



Planning and Community Development

Ryan Countryman

Council Initiated:

☐ Yes

☒ No

ECAF: 2024-0321

Ordinance: 24-021

Type:

☐ Contract

☐ Board Appt.

☒ **Code Amendment**

☐ Budget Action

☐ Other

Requested Handling:

☒ **Normal**

☐ Expedite

☐ Urgent

Fund Source:

☐ General Fund

☐ Other

☒ **N/A**

Planning

Commission

Recommendation:

☐ Approve

☒ **Do Not Approve**

☐ N/A

Executive

Recommendation:

☒ **Approve**

☐ Do Not Approve

☐ N/A

Approved as to

Form:

☒ **Yes**

☐ No

☐ N/A

Subject: Code Amendment – Rural Cluster Development.

Scope: Ordinance 24-021 would amend Chapters 30.25 and 30.41C of Snohomish County Code (SCC).

Council staff has identified some technical details that may require an amendment to the ordinance, including an issue that could increase the scope to involve changes to a section in Chapter 30.41B SCC.

Duration: Not Applicable

Fiscal Impact: ☐ Current Year ☐ Multi-Year ☒ **N/A**

Authority Granted: None

Background:

Proposed Ordinance 24-021 (Ord 24-021) would revise development standards for Rural Cluster Subdivisions and Short Subdivisions (collectively abbreviated as “RCS”) in Chapter 30.25 SCC (Landscaping) and Chapter 30.41C (Rural Cluster Subdivisions and Short Subdivisions).¹ RCS development is “an alternative subdivision method for developing rural residential property, whereby landowners and developers are given incentives to cluster lots on the most buildable and least environmentally sensitive areas” and for similar purposes listed in [SCC 30.41C.010](#).

Planning and Development Services (PDS) will present details on the proposed changes in Ord 24-021 during a briefing to the Planning and Community Development Committee on April 2, 2024. This staff report supplements the PDS briefing materials with two attached Exhibits. Exhibit A summarizes the proposal enough to identify and discuss some policy-level considerations related to rural growth targets and an upcoming requirement to implement wildfire protection standards known as the Wildland-Urban Interface Area Requirements. These topics receive limited or no attention in the PDS briefing materials. Exhibit B describes some minor details where the proposed ordinance appears to conflict with other code sections. For these, it may be appropriate to prepare an amendment with language to make technical fixes before final council action on the proposed ordinance.

Requested Action: Move to GLS to set time and date for a public hearing.

¹ In rural areas, PDS staff can currently administratively approve short subdivisions with up to four lots. Subdivisions can have any number of lots and require a public hearing and decision by the Hearing Examiner. These procedural distinctions are relevant to the first issue in Exhibit B.

Exhibit A. Policy Level Considerations

Rural Cluster Subdivisions and Short Subdivisions (RCS) must preserve at least 45% of the total project area in open space tracts. In exchange, developers receive a density bonus of 15% for retaining the minimum amount of open space. The density bonus increases by 1% for every additional 1% of the site in open space. The maximum density bonus is 35% for protecting 65% of the project site. These aspects of RCS development would be unchanged by Ord 24-021.

RCS provisions require grouping of homes in clusters of up to 13 lots to allow for the required open space. Code requires landscape screening areas to minimize visual impacts to neighboring properties and to separate clusters within a development. Open space tracts generally remain in a natural state. Ord 24-021 would revise aspects of these provisions.

Proposed changes. Although Ord 24-021 would maintain the same maximum overall number of lots, it would increase flexibility for arranging those lots. The maximum number of lots per cluster would increase to a range of 14 to 30 depending on the size of the overall development. The minimum width of external and internal screening tracts would be less. Screening requirements would include new allowances for physical features such as retaining part of an existing forest. It would also allow some utility uses in open space tracts that must currently be on lots or in tracts that do now count as open space. Building setbacks from side yard property lines would reduce from 25 feet to 10 feet. New RCS developments could include one house on a tract reserved for future urban development in places designated by the comprehensive plan as Rural to Urban Transition Areas.

From the perspective of impacts to project-level development sites, the proposal would allow more homes in each cluster and allow for narrower screening areas. These changes would result in RCS development that is more compact. This would help reduce surface water and other impacts to the natural environment. Compact development also reduces construction costs. Lower construction costs may benefit housing affordability. However, such changes may also encourage more RCS development countywide.

Rural Growth. Reducing rural growth will be a major challenge for the comprehensive plan update due for completion this year. PDS provided a presentation to the County Council on August 15, 2023, addressing the topic of rural growth. That presentation included several slides referred to in this report.² The growth targets adopted by Snohomish County for consistency with Puget Sound Regional Council's Vision 2050 plan require rural population growth rates to slow to a 3.3% share of projected county growth between 2020 and 2044. This would require that Snohomish County issue

² The slides for this presentation are available at <https://snohomish.legistar.com/View.ashx?M=F&ID=12220394&GUID=F99085FA-545F-49AF-92A7-43325FCADF6B6>.

The presentation itself begins at 24:00 in the recording of the meeting which is available at https://snohomish.granicus.com/MediaPlayer.php?view_id=2&clip_id=8580.

no more than 220 new housing units per year in the rural areas. However, rural growth between 2017 and 2022 was twice the rate of the adopted targets, at 440 new units per year (Slide 10).

The annual number of lots applied for in RCS development has been highly volatile since 1994 when PDS record keeping began. The annual number ranges from zero to 1,805 new lots per year during the 1994 to July 28, 2023, period. 2005 to 2007 were the peak years for rural cluster development. Since that peak, new applications declined and have stayed low. Between 2010 and July 28, 2023, applications for new lots averaged only 29 lots per year (Slide 9).

If new rural cluster development was to remain at only 29 lots per year, these units would be responsible for 13.2% of the targeted 220 units per year in the rural areas. However, the recent lull in activity may have been because of a large the inventory of lots created by applications in the peak years. Although not clearly stated in the PDS materials, this inventory appears to be nearing exhaustion. Evidence supporting this view is in the recent switch to development on lots created by other means (Slide 8).

There has been an uptick in new RCS activity since the PDS presentation on August 15, 2023. This includes two notable examples that have not yet reached the full application stage counting towards the 29-lots per year that PDS projected in August 2023. These are:

- Lake Bosworth North, a 200-lot RCS with a traffic pre-submittal request submitted on November 12, 2023, (PDS file 23-117159 PS); and
- Woodland Heights Reserve, a 250-lot RCS with a pre-application request submitted on December 13, 2023 (PDS file 23-119379 PA).

These examples are early indicators that RCS development may soon return as a major contributor to rural growth. If RCS development picks up as suggested by recent permit activity, it is not clear how Snohomish County will reduce rural growth to a level consistent with the adopted targets. Meeting the targets will become more challenging if adoption of Ord 24-021 encourages further RCS development above the apparent new trend levels.

Growth targets are typically issues reserved for consideration during periodic Growth Management Act (GMA) comprehensive plan updates. One such update is currently underway. However, it does not appear to council staff that the ordinances transmitted to the County Council for the 2024 update include any substantive policy proposals to address rural growth. GMA compliance may thus be a concern for Ord 24-021 since rural growth is currently twice the adopted target rate and there is nothing in the ordinance to offset its likely cumulative effect of increasing rural growth. Despite these challenges, other pending requirements might factor into an eventual policy solution.

Engrossed Senate Bill 6120 (ESB 6120)³ came into effect on March 15, 2024, establishing new requirements related to wildfire risks and mitigation. ESB 6120 incorporates portions of the current

³ ESB 6120 is available at <https://lawfilesexternal.wa.gov/biennium/2023-24/Pdf/Bills/Session%20Laws/Senate/6120.SL.pdf>

International Wildland Urban Interface (WUI) Code into state law and requires state agencies to develop wildfire risk maps for each county.

Snohomish County will eventually need to include the risk maps and WUI Code into its own regulations. These changes will affect much, perhaps most, of the designated rural areas of Snohomish County. These are largely the same areas subject to potential use of RCS provisions. For places where the WUI Code will eventually apply, new water supply requirements and building fire-proofing standards will not directly conflict with current or proposed RCS development standards. However, these new WUI requirements will increase development costs. Higher costs will generally make new homes in rural areas more expensive, thus discouraging overall rural growth and helping to mitigate the rural growth issue.

Other aspects of the WUI Code appear to conflict with specific RCS provisions, making further code amendments likely. For example, the WUI Code establishes new requirements relating to the management of vegetation near structures to create a “defensible space” around buildings if a wildfire occurs. Ord 24-021 would reduce the width of open space screening tracts that include forests. This proposed change would result in weaker tree stands, increasing the amount of deadwood and likelihood of windthrow. Although increases to deadwood and windthrow are potentially mitigatable under the WUI Code, they are generally contrary to the pending requirements. Similarly, where Ord 24-021 proposes to reduce mandatory side yard setbacks to 10 feet, it also reduces the amount of defensible space around buildings. In some cases, this 10-foot setback and other county requirements regarding open space management already conflict with what the WUI Code requires.

The materials transmitted to Council for Ord 24-021 do not address future challenges in complying with the WUI Code. Bringing Snohomish County’s RCS provisions into compliance with the WUI Code may require specialized assistance. Some of the changes proposed in Ord 24-021 could comply with current requirements but will probably need to change again once the hazard mapping is complete and Snohomish County compliance with the WUI Code becomes mandatory.

Exhibit B – Minor Technical Issues

Council staff has identified some minor technical issues with Ord 24-021. These will likely need an amendment before final action by the County Council. Addressing SCC 30.41B.010 will likely require including that section in the scope of the ordinance to propose amendments. Proposed changes in SCC 30.41C.140 conflict with an existing definition. An amendment could handle this by slightly rephrasing the changes to SCC 30.41.C.140 that Ord 24-021 proposes.

Due to staffing availability, the specific language proposed below has not had peer review by the appropriate departments. However, reviewing the language and drafting an amendment along the lines of what follows could easily happen before final action by the County Council.

Issue 1: The proposed provision in SCC 30.41.C.090(2)(c)(v) that would allow a single-family dwelling to be in an interim open space tract is in conflict with current phrasing of [SCC 30.41B.010](#) and [RCW 58.17.020](#). SCC 30.41B.010(2) and (3) both limit rural short subdivisions to **four lots**. For rural areas, RCW 58.17.020 says that short subdivision “is the division or redivision of land into four or fewer lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership.” Allowing a single-family dwelling in a tract could result in a short subdivision with five pieces of land for sale, lease, or ownership. For this issue, a suggested amendment would add a new section to the ordinance revising SCC 30.41B.010 as follows:

SCC 30.41B.010 Purpose and applicability.

(1) The purpose of this chapter is to:

(a) Regulate the division or redivision of land into nine or fewer lots, tracts, or parcels in an urban growth area, and four or fewer lots, tracts, or parcels outside an urban growth area, except as set forth in subsections (2) - (4) of this section;

[...]

(2) Land within a short subdivision which has been recorded within the immediately preceding five years may not be further divided in any manner, except that a final subdivision may be approved and filed for record pursuant to chapter 30.41A SCC, or the short subdivision may be altered to contain up to the maximum number of permissible lots, tracts, or parcels, as follows: When a short subdivision contains fewer than the maximum number of permissible lots, tracts, or parcels, based on the short subdivision’s location either outside or inside an urban growth area, the owner who filed the short subdivision may file an alteration within the five year period to create, within the original boundaries of the short subdivision, a greater number of lots, tracts, or parcels than were originally created, up to a total of four lots or three lots plus one tract used for a single-family dwelling under SCC 30.41C.090(2)(c)(v) outside an urban growth area, or a total of nine lots inside an urban growth area.

(3) After five years, further divisions may be permitted through the short subdivision process by a parcel owner when otherwise consistent with the then current regulations. PROVIDED, that when the subdivider owns more than one lot within a short subdivision, he may not divide the aggregate total into more than four lots or three lots plus one tract used for a single-family dwelling under SCC 30.41C.090(2)(c)(v) when located outside an urban growth area or nine lots when located in an urban growth area.

[...]

Issue 2: Proposed changes in SCC 30.41C.140(3)(b) would allow private road easements in the interim open space tract to serve a single-family dwelling in the tract. However, this conflicts with [SCC 30.91R.230](#) which defines private road as “a road network element that is privately owned and maintained, is located within a tract or easement and is designed to provide access from a public road to three or more lots.” Since private roads serve three or more lots, they cannot serve a single house in a tract. Driveways provide access to single family residences. These can be in an access easement. All easements need to be on the final plat. Possible rephrasing in SCC 30.41C.140(3):

(3) To maintain rural character of the site and facilitate future re-division of the interim open space, the following provisions apply:

(a) The percentage of interim open space shall be based on the gross area of the original parcel(s) existing at the time the property is subdivided; and

(b) The interim open space tract shall be configured to such shape and dimensions as to allow for future land division based on the following design criteria:

(i) The interim open space tract shall not be fragmented by private road easements including any private ~~road access~~ easement serving a single-family dwelling located within the interim open space tract;

(ii) The location of the interim open space tract in the subdivision or short subdivision and the location of any single-family dwelling within the interim open space tract shall accommodate future public roadway access upon re-division and facilitate the clustering of the rural cluster subdivision or short subdivision lots near the periphery of the subdivision or short subdivision boundary rather than a central location; and

(iii) The proposed interim open space tract on a preliminary plat/short plat drawing shall show a non-binding conceptual shadow plat of, at a minimum, 4 dwelling units per acre to reflect the potential for the interim open space to be subdivided in the future, but such shadow plat shall not be depicted on the final plat or short plat, provided that the final plat or short plat shall identify the location of any single family dwelling within the interim open space and any access easement to it.