the rural character of Snohomish County to be consistent with GMA and relevant precedents.¹

¹ The proposed ordinance would also affect “Other Zones” as in [SCC 30.21.020](#). These Other Zones pre-date GMA. Some of them occur inside designated urban growth areas (UGAs) as well on designated rural and resource lands outside UGAs. The proposed amendments do not attempt to resolve this existing inconsistency between the comprehensive plan and its implementation by zoning in Title 30 SCC.

Although the General Policy Plan (GPP) often refers to rural character, this is usually in the context of steps to protect rural character. Nowhere does the GPP specifically define rural character. In its narrative on rural lands, the GPP says:

Rural land use policies describe and accommodate a wide array of land uses and a variety of residential densities that are compatible with the character of rural areas; support rural and natural resource-based industries; provide economic opportunities for rural residents; promote low intensity recreational uses consistent with rural surroundings; and preserve the rural lifestyle and traditional rural activities which contribute to the county's overall quality of life.

This suggests that rural character is something that already exists and involves both uses and lifestyles. Before the Planning Commission can make a recommendation, it should first discuss and attempt to answer two key questions:

1. *What is the rural character of Snohomish County?*

And

2. *Are the proposed amendments consistent with this character?*

These questions will help define the concept of rural character. If the Planning Commission has ideas during discussion at the October 26 briefing about what rural character is, then council staff can update the proposed findings in the ordinance before the Planning Commission holds a formal hearing for public input and deliberations.

Referral Motion

Amended Ordinance 21-018, adopted on June 19, 2021, made the last changes to regulations on accessory dwelling units. An earlier recommendation from the Planning Commission was the basis for what became Ordinance 21-018. The Planning Commission's recommendation followed a July 28, 2020, hearing held by the commission.

The County Council received further public comment and testimony during its consideration of Ordinance 21-018. This resulted in three amendments enacted in Amended Ordinance 21-018. These amendments were largely refinements of the recommendations made by the Planning Commission. The County Council also considered a fourth amendment. However, when discussing Amendment 4, the County Council did not see that the findings in the Planning Commission recommendation would support enactment of the amendment. Therefore, the County Council did not enact Amendment 4. However, the County Council was interested in obtaining a recommendation from the Planning Commission on the substance of Amendment 4. The County Council referred this matter to the Planning Commission in the form of a new proposed ordinance attached to Motion 21-297. This proposed ordinance includes

several new findings prepared by Council staff based on committee discussions held by the County Council. In addition to a recommendation on the proposed code changes, the County Council asks that the Planning Commission coordinate with council staff on additional or revised findings, as appropriate, if the commission recommends approval.

Proposed Action

The proposed ordinance accompanying Motion 21-297 would amend Snohomish County Code (SCC) 30.28.010 to accomplish two changes. Amendments in subsection (3)(a) would allow Detached Accessory Dwelling Units (DADUs) on substandard lots in rural, resource, and other zones.² Deletion of current subsection (3)(b) would eliminate the “100-foot rule” that requires most new DADU’s in these zones to be within 100 feet of the primary dwelling. The proposed changes to SCC 30.28.010 are as follows:

30.28.010 Accessory dwelling units.

Accessory dwelling units are allowed subordinate to a single-family dwelling in zones where single-family dwellings are permitted under SCC 30.22.100, 30.22.110, and 30.22.120.

(1) *General standards.* All accessory dwelling units shall comply with the following standards:

(a) Development of accessory dwelling units shall be subject to compliance with all other applicable provisions of this title;

(b) Development of accessory dwelling units shall be subject to physical and legal availability of water and the applicant providing documentation that the water supply is potable and of adequate flow;

(c) Applicants must provide documentation that the existing or proposed sewage or septic system is capable of handling the additional demand placed upon it by the attached or detached accessory dwelling unit;

(d) The floor area of an accessory dwelling unit shall not exceed 1,200 square feet. Floor areas shall be exclusive of garages, porches, and unfinished basements;

(e) Accessory dwelling units shall meet the off-street parking requirements in chapter 30.26 SCC;

² [SCC 30.21.020](#) establishes zones and categories of zones. **Rural zones:** Rural Diversification (RD), Rural Resource Transition-10 Acre (RRT-10), Rural 5-Acre (R-5), Rural Business (RB), Clearview Rural Commercial (CRC), Rural Freeway Service (RFS), and Rural Industrial (RI). **Resource zones:** Forestry (F), Forestry and Recreation (F&R), and Agriculture 10-Acre (A-10). **Other zones:** Suburban Agriculture 1-Acre (SA-1), Rural Conservation (RC), Rural Use (RU), Residential 20,000 (R-20,000), Residential 12,500 (R-12,500), and Waterfront Beach (WFB).

In the above zones, [SCC 30.22.110](#) and [.120](#) permit accessory dwelling units in RD, RRT-10, R-5, RB, CRC, F, F&R, A-10, SA-1, RC, RU, R-20,000, R-12,500 and WFB. Code does not allow ADUs in RFS or RI zoning. RB zoning does not allow new single-family dwellings, so presumably any new ADU in that zone must be associated with an existing primary dwelling unit. Regarding location of the “other zones”, SA-1, RC, R-20,000 and R-12,500 occur both inside and outside UGAs. There are only two places left with RU zoning, both of which are rights-of-way in rural areas. WFB zoning only occurs in the Southwest Urban Growth Area.

(f) Attached accessory dwelling units shall be designed such that the architectural character of the primary dwelling is preserved. Exterior materials, roof form, window spacing, and proportions shall match that of the primary dwelling; and

(g) Detached accessory dwelling units shall be constructed such that exterior materials, roof form, window spacing, and proportions approximate those of the single-family dwelling. A detached accessory dwelling unit proposed for location within an existing accessory structure is not required to approximate the exterior features of the existing single family dwelling. A mobile home, where allowed as a detached accessory dwelling unit pursuant to subsection (3)(a)(ii) of this section, is not required to approximate the exterior features of the existing single-family dwelling.

(2) *Urban zones.* Accessory dwelling units are permitted uses in the urban zones on lots with a single-family dwelling pursuant to SCC 30.22.100. One attached accessory dwelling unit and one detached accessory dwelling unit may be established on lots that contain a legally-established single-family dwelling.

(3) *Rural, resource, and other zones.* Accessory dwelling units are permitted uses in the rural, resource, and other zones on lots with a single-family dwelling pursuant to SCC 30.22.110 and 30.22.120 and the following standards:

~~((a) One accessory dwelling unit may be established on lots that contain a legally-established single-family dwelling pursuant to the following:~~

~~(i) Detached accessory dwelling units are prohibited on lots that do not meet the minimum required lot area, pursuant to SCC 30.23.030, in the zone in which they are located. The following prohibitions also apply:~~

~~(A) Detached accessory dwelling units are prohibited on lots in the R-5 zone that are less than five acres in size; and~~

~~(B) Detached accessory dwelling units are prohibited on lots in the RC zone that are less than 100,000 square feet in size.~~

~~(ii) A mobile home that is subordinate to the single-family dwelling may be allowed as a detached accessory dwelling unit on lots equal to or greater than 10 acres.)~~

(a) One accessory dwelling unit may be established on lots that contain a legally-established single-family dwelling with the exception that a mobile home is allowed as a detached accessory dwelling unit only on lots equal to or greater than 10 acres and only when the mobile home is subordinate to the existing single-family dwelling; and

~~((b) The distance between the nearest walls of the primary dwelling and a proposed detached accessory dwelling unit shall not exceed 100 feet except when:~~

~~(i) The accessory dwelling unit is proposed to be located in an existing structure that was legally constructed before June 19, 2021; or~~

~~(ii) The applicant demonstrates that the physical characteristics of the property, including, but not limited to, critical areas, topography, sewage, septic, and water systems, and their associated buffers or setbacks, limit the siting of an accessory dwelling unit within 100 feet of the primary dwelling. In these circumstances the accessory dwelling unit shall be located as close as reasonably possible to the primary dwelling unit.)~~

~~((c))~~ (b) Accessory dwelling units shall utilize the same driveway as the primary single-family dwelling.

Substandard Lots are legally established lots that an applicant could not create again under today's standards (see proposed changes above to (3)(a)).³ Development of many lots in rural areas took place under pre-Growth Management Act (GMA) zoning that allowed lots to be 2.3-acres, 1-acre, ½-acre or sometimes smaller in size. In response to a remand order from the Growth Management Hearing Board (GMHB) on an appeal of Snohomish County's first GMA comprehensive plan, the county rezoned most of this pre-GMA zoning to Rural 5-acre in 1996. This rezoning made most lots less than 5-acres substandard.

Exception: Rural Cluster Subdivision (RCS) is process where an applicant can create lots smaller than 5-acres in return for preserving much of the site in open space. Lots created by the RCS process are not substandard. Thus, code already allows detached units in Rural Cluster Subdivisions.

Considerations Regarding Rural Character

The Growth Management Act defines "Rural Character" at RCW 36.70A.030(23) as follows:

(23) "Rural character" refers to the patterns of land use and development established by a county in the rural element of its comprehensive plan:

(a) In which open space, the natural landscape, and vegetation predominate over the built environment;

(b) That foster traditional rural lifestyles, rural-based economies, and opportunities to both live and work in rural areas;

(c) That provide visual landscapes that are traditionally found in rural areas and communities;

(d) That are compatible with the use of the land by wildlife and for fish and wildlife habitat;

(e) That reduce the inappropriate conversion of undeveloped land into sprawling, low-density development;

(f) That generally do not require the extension of urban governmental services; and

(g) That are consistent with the protection of natural surface water flows and groundwater and surface water recharge and discharge areas.

Snohomish County has not specifically stated in its comprehensive plan what densities are appropriate "Rural Character". This leaves the issue open to interpretation. Allowed densities affect growth rates, however. Providing for detached ADUs on substandard lots in rural areas would result in slightly more rural population growth, making achievement of the growth targets more difficult.

³ [SCC 30.91L.195](#) defines Lot, Substandard (Substandard Lot) as "a lot that was lawfully established and met the lot area and lot width requirements of the Snohomish County Code when it was established but does not conform to the lot area and width required to create a new lot in the zone in which it is currently located."

Attached vs Detached and Density

ADUs may be part of the same building as the primary residence (attached) or in a separate building (detached). In prior rulings, the Growth Management Hearings Board (GMHB) has said that attached units are not necessarily part of rural densities whereas detached units should count as two units in density calculations. Under GMA and GBHB decisions, density is one aspect of how counties must locally define “Rural Character” and counties must take actions to protect rural character.

Growth Rates

Overall population growth in rural and resource areas is another consideration. GMA and, more recently, the Regional Growth Strategy (RGS) adopted by Puget Sound Regional Council (PSRC), obligate Snohomish County to act to reduce rural population growth. Current growth targets for 2035 allow for only 6% of the County’s overall projected growth in rural areas. In 2020, PSRC updated the RGS to plan for 4.5% of Snohomish County’s growth in rural areas. Countywide Planning Policies and an interlocal agreement with PSRC create an expectation that Snohomish County will adopt the lower rural growth target of 4.5% in 2024 as part of the comprehensive plan update due that year.

The share of rural housing unit growth has been declining over time although it is still above the current 6% target, see Figure 1 below.⁴ It also shows how much the relative shares of city and unincorporated UGA growth have fluctuated. This demonstrates that data from just a few years can be insufficient to establish a clear trend. In contrast, rural growth shares are less volatile than shares of growth in other areas. It is therefore possible to find that a downward trend in rural growth has become established.

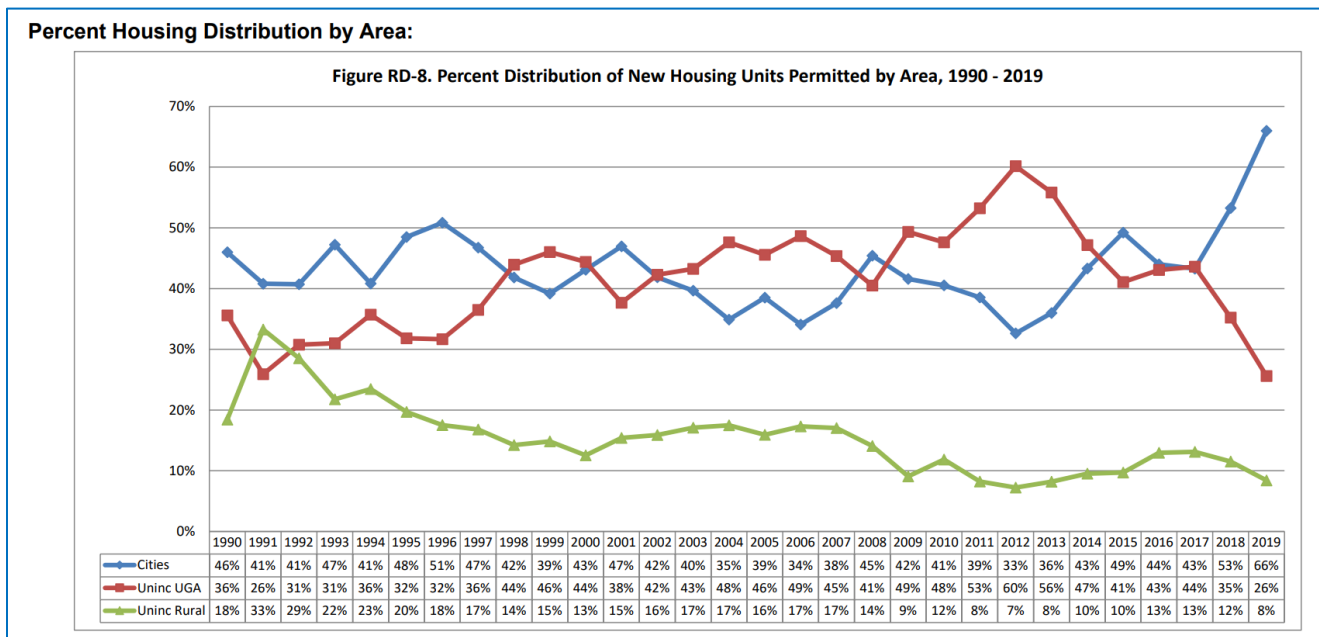


Figure 1 – Annual Distribution of New Housing Units by Area (1990 to 2019)

⁴ Figure 1 reproduces Figure RD-8 from page 120 of the 2020 Growth Monitoring Report (GMR) prepared by Planning and Development Services. The 2020 GMR is available at: [2020 GMR Final SCT-SC Dec-2-2020 final \(snohomishcountywa.gov\)](https://www.snohomishcountywa.gov/2020-final)

Figure 2, below, charts recent rural population growth against the current target of 6% of projected rural growth. It shows that recent growth has exceeded that target. Part of the excess is because overall county growth has also been faster than projected. That said, the share of new units in the rural areas would need to drop faster than it has been to meet the current 6% growth target. A larger change would be necessary to meet the new 4.5% expectation.

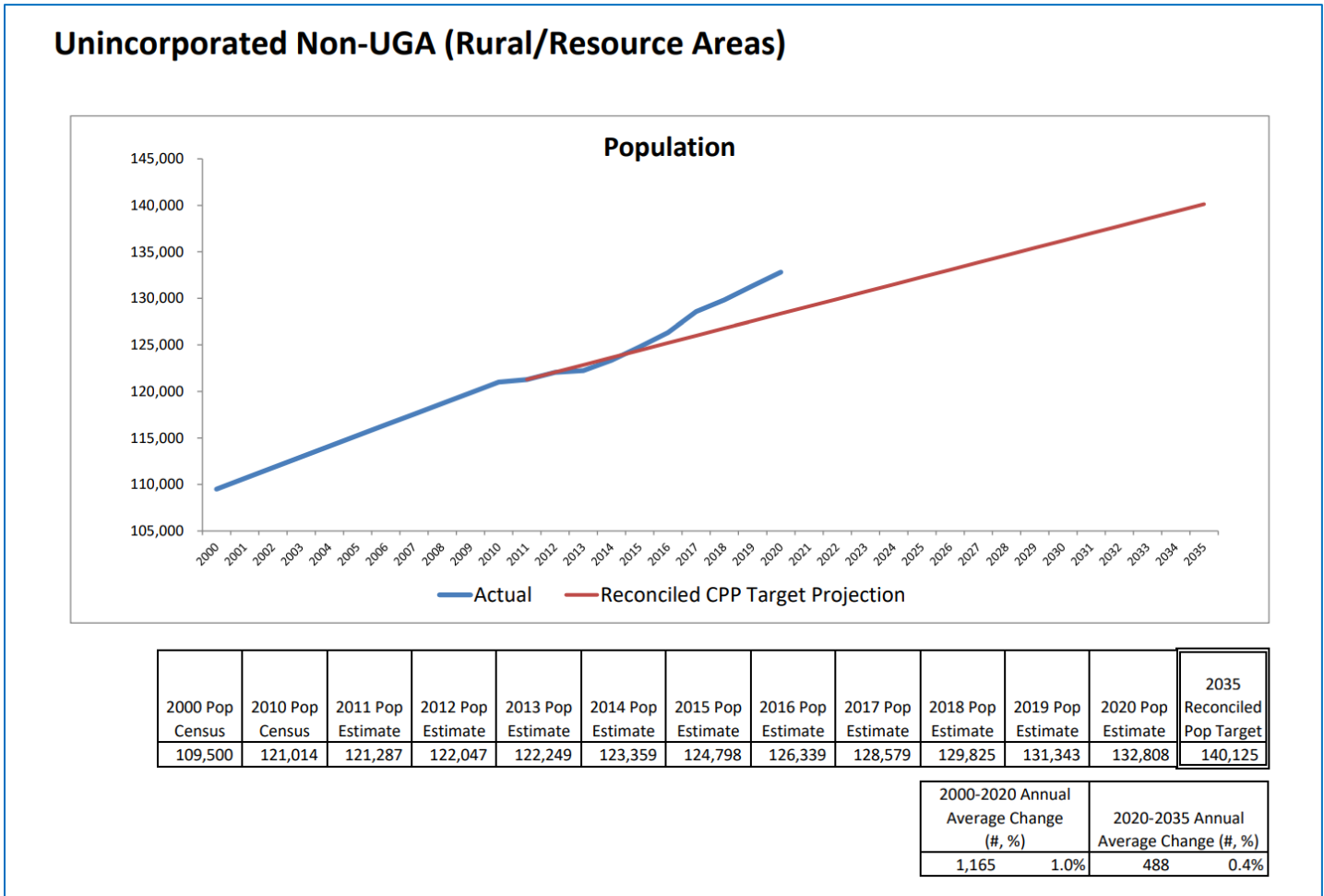


Figure 2 – Rural/Resource Population Growth Vs 6% of Projected Growth Target
 Source: 2020 Growth Monitoring Report, page 59

Findings

The proposed ordinance accompanying Motion 21-297 includes several findings addressing the issues described above; however, those findings may not be complete with respect to rural growth and character. This is an area where input from the Planning Commission would be helpful if the commissioners are inclined to support the proposed changes. Relevant portions of the findings are:

General Findings (see ordinance for additional general procedural findings)

- Snohomish County is facing a housing affordability crisis and housing shortage
- ADUs can help alleviate housing affordability issues by providing additional housing units in low-density areas, adding diversity to the housing stock, providing affordable housing options for older adults and opportunities for aging in place, and providing supplemental income to homeowners

Substandard Lot Findings

- In 1996, the County downzoned a significant portion of the rural area to densities of one dwelling per five acres or more, which resulted in the creation of substandard lots that were legally established, but no longer met the standards of the zoning district in which they were located
- The rural character of Snohomish County includes a geographic pattern of lots in a variety of sizes, including standard 5-acre lots and substandard lots less than five acres
- The amount of land under common control or ownership is a feature that helps distinguish rural residential areas from urban residential areas
- Subdivision of substandard lots in rural areas would result in less land under common ownership, thereby blurring the distinction between rural and urban residential areas
- Land with both a primary residence and a detached ADU is still under single ownership and control
- Allowing for detached ADUs would not alter the established character of rural lot sizes

100-Foot Rule Findings

- SCC 30.28.010 requires detached ADUs to be within 100 feet of the primary dwelling in rural zones
- Title 30 SCC does not require other types of buildings on rural zoned property to be near a primary dwelling
- Throughout the rural areas of Snohomish County there are a variety of parcel sizes and there is wide variation in how many buildings are on those parcels
- There is not an established pattern of where buildings are located on parcels relative to other buildings in the rural areas

Questions for Discussion and Input by the Planning Commission

- 1. *What is the “rural character” of Snohomish County?*** In what circumstances are higher densities appropriate in the rural areas?
- 2. *Are the proposed amendments consistent with rural character?*** Are detached accessory dwelling units (DADUs) on substandard lots consistent with rural character? Does the 100-foot rule contribute to or interfere with maintaining rural character?

Request

Motion 21-297 requests that the Planning Commission consider the proposed amendments, hold a public hearing, and make a recommendation to the County Council by December 31, 2021.