

**Whatcom County
Planning & Development Services
Staff Report**

Vacation Rentals Shoreline Master Program Amendment

I. BACKGROUND INFORMATION

File # PLN2016-00011

File Name: Vacation Rentals Shoreline Master Program Code Amendments

Applicant: Whatcom County Planning and Development Services (PDS)

Summary of Request: Amend Whatcom County Code Title 23 Shoreline Master Program (SMP) to add definitions of "bed and breakfast establishment" (B&Bs) and "vacation rental unit" and to remove B&Bs from the list of commercial uses that are subject to a shoreline conditional use permit. The effect of this change would be to make B&Bs and vacation rental units residential uses, consistent with zoning code amendments now under consideration (File #PLN2014-00020).

Location: County-wide.

Staff Recommendation: Approval. The proposal would make the SMP regulations for vacation rental and B&B uses consistent with zoning code regulations now under consideration.

Current Status

The Planning Commission had a December 2014 work session and January 2015 public hearing regarding proposed zoning code amendments regarding regulation of short-term rentals. The Commission recommended approval of the proposal to list B&Bs and vacation rentals as accessory uses in most zones. The County Council Planning and Development Committee has discussed the issue four times since then, but no zoning code amendments have yet been adopted. Committee discussion has focused on permitting vacation rentals as accessory uses per the Planning Commission recommendations, adding a provision making them a conditional use in the Lake Whatcom Watershed, and adding a series of performance standards intended to protect the safety of guests and prevent negative impacts to nearby residents. The most recent Committee draft of the proposed zoning code amendments is attached as background information.

During the course of the discussion with the Committee, PDS pointed out that even if vacation rentals and B&Bs were allowed under the zoning code, the current SMP regulations would make it very difficult to locate them within the SMP jurisdiction (generally within 200 feet of a shoreline). A *new* B&B or vacation rental development within shoreline jurisdiction would be subject to a shoreline substantial development permit, though a *conversion* from an existing residence to one of these uses is likely to be exempt from that requirement. However, whether it is a new development or a conversion, the B&B or vacation rental *use* within the SMP jurisdiction would be subject to a shoreline conditional use permit.

It would likely be difficult to obtain conditional use permit for a B&B or vacation rental under current SMP criteria. The SMP currently lists B&Bs among commercial uses in its regulations for the "urban conservancy" and the "conservancy" shoreline designations. Those commercial uses are subject to a shoreline conditional use permit. WCC 23.60.040(B)(1), which lists shoreline conditional use permit criteria, requires that "the proposed use will be consistent with the policy of RCW 90.58.020 and this program." That RCW section lists criteria in order of preference and gives preference to shoreline protection and public access over other uses.¹

The SMP currently does not list or define a vacation rental unit use. However, the current SMP definition of "residential development" expressly excludes "camping sites or clubs, recreational vehicle parks, motels, hotels and other transient housing." Therefore PDS believes vacation rental units, like B&Bs, would be considered commercial uses under the current SMP.

Extent of B&B and Vacation Rental Uses

Based on a compilation of online listings as of November 2015, staff estimates that about one quarter of the approximately 400 short term rental units currently advertised on the vrbo.com and airbnb.com web sites in unincorporated Whatcom County are within shoreline jurisdiction (typically 200 feet from ordinary high water mark of an affected water body). While these uses are widespread throughout the County, they tend to cluster in areas traditionally characterized by recreational

¹ **RCW 90.58.020** "...The legislature declares that the interest of all of the people shall be paramount in the management of shorelines of statewide significance. The department, in adopting guidelines for shorelines of statewide significance, and local government, in developing master programs for shorelines of statewide significance, shall give preference to uses in the following order of preference which:

- (1) Recognize and protect the statewide interest over local interest;
- (2) Preserve the natural character of the shoreline;
- (3) Result in long term over short term benefit;
- (4) Protect the resources and ecology of the shoreline;
- (5) Increase public access to publicly owned areas of the shorelines;
- (6) Increase recreational opportunities for the public in the shoreline;
- (7) Provide for any other element as defined in RCW [90.58.100](#) deemed appropriate or necessary."

housing such as Glacier and Birch Bay. Smaller clusters also exist in areas that are not primarily recreational in nature, such as Lake Whatcom.

A large majority of these short term rental units are vacation rentals. At present, conversion of a residence to a vacation rental does not require a permit or registration through PDS. Without such a requirement, there has been no action that would prompt PDS to inform owners within the SMP jurisdiction that a conditional use permit is required.

Table 1. VRBO and Airbnb Listings by Location and Shoreline Designation, November 2015

Location	Shoreline Designation (based on approximate location mapped in online listing)							Total
	Conservancy	Natural	Rural	Shoreline Residential	Urban Conservancy	Urban Resort	Outside Shoreline	
Birch Bay				8		11	46	65
Birch Point				1			2	3
Cain Lake				2				2
Chuckanut				7			3	10
Columbia Valley							4	4
Deming	1							1
Drayton Harbor					3			3
E Bellingham							5	5
Emerald Lake				1			2	3
Everson							1	1
Glacier	14						128	142
Glacier Springs							49	49
Gooseberry Point				1			2	3
Lake Samish				3				3
Lake Whatcom			5	11			18	34
Lummi Island	4		12				11	27
Maple Falls							4	4
Marietta							1	1
North County							3	3
N Bellingham							3	3
Point Roberts		1		8		1	10	20
Sandy Point				8				8
Silver Lake	10						5	15
Squalicum Lake							2	2
Van Zandt							1	1
Welcome	2							2
Total	31	1	17	50	3	12	300	414

Table 2. VRBO and Airbnb Listings by Location and Type, November 2015

Location	Bed & Breakfast	Vacation Rental	Total
Birch Bay		65	65
Birch Point		3	3
Cain Lake		2	2
Chuckanut	1	9	10
Columbia Valley	1	3	4
Deming		1	1
Drayton Harbor		3	3
E Bellingham	1	4	5
Emerald Lake		3	3
Everson	1		1
Glacier		142	142
Glacier Springs		49	49
Gooseberry Point		3	3
Lake Samish		3	3
Lake Whatcom	3	31	34
Lummi Island		27	27
Maple Falls		4	4
Marietta		1	1
North County		3	3
N Bellingham	2	1	3
Point Roberts		20	20
Sandy Point		8	8
Silver Lake		15	15
Squalicum Lake		2	2
Van Zandt		1	1
Welcome		2	2
Total	9	405	414

Table 3. VRBO and Airbnb Listings by Type and Shoreline Designation, November 2015

Type	Shoreline Designation (based on approximate location mapped in online listing)							Total
	Conservancy	Natural	Rural	Shoreline Residential	Urban Conservancy	Urban Resort	Outside Shoreline	
Bed & Breakfast	0	0	0	1	0	0	8	9
Vacation Rental	31	1	17	49	3	12	292	405
Total	31	1	17	50	3	12	300	414

II. SMP AMENDMENT

The proposed amendment would make B&Bs and vacation rental units residential rather than commercial uses in the SMP. This would be consistent with the proposed zoning code amendments, which would allow them as accessory uses to residential uses. Specifically, the amendment would:

- Remove B&B from the list of commercial uses subject to shoreline conditional use permits in the Urban Conservancy and Conservancy shoreline designations (WCC 23.30.055 and .095, and 23.100.050(C)(3) and .050(C)(7))
- Add a definition of "bed and breakfast" (WCC 23.110.020(4))
- Exclude B&Bs and vacation rental units from the definition of "commercial development" (WCC 23.110.030(6))
- Add B&Bs and vacation rental units to the definition of "residential development" (WCC 23.110.180(7)), and
- Add a definition of "vacation rental unit" (WCC 23.110.220(1))

If approved, these SMP amendments would be subject to review by the Washington State Department of Ecology as a limited master program amendment.

The added definitions of B&B and vacation rental unit are consistent with those currently proposed in the Title 20 (zoning code) amendments. If enacted, the proposed zoning code amendments, coupled with these amendments to the SMP, would allow for a use that is already becoming a significant non-urban economic activity in the county, while placing performance standards on these uses to prevent negative impacts to surrounding residents.

III. COMPREHENSIVE PLAN EVALUATION

The proposed SMP amendment, in conjunction with the zoning code amendments proposed in #PLN2014-00020, to add a definition and standards for vacation rental uses is consistent with the following policies of the Whatcom County Comprehensive Plan:

Goal 2A: Ensure provision of sufficient land and densities to accommodate the growth needs of Whatcom County and protect the qualities that make the county a desirable place to live.

Policy 2A-13 Allow for adequate economic development to provide economic sustainability, adequate employment opportunities, and services in and for the rural areas.

Goal 2DD: Retain the character and lifestyle of rural Whatcom County.

Policy 2DD-2: Protect the character of the rural area through the County's development regulations ...

Goal 2FF: Provide employment opportunities in the rural parts of Whatcom County.

Policy 2FF-1: Support small businesses, cottage industries, home occupations, resource-based, tourist, recreational, and other appropriate industries in the rural areas of Whatcom County. New rural commercial and industrial uses that are more intensive than those permitted within rural zones as home occupations or cottage industries should be located within designated Rural Communities and Rural Business areas.

Policy 2FF-4: Allow home-based occupations, cottage industries and small-scale tourist and recreational uses throughout the rural area provided they do not adversely affect the surrounding residential uses, agricultural uses, forestry uses, or rural character.

Goal 7K: Enable a geographic balance for economic growth within the capacities of the county's natural resources, natural systems, public services, and public facilities.

Policy 7K-4: Consider establishing more resource and tourism based recreational, commercial, and industrial uses to create economic opportunity in the rural areas of the county.

IV. PROPOSED FINDINGS OF FACT AND REASONS FOR ACTION

Staff recommends the Planning Commission adopt the following findings of fact and reasons for action:

1. Whatcom County Planning and Development Services has submitted an application for a SMP code amendment to define B&Bs and vacation rental units as residential uses.
2. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on May 27, 2016.
3. Notice of the subject amendment was submitted to the Washington State Department of Commerce on April 28, 2016.
4. Notice of the Planning Commission public hearing for the amendments was

published in the Bellingham Herald on June 10, 2016.

5. The Planning Commission held a public hearing on the proposed amendments on June 23, 2016.
6. On January 8, 2015 the Whatcom County Planning Commission held a public hearing on a proposal to amend the Zoning Code (WCC Title 20) to allow vacation rental units as accessory uses in most zones, and recommended approval. The County Council has discussed the proposed Title 20 amendments and proposed changes to them, but has not adopted them by ordinance.
7. For vacation rental and bed and breakfast uses located in the jurisdiction of the County's Shoreline Master Program (WCC Title 23), the proposed Title 20 amendments would be inconsistent with current Title 23 regulations, where vacation rental and bed and breakfast uses are not listed as residential uses.
8. PDS estimates that about a quarter of vacation rental and bed and breakfast uses offered on two of the most popular vacation rental websites is located within the Shoreline Master Program jurisdiction.
9. The current amendment would list vacation rental and bed and breakfast uses as residential uses in the Shoreline Master Program, consistent with the proposed zoning code amendments.
10. SMP amendments are subject to review by the Washington State Department of Ecology as a limited master program amendment.
11. WCCP Policies 2A-13, 2FF-1, 2FF-4, and 7K-4 support economic sustainability in the rural areas of the county.
12. WCCP Policy 2FF-4 supports rural home-based occupations, cottage industries and small-scale tourist and recreational uses throughout the rural area provided they do not adversely affect the surrounding residential uses, agricultural uses, forestry uses, or rural character.

V. PROPOSED CONCLUSIONS

1. The amendments regarding vacation rental units and bed and breakfasts in Shoreline Master Program jurisdiction is in the public interest.
2. The amendments are consistent with the Whatcom County Comprehensive Plan.

VI. RECOMMENDATION

Planning and Development Services recommends the Planning Commission forward the proposed amendments to the County Council with a recommendation of approval.

ATTACHMENTS

- A. Draft Title 23 Shoreline Master Program amendments
- B. Background information: Draft Title 20 zoning code amendments being considered by County Council Planning and Development Committee (not under consideration at this hearing)