

**Attachment D: Responsiveness Summary: Whatcom County SMP – Limited Amendment
Ecology Public Comment Period, January 3– February 2, 2016**

Comment Number	Date:	Commenter	Comment	Local Government Response and Rationale	Ecology Response and Rationale
1	1/3/2017	Tani Sutley	“As submitted, it might be concluded that vacation rentals and bed and breakfast units in all shorelines, except Lake Whatcom, will require only that owners register their business with the County.”	The proposed Whatcom County Code (WCC) Title 23 Shoreline Management Program (SMP) amendments describe which shoreline designation permits these uses. The current draft Title 20 zoning regulations would require a zoning conditional use permit in the Lake Whatcom watershed.	
2	1/3/2017	Tani Sutley	“One issue with this amendment is that accessory uses listed under Residential Regulations in the Whatcom County Shoreline Management Program (SMP) require a shoreline permit unless the accessory use meets the definition of an appurtenance as defined in SMP 23.110.A.16 and Ecology Guidelines.”	In Title 23, the SMP, these uses would be included as a residential use. In addition to the single family residential exemption there is also a monetary exemption, 23.060.022(A).	
3	1/3/2017	Tani Sutley	“A second issue is that all proposed use and development of shorelines require a substantial development permit unless the proposal is specifically exempt pursuant to WCC 23.60.022. Whatcom County Form PL4-86-001B for a Shoreline Exemption Supplemental Application is required with an attached site plan to determine if the proposed use is exempt or not.”	Correct – see response to #2 above.	
4	1/3/2017	Tani Sutley	“With the proposed transient housing bed and breakfast and vacation rental units governed by Residential Regulations 23.100.110.B.2 and Permit Criteria 23.60.010, how will Whatcom County and Ecology property convey these regulations to the public?”	Whatcom County plans outreach to owners of existing BB/VRs regarding new standards, including registration requirements.	
5	1/3/2017	Tani Sutley	“Since all overnight transient housing is prohibited as part of the current SMP definition of residential development, changing that definition requires a review of existing SMA and Whatcom County laws that will govern overnight transient housing. There is nothing submitted as part of this amendment that points to a review of existing regulations having been done. For clarity and consistency between proposed county zoning and the SMP, existing SMP rules and regulations for vacation rentals and bed and breakfast units should be stated by SMP regulation notation; submit a new Use Matrix amendment with proper notation; and include any existing and more restrictive Title 20 transient housing provisions subject to 23.30.22 Shoreline areas designations and 23.10.080 Severability.”	Comment noted and will be forwarded to policy makers. Commenter does not clarify what rule “requires a review of existing SMA and Whatcom County laws that will govern overnight transient housing” in order to change a definition in the SMP.	
6	1/4/17	Tani Sutley	“For the purposes of code consistency and clarity, the county needs to state their reasoning for submitting “Vacation Rentals” to the SMP while ignoring the existing and more restrictive ordinances and zoning regulations for “Rental cabins” and “Rooming House” and why were these two transient housing uses not submitted to amend the SMP? The proposed definition of “Vacation Rental” is so similar to the	The SMP (WCC Title 23) has no definition of rooming house or rental cabins – this comment pertains more to the proposed changes to the zoning code (WCC Title 20). A BB/VR use in a single family residence is distinct in character and appearance from a group of cabins or a rooming house (which has not been a common use in recent decades) and is more consistent with the character of a surrounding single family residential area than those uses.	

			Rooming House definition that SMP rules 23.10.080 and SMP 23.30.022 would need to apply the more restrictive zoning regulations.”		
7	1/4/2017	Tani Sutley	<p>“Does Whatcom County have a plan to apply SMP rules 23.10.080 and 23.30.022 for the future shoreline vacation rental registry applications to include:</p> <ul style="list-style-type: none"> A. The Rooming House conditional use regulations in Urban Residential Medium Density districts and the Point Roberts Special District and as a permitted residential use in the Resort Commercial District. B. The Rental Cabin ordinance in Rural zoning at Glacier Foothills? C. Rural areas that do not allow the more restrictive rental cabins or rooming houses and therefore should not allow vacation rentals. 	The County would apply WCC 23.10.080 and 23.30.022 and require zoning conditional use permits where required in the zoning code (WCC Title 20), which are separate from the requirements of the SMP (WCC Title 23).	
8	1/4/2017	Tani Sutley	“What plan does the county have to address piecemeal development of our shorelines by allowing an unlimited number of transient housing units with recreational facilities in our shorelines?”	As defined, BB/VRs would not have “recreational facilities” like rental cabins could.	
9	1/4/2017	Tani Sutley	“My suggestion would be to include a definition of “Transient Housing” and include vacation rentals, rental cabins, and rooming houses on that list to avoid confusion and provide clarity and consistency in code by listing them in a Use Matrix by designation with all the restrictions that apply. That would provide consistency in the codes.”	Comment noted. So far, Whatcom County policy makers have not recommended including BB/VR as lodging or accommodations in the same category as motels, etc.	
10	1/6/2017	Tani Sutley	“What goals and policies from the Whatcom County Comprehensive Plan combined with county land use regulations can Whatcom County and Ecology provide that specifically address, and provide mitigation measures for, the impacts of unlimited residential transient housing in all shoreline designations?”	The proposed amendments to the zoning code (WCC Title 20) would provide performance standards that regulate BB/VR uses.	
11	1/6/2017	Tani Sutley	“With so many cities and counties having SMP rules approved by Ecology regulating Bed and Breakfast as a commercial use and some regulated as both residential and commercial, what guidance can Ecology provide to Whatcom County to properly classify B&B overnight transient housing as either residential and commercial or only as a commercial use and provide permit criteria?”	Comment is directed to the Department of Ecology.	
12	1/6/2017	Tani Sutley	“These same concerns apply to vacation rentals when advertised as overnight transient housing units and proposed as residential development in shorelines.”	Comment is directed to the Department of Ecology.	
13	1/9/2017	Tani Sutley	<p>It is unclear whether or not the proposed zoning changes would allow short term vacation rentals within multi-family and/or duplex developments.</p> <p>The checklist submitted by the County states that vacation rentals and bed and breakfast establishments will only be allowed in single-family residences (Page 33 – SMP Submittal Checklist).</p> <p>“The definitions submitted for Bed and Breakfast state the use is in a single family home. The definition of vacation rental, however, is for the use to take place in a “dwelling unit”. SMP 23.110.220 V.”</p>	The most recent draft of the proposed amendments does allow for a VR to take place in a “dwelling unit.” The intent of this was to allow for accessory dwelling units (ADUs) to be used for VRs. For ADUs, the owner must live on the property under current county code. Under the VR definition it appears VRs should be permitted in multifamily dwelling units as well, though they are rare in rural Whatcom County.	

			“Whatcom County SMP does not define dwelling unit but county regulations and zoning definitions imply a dwelling unit can be applied to many types of buildings and the above comment that the use is restricted to a single-family residence is not correct.”		
14	1/9/2017	Tani Sutley	<p>“Both Whatcom County codes 20.97.104 and 20.97.264 define duplex and multifamily dwellings as “dwelling units. Single family is defined as a “residential unit” to be occupied by residents and not transients. 20.97.422.</p> <p>The changes for the SMP definitions will allow shoreline vacation rentals in multifamily dwellings and duplexes as dwelling units in some zoning districts. Since Single-Family Dwellings are defined as “residential units”, it is not even clear if vacation rentals would be allowed as a use.”</p>	See response # 13 above.	
15	1/9/2017	Tani Sutley	“Each shoreline designation should be re-examined for intensity of use in “dwelling units” as it was submitted. For clarity and consistency in county code and the SMP, the checklist should examine if vacation rentals would be allowed in single-family “residential units”.	See response # 13 above.	
16	1/9/2017	Tani Sutley	“So that the public understands the intent of Resolution No. 2016-039, the submitted checklist could clarify the preference of using “dwelling unit” instead of using “residential unit”. The checklist needs to clarify the use of duplex and multifamily units for vacation rentals.”	See response # 13 above.	
17	1/18/2017	Lake Whatcom Residents*	County staff erroneously omitted consistency review of Chapter 10 of the Whatcom County Comprehensive Plan in their June 13, 2016 staff report. In addition, there is no reference to the protection of rural areas.	No Comprehensive Plan Chapter 10 policies are directly related to the proposed amendments to WCC Title 23, with the possible exception of Policy 10L-9: “Use Best Available Science to inform the creation of regulations to mitigate adverse impacts of development adjacent to rivers, streams, and marine shorelines” and the County knows of no new scientific information that relates to BB/VR uses in shoreline areas.	
18	1/18/2017	Lake Whatcom Residents*	The County needs to adopt appropriate policies and regulations for short term rentals as part of their SMP to ensure consistency with the Shoreline Management Act and its implementing guidelines.	Performance standards for VR uses are proposed in WCC Title 20 zoning, where specific land use oriented standards are more appropriate.	
19	1/18/2017	Lake Whatcom Residents*	Will posting a notice to renters regarding the Aquatic Invasive Species (AIS) inspection program be enough to protect the lakes? Concerned that existing properties that have private boat ramps will foster abuse of the AIS inspection protocols. Aquatic invasive species have been found in increased abundance around private launch sites such as Wildwood Resort which advertises several units for use as vacation rentals online.	Comment noted. The County Council discussed the issue of aquatic invasive species in relation to VR uses and the requirement of notice is intended to address the issue.	
20	1/18/2017 1/26/2017	Lake Whatcom Residents*	Does not believe that the County’s Report of Septic System Status (ROSS) inspection program is robust enough to ensure the viability of on-site septic systems when used for short term vacation rentals. Cites Hirst Decision ruling the County’s OSS self-inspection program was flawed and therefore didn’t adequately protect water quality.	The County has recently taken action to strengthen its OSS self-inspection program, requiring random staff audits of homeowner inspections and mandatory professional inspections where homeowners were found to have submitted a false report (see Ordinance 2017-010). The Growth Management Hearings Board has not yet reviewed the new ordinance for GMA compliance.	
21	1/18/2017	Lake Whatcom Residents*	Concerned that existing septic systems will be overloaded when used in support of residences used as vacation rentals. Believes that existing homes with nonconforming setbacks are discharging septic effluent to Lake Whatcom.	Comment noted and will be forwarded to policy makers.	

22	1/18/2017	Lake Whatcom Residents*	States that the County Health Department allows expansions and remodels of homes with non-conforming septic systems and then accepts no responsibility for failure of such systems. Questions whether Ecology will make similar disclaimers when septic systems fail due to overuse as a vacation rental.	Comment noted and will be forwarded to policy makers.	
23	1/18/2017	Lake Whatcom Residents*	Believes the proposed zoning condition that all on-site parking comply with existing zoning standards is inadequate. Single-family dwellings are only required to provide two parking spaces and vacation rentals typically draw lots of visitors with multiple vehicles in excess of the minimum standard. This leads to overflow parking on streets and near the shoreline which is inconsistent with the SMP.	Comment noted and will be forwarded to policy makers. Additional required parking would increase impervious surfaces.	
24	1/18/2017	Lake Whatcom Residents*	Concerned that the proposed enforcement provisions will not be adequate to stop the rental use solely by revoking the rental registration. Believes that the SMP enforcement provisions of WCC 23.80.020-030 must apply.	Enforcement provisions of WCC 23.80.020-030 apply only to Title 23 provisions, not to the land use performance standards proposed for Title 20. Title 20 standards are enforceable pursuant to WCC Chapter 20.94.	
25	1/18/2017	Lake Whatcom Residents*	Believes the County Comprehensive Plan goals for protecting rural character are in conflict with existing Ecology SMA guidance that suggest bed and breakfast inns might be deemed a conditional use in a rural shoreline environment designation.	The Ecology guidance provides a list of "typical" conditional uses. Whatcom County is not aware of any provision that requires BB inns to be listed as conditional uses.	
26	1/18/2017	Lake Whatcom Residents*	"There is no separation of low-intensity and high intensity B&B and vacation rental uses in Rural Residential designations and the associated shoreline recreational development and no limits on conversions to transient housing. In the past, many B&B operators have converted their business to a vacation rental to avoid any regulations or to reduce their regulation."	Comment noted. Whatcom County has discussed spacing and numerical limits on VR uses, as used in other jurisdictions, and has not opted to include them in the proposed Title 20 standards. This is not directly related to the proposed Title 23 SMP amendments.	
27	1/18/2017	Lake Whatcom Residents*	Concerned that the proposed occupancy limits on vacation rentals will not be complied with since the property owner is not required to reside onsite for vacation rental units.	See response #24.	
28	1/18/2017	Lake Whatcom Residents*	Believes there should be regulations that address the use of recreational accessory developments on the shoreline. "If the rental includes shoreline recreational developments, including swimming areas, docks, launch ramps for motor craft and kayaks then a separate permit should be required for health and safety issues."	Comment noted and will be forwarded to policy makers. Establishment of docks, ramps, and launch areas require a shoreline permit.	
29	1/18/2017	Lake Whatcom Residents*	Concerned that the proposed vacation rental ordinances will no longer require a "change in use" permit from the County even though the use remains the same. Thinks that both B&Bs and Vacation Rentals should require a change in use permit.	Comment noted and will be forwarded to policy makers.	
30	1/18/2017	Lake Whatcom Residents*	Believes Ecology should add "conversion development standards" for residential housing originally permitted for residents. Transient use is a new use and should require a shoreline permit or should be prohibited.	Comment directed to Ecology. It is not clear what is meant by "conversion development standards."	
31	1/23/2017	Tani Sutley	Does not believe that the County adequately addressed the WAC requirement that SMPs specify which uses and developments require a shoreline conditional use permit on page 36 of 37 of the SMP Submittal Checklist. Believes that Vacation Rentals and B&Bs are both new uses.	If BB/VR are included within residential uses, then they would not require a SMP conditional use permit where residential use is not listed as a conditional use.	
32	1/23/2017	Tani Sutley	Believes the County should have filled in the SMP Submittal Checklist regarding the WAC requirement that local governments create a mechanism for tracking, and periodically evaluating the cumulative effects of all project review actions in shoreline areas.	This is a limited amendment and this broader provision is more appropriately addressed with a major SMP amendment.	

33	1/23/2017	Tani Sutley	Questions if the County has created a method of evaluating the cumulative impact to unlimited transient housing in shoreline jurisdiction.	See response # 32.	
34	1/23/2017	Tani Sutley	Questions whether the County's revised definitions were reviewed for consistency with definitions outlined in WAC 173-26-020 and other relevant WACs.	WAC173-26-020 has no definition of residential or commercial.	
35	1/23/2017	Tani Sutley	Questions which policies and regulations in the SMP support vacation rentals and B&Bs as preferred and priority uses under the SMA.	WCC 23.100.110(A)(1) lists residential as a priority use and the proposed amendments define BB/VR uses as residential.	
36	1/23/2017	Tani Sutley	Questions whether the County considers vacation rentals and B&Bs as water-oriented when combined with recreational facilities as part of the development in shorelines.	This would be evaluated on a case-by-case basis.	
37	1/23/2017	Tani Sutley	Believes County Council proposed these SMP changes with either no or almost no review of the SMA or its implementing guidelines.	Comment noted and will be forwarded to policy makers.	
38	1/23/2017	David and Vicki McLain	Believes businesses should be regulated as commercial enterprises, not a residential properties. States a significant number of houses on Lake Whatcom have been purchased by investors for exclusive use as vacation rentals. Concerned that the proposed amendments allow non-owner occupied use of residences as exclusive vacation rentals.	See response # 9.	
39	1/23/2017	David and Vicki McLain	States that existing residential septic systems cannot adequately treat sewage from high occupancy rentals. Older septic systems from 2-3 bedroom houses are being advertised with occupancy of up to 10-12 people.	See responses # 20 and # 21.	
40	1/23/2017	David and Vicki McLain	Concerned that existing lake protection rules will not be effectively conveyed to renters. These include restrictions on detergents containing phosphates, invasive species control, and cleaning up pet waste. Believes a sign mounted in the home will not change the behaviors of transient guests.	Comment noted and will be forwarded to policy makers. Comment refers to proposed Title 20 zoning amendments and is not directly applicable to Title 23 amendments.	
41	1/23/2017	David and Vicki McLain	Houses that are vacation rental units degrade existing neighborhoods and detract from the enjoyment of the lake by others due to large parties of different people each week. Doesn't believe this belongs in a residential area.	See response # 21.	
42	1/23/2017	David and Vicki McLain	Doesn't believe the Whatcom County Planning Department enforce their own rules as they currently allow rentals to operate in violation of the current SMP. "Loosening the rules will signal that there is no reason to follow any of the rules."	Comment noted and will be forwarded to policy makers.	
43	1/27/2017 2/1/2017	Sally Harper	Believes the proposed amendments loosen ecological protections to Lake Whatcom currently in place as a result of the Shoreline Management Act. Ms. Harper cites studies conducted through the Huxley College Institute for Watershed Studies which conclude that people are the biggest polluters of the lake. Allowing vacation rentals on Lake Whatcom would encourage recreational use of the lake leading to greater pollution.	Comment noted and will be forwarded to policy makers. People will likely inhabit these units whether short- or long-term rentals, or owner-occupied.	
44	1/27/2017	Sally Harper	States that the number of vacation rentals on Lake Whatcom has increased from 13 to 40 in the last few years based on websites that advertise such listings. Concerned that this number will exponentially increase when the use is made legal and without limits to the number that can be allowed.	Comment noted and will be forwarded to policy makers.	
45	1/27/2017	Sally Harper	Believes vacation rentals should be regulated as a commercial use since some current listings charge up to \$695.00 per night and the	Comment noted and will be forwarded to policy makers.	

			high intensity nature of “nightly summer party activity” with large groups of friends and families with extra watercraft. This is attracting outside investors who buy up existing homes to operate as vacation rentals. Concerned that the code changes will cause this to increase.		
46	1/27/2017 2/1/2017	Sally Harper	Believes research would show that the code changes would result in negative cumulative impacts on Lake Whatcom water quality. Allowing vacation rentals is contrary to the ongoing efforts to reduce Phosphorus loading to the lake by the County and Ecology since the proposed changes will lead to increased pollution of the very same water the Clean Water Act mandates must be protected.	Comment noted and will be forwarded to policy makers.	
47	1/27/2017	Sally Harper	Cites known populations of Asian clams on the lake and their proximity to public and private sites that provide access and more intensive recreational use opportunities.	Comment noted and will be forwarded to policy makers.	
48	1/27/2017	Sally Harper	Concerned that most vacation rental properties are located on septic systems originally designed for only 6 people.	Comment noted and will be forwarded to policy makers.	
49	1/27/2017	Sally Harper	Concerned that the County does not enforce its existing regulations.	Comment noted and will be forwarded to policy makers.	
50	2/1/2017	Sally Harper	Wants the county to address SMP amendment’s consistency with WAC 173-26-221(6) regarding consistency of the SMP with existing regulations protecting water quality.	WAC 173-26-221(6) is a general requirement that a SMP prevent impacts (i) and ensure consistency with other regulations (ii).	
51	2/1/2017	Sally Harper	States that the City of Bellingham prohibits short term rentals within the Lake Whatcom Watershed. Concerned that the County is allowing an unlimited amount and should at least consider a unit/mile limit like other jurisdictions have adopted.	Comment noted and will be forwarded to policy makers.	
52	2/2/2017	Steen Brochner-Nielsen	Suggests adding the use of recreational vehicles and vessels to the definition of “Vacation Rental Unit”. Believes use of RVs and boats would be a great way to introduce out of town guests to our waterways and adds that existing regulations already allow for safe use of such for commercial activities.	Comment noted and will be forwarded to policy makers. Whatcom County Code already allows for short term RV occupancy.	

*Lake Whatcom Residents Include – Paul Taylor & Sally Harper, John & Tani Sutley, Michael & Sarah Tario, Darrel & Denise Mendelsohn, Alice & Jay Shilhanek, and Bill & Fong Long.