



DATE: October 26, 2016

TO: City Council, Mayor Boudreau, and Planning Commission

FROM: Rebecca Lowell, Senior Planner

SUBJECT: PLANNING STUDY ON 'ADULT USES'

INTRODUCTION:

The City of Mount Vernon is subject to the State Growth Management Act (GMA) (36.70A RCW). Part of the GMA [RCW 36.70A.130(1)(a)] requires that the City's comprehensive plan "be subject to continuing review and evaluation by the county or city that adopted them. Except as otherwise provided, a county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure the plan and regulations comply with the requirements of this chapter according to the deadlines in subsections (4) and (5) of this section". Further, subsection (5)(b) of this same RCW requires that the City "take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter...on or before June 30, 2016, and every eight years thereafter, for... Skagit...county...".

On September 14, 2016 the City adopted Ordinance 3690 approving the above-described required update to the City's Comprehensive Plan.

Part of the City's Comprehensive Plan update process included an evaluation of the City's development regulations to ensure that they are, and will remain, consistent with the adopted Comprehensive Plan. This evaluation lead planning staff to create a list of development regulations that should be evaluated and possibly amended in the future due, primarily, to the time that had lapsed since these original regulations were adopted.

The City's zoning code regulations pertaining to adult uses were first adopted in 1985 and substantively amended just once in 1995. The potential for undesirable impacts, in conjunction with regulations that have not been analyzed in over two decades, as well as changes in the law related to adult entertainment uses, lead to the initiation of the foregoing Planning Study.

Within the context of this study adult uses includes, but are not limited to, bookstores, cabarets, drive-in theaters, entertainment, motion picture theaters, retail stores and drive through businesses, video stores, massage parlors, panorams, previews, picture arcades, and peep shows all of which are characterized by a predominate emphasis on matters related to sexual activities and/or anatomical areas that are further described within the Mount Vernon Municipal Code (MVMC).

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A. BACKGROUND

1. EXISTING ZONING CODE REGULATIONS FOR ADULT ENTERTAINMENT

The City’s zoning code (Title 17) currently regulates adult entertainment and uses as follows:

CHAPTER OF ZONING CODE:	REGULATION:
17.06.010,A Definitions	<p>Adult bookstore” means a retail establishment in which:</p> <p>A. Twenty-five percent or more of the “stock-in-trade” consists of books, magazines, posters, pictures, periodicals or other printed material distinguished or characterized by a predominant emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas,” as defined in the Mount Vernon Municipal Code;</p> <p>B. “Stock-in-trade” for the purpose of this section shall mean the greater of:</p> <ol style="list-style-type: none"> 1. The retail dollar value of all books, magazines, posters, pictures, periodicals, or other printed material readily available for purchase, rental, viewing or use by patrons of the establishment excluding material located in any storeroom or other portion of the premises not regularly open to patrons; or 2. The total volume of shelf space and display area; <p>C. Any person is excluded by virtue of age from all or part of the premises generally held open to the public where books, magazines, posters, pictures, periodicals, or other predominant emphasis on matters depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” as defined in the Mount Vernon Municipal Code, are displayed or sold.</p> <p>“Adult cabaret” means a commercial establishment which presents go-go dancers, strippers, or similar entertainers and which excludes any person by virtue of age from all or any portion of the premises; and which includes the display of “specified anatomical areas” or “specified sexual activities” as currently defined within this chapter, or as these definitions may be amended in the future.</p> <p>“Adult drive-in theater” means a drive-in theater where at least 25 percent of the use is used for presenting motion picture films, video cassettes, cable television, or any other like visual media, distinguished or characterized by a predominant emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” as defined in the Mount Vernon Municipal Code.</p> <p>“Adult entertainment” means any enterprise from which minors are excluded and which sells, rents or displays sexually explicit matter, including, but not limited to, adult bookstores, adult magazine stores, stores selling sexually oriented adult games or devices, adult motion picture theaters, adult mini-motion picture theaters, adult peep shows, establishments where nude or topless dancing or other displays regularly occur or other similar business.</p>

**CHAPTER OF
ZONING CODE:**

REGULATION:

**17.06.010,A
Definitions**

Adult Entertainment Establishment. The following businesses or facilities are defined or referred to as “adult entertainment establishments”:

- A. Adult book stores;
- B. Adult cabarets;
- C. Adult drive-in theaters;
- D. Adult entertainment and adult entertainment premises;
- E. Adult motion picture theater;
- F. Adult retail stores;
- G. Adult video stores;
- H. Massage parlors and public bath houses;
- I. Panorams, previews, picture arcades, and peep shows, as defined in Chapter 5.56 MVMC.

“Adult motion picture theater” means an enclosed building where at least 25 percent of the use is used for presenting, for commercial purposes, motion picture films, video cassettes, cable television, or any other like visual media, distinguished or characterized by a predominant emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” as defined in the Mount Vernon Municipal Code for observation by patrons therein.

“Adult retail store” means a retail establishment in which:

- A. Twenty-five percent or more of the “stock-in-trade” consists of items, products, or equipment distinguished or characterized by a predominant emphasis or simulation of “specified sexual activities” or “specified anatomical areas” as defined in the Mount Vernon Municipal Code; or
- B. Any person is excluded by virtue of age from all or part of the premises generally held open to the public where products or equipment distinguished or characterized by a predominant emphasis or simulation of “specified sexual activities” or “specified anatomical areas” as defined in the Mount Vernon Municipal Code are displayed or sold.

“Adult video store” means a retail establishment in which:

- A. Twenty-five percent or more of the “stock-in-trade” consists of prerecorded video tapes, discs, or similar material distinguished or characterized by a predominant emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” as defined in the Mount Vernon Municipal Code; or
- B. Any person is excluded by virtue of age from all or part of the premises generally held open to the public where prerecorded video tapes, discs, or similar material distinguished or characterized by a predominant emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” as defined in the Mount Vernon Municipal Code are displayed or sold.

“Specified anatomical areas” means both of the following:

- A. Less than completely and opaquely covered:
 - 1. Human genitals, pubic region;
 - 2. Buttock;
 - 3. Breast below a point immediately above the top of the areola;
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

CHAPTER OF ZONING CODE:	REGULATION:
17.06.190,S Definitions	<p>“Specified sexual activities” means all of the following:</p> <ul style="list-style-type: none"> A. Human genitals in a state of sexual stimulation or arousal; B. Acts of masturbation, sexual intercourse, or sodomy; C. Fondling or other erotic touching of human genitals, pubic region, buttock, or breast.
17.35.050, Prohibited uses (in HD zone)	<ul style="list-style-type: none"> B. Adult entertainment.
17.45.030, Permitted uses (in C-1 zone)	<p>Ground-level uses where visible from the street: (in C-1a and C-1b)</p> <p>10. Adult entertainment establishments, as herein defined; provided, that no adult entertainment establishment shall be located nearer than 1,000 feet from any other adult entertainment establishment; and provided further, that no adult entertainment establishment shall be located nearer than 1,000 feet from any public or private school, church, or public park. Distances as provided in this subsection shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the proposed use is to be located to the nearest point of the parcel of property of the land use from which the proposed use is to be separated,</p>
17.48.020, Permitted uses (in C-2 zone)	<p>11. Adult entertainment establishments, as herein defined; provided, that no adult entertainment establishment shall be located nearer than 1,000 feet from any other adult entertainment establishment; and provided further, that no adult entertainment establishment shall be located nearer than 1,000 feet from any public or private school, church, or public park. Distances as provided in this subsection shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the proposed use is to be located to the nearest point of the parcel of property of the land use from which the proposed use is to be separated; and</p>
17.51.040, Conditional Uses (in C-3 zone)	<ul style="list-style-type: none"> B. Adult entertainment; provided, that no adult entertainment establishment shall be located nearer than 1,000 feet from any other adult entertainment enterprise;
17.54..050, Prohibited uses (C-4 zone)	<ul style="list-style-type: none"> A. Adult entertainment.

Adult uses were first defined and regulated in the City’s zoning code in 1985 with the adoption of Ordinance 2188 with subsequent amendments to these regulations in 1994 and 1995 with Ordinances 2631 and 2688, respectively.

ORDINANCE NUMBER:	DATE ADOPTED:
2188	July 24, 1985
2631	December 14, 1994
2688	July 25, 1995

Staff conducted interviews with City staff that have lived in Mount Vernon since the early 1970’s, including a retired Mount Vernon Police officer, to determine the extent of and details surrounding historic adult uses in the City. Staff is not aware of any businesses operating in the City today that include adult uses as currently defined in the Mount Vernon Municipal Code¹.

Following is a brief summary of the two businesses that historically offered adult uses in the City along with the one recent request to operate an adult use in the City. Staff is not aware of any other requests submitted to the City for adult uses since 2004.

- Near the 400 block of Myrtle Street there existed a business named the ‘Green Door’ owned by Arnold Libby that was in operation in the mid-1980s. Staff is told that the Green Door offered coin operated peep shows featuring topless dancers and pornographic movies. Staff was able to find meeting minutes from the City’s Planning Commission from July 2, 1985 that reference both the Green Door and Peking Gardens; these minutes can be found in the accompanying **Appendix C**.
- Near the 600 block of 1st Street there existed a business named ‘Peking Gardens’ owned by Roy Kraus that was in operation in the late 1970s. Staff is told that this business had topless women dancing on an elevated stage.
- The City received a request in October 2016 from David Davidson who is asking to operate an adult retail store at 920 Lincoln Street #B. A copy of the City’s response to Mr. Davidson can be found within **Appendix C** of this study.

¹ Should City Council adopt development regulations recommended by staff it is possible that the one bikini espresso stand located in Mount Vernon (named ‘Foxy Lady Lattte’, located at 2626 Henson Road) will need to make sure that their employees are not engaging in adult sales practices which includes activities distinguished or characterized by a person being in a state of partial nudity while conducting or otherwise engaged in retail sales of goods or services where their conduct is likely to be viewed by the public.

B. EXISTING CONDITIONS:

This section contains information on the following:

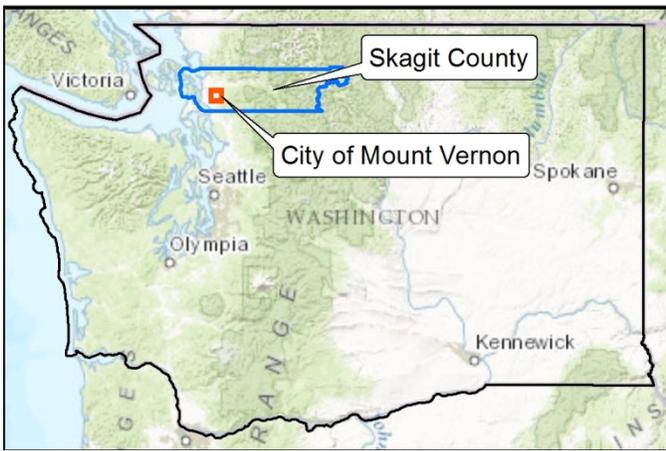
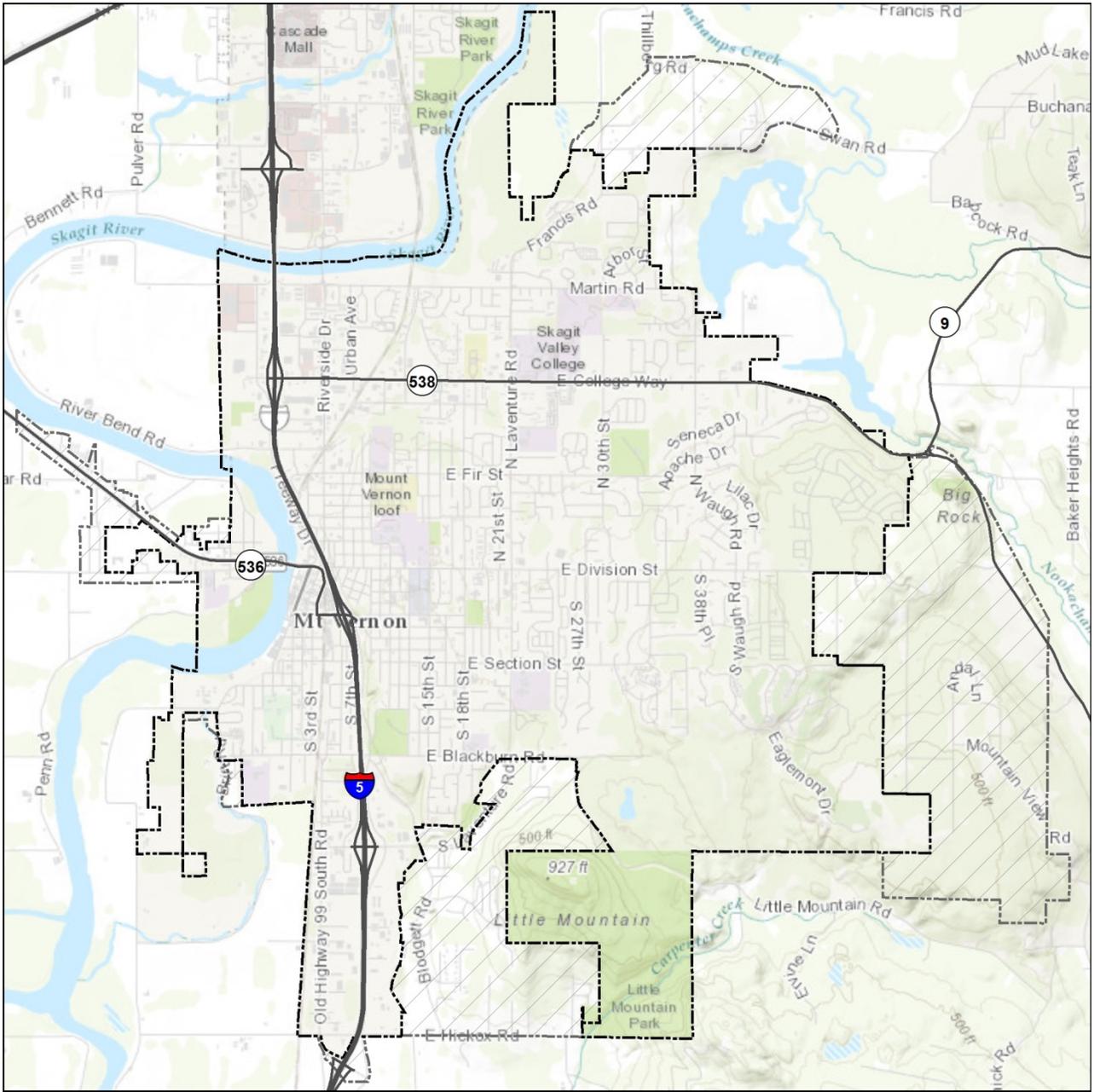
1. Mount Vernon's Landscape setting;
2. Mount Vernon's demographics; and,
3. Mount Vernon's land use patterns.

1. MOUNT VERNON'S LANDSCAPE SETTING

The City is situated with the Seattle metropolitan area approximately 60 miles to the south, Vancouver B.C. approximately 80 miles to the north, and the Puget Sound approximately six miles to the east. Following are two maps illustrating the City's regional and local setting.

MAP 1.0: REGIONAL SETTING





MAP 2.0: LOCAL SETTING

- City Boundary
- Urban Growth Area
- State Highway
- Skagit County Boundary

Basemap and data courtesy of ESRI, Skagit County, WSDOT, City of Mount Vernon

Map by MV GIS 7/5/2016

2. MOUNT VERNON’S DEMOGRAPHICS

Skagit County is comprised of four cities: Anacortes, Burlington, Mount Vernon, and Sedro-Woolley, along with four towns: Concrete, Hamilton, LaConner, and Lyman. In 2015 each of Skagit Counties’ four towns had populations of less than 1,000 people and were comprised of 1.4 square miles or less. As such, the towns are not included in the comparisons below because their demographics are significantly different than unincorporated Skagit County and the cities analyzed below.

Table 1.0 provides the size in square miles of Mount Vernon, the listed cities, and unincorporated Skagit County.

TABLE 1.0: JURISDICTION SIZES 2015

JURISDICTION	2015 SIZE IN SQUARE MILES ¹
Mount Vernon	12.63
Anacortes	13.16
Burlington	4.09
Sedro-Woolley	4.15
Unincorporated Skagit County	1,693.52

¹ State of WA: Office of Financial Management. (2015, December). 2015 Data Book.

Table 2.0 and graphs 2.1 and 2.2 list and show how Mount Vernon’s population has grown over time; and compares this growth to other Skagit County cities and unincorporated Skagit County.

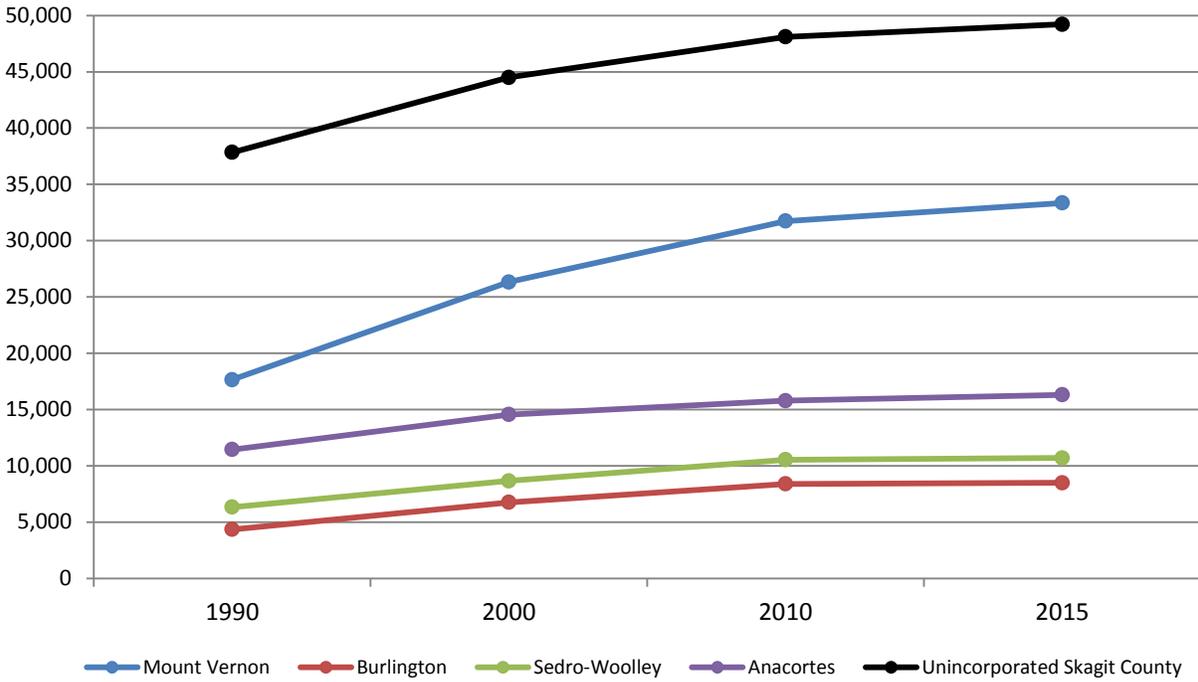
TABLE 2.0: POPULATION GROWTH 1990 - 2015

YEAR	POPULATION				
	Mount Vernon	Burlington	Sedro-Woolley	Anacortes	Unincorporated Skagit County
1990 ¹	17,647	4,349	6,333	11,451	37,841
2000 ¹	26,332	6,757	8,658	14,557	44,506
2010 ¹	31,743	8,388	10,540	15,778	48,110
2015 ²	33,350	8,485	10,700	16,310	49,220

¹ 1990 – 2010 population: U .S. Census Bureau; Census 1970, 1980, 1990, 2000, 2010 Profile of General Population and Housing Characteristics: Mount Vernon City, WA. Retrieved October 20, 2016 from www.factfinder.census.gov

² 2015 population: Office of Financial Management (2016, April 1). Population of Cities, Towns and Counties Used for Allocations of Selected State Revenues State of WA.

GRAPH 2.1: POPULATION GROWTH 1990 - 2015



GRAPH 2.2: 2015 TOTAL POPULATION

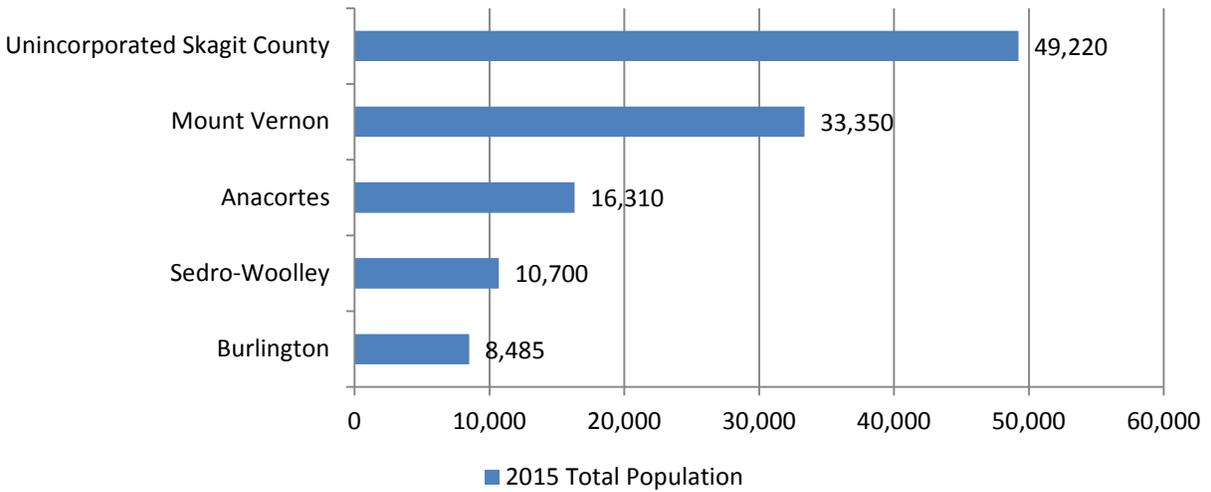


TABLE 3.0: POPULATION DENSITY 2015

JURISDICTION	2015 SIZE IN SQUARE MILES ¹	POPULATION ²	DENSITY POPULATION/SQUARE MILES
Mount Vernon	12.63	33,350	2,640.5
Anacortes	13.16	16,310	1,239.4
Burlington	4.09	8,485	2,074.5
Sedro-Woolley	4.15	10,700	2,578.3
Unincorporated Skagit County	1,693.52	49,220	29.1

¹ State of WA: Office of Financial Management. (2015, December). 2015 Data Book.

² Office of Financial Management (2016, April 1). Population of Cities, Towns and Counties Used for Allocations of Selected State Revenues State of WA.

Table 4.0 contains the number of Mount Vernon residents that are under the age of 18 and compares this age demographic to Skagit Counties' other cities.

TABLE 4.0: RESIDENTS UNDER 18 YEARS OF AGE IN 2014

JURISDICTION	POPULATION ¹	RESIDENTS UNDER 18 ²	% OF POPULATION UNDER 18
Mount Vernon	33,350	9,119	27%
Anacortes	16,310	2,890	18%
Burlington	8,485	2,160	25%
Sedro-Woolley	10,700	2,835	26%

¹ Office of Financial Management (2016, April 1). Population of Cities, Towns and Counties Used for Allocations of Selected State Revenues State of WA.

² U.S. Census Bureau. (2014). American FactFinder fact sheet: Population Under 18 Years by Age: Anacortes, Burlington, Mount Vernon, Sedro-Woolley. Retrieved October 20, 2016, from <http://factfinder.census.gov>.

3. MOUNT VERNON'S LAND USE PATTERNS

The City's land use patterns have, over time, been heavily influenced by the location of the Skagit River, the Burlington Northern Railroad, Interstate-5, State Routes 536 and 538, and the topographic changes that occur as one heads east and southeast through the City.

The City's first business district was formed on the east side of the river where the City's historic downtown district still exists today (generally between Division and Kincaid Streets). Additional business/commercial/industrial areas have developed around major transportation corridors such as Interstate-5, Riverside Drive, College Way (SR 536) and more recently in the South Mount Vernon area where both Old Highway 99 and Interstate-5 run north/south.

Historically natural disasters such as floods and fires spurred residential growth at higher elevations on the east side of the City moving away from the Skagit River and Interstate-5. In large part these land use patterns still exist today.

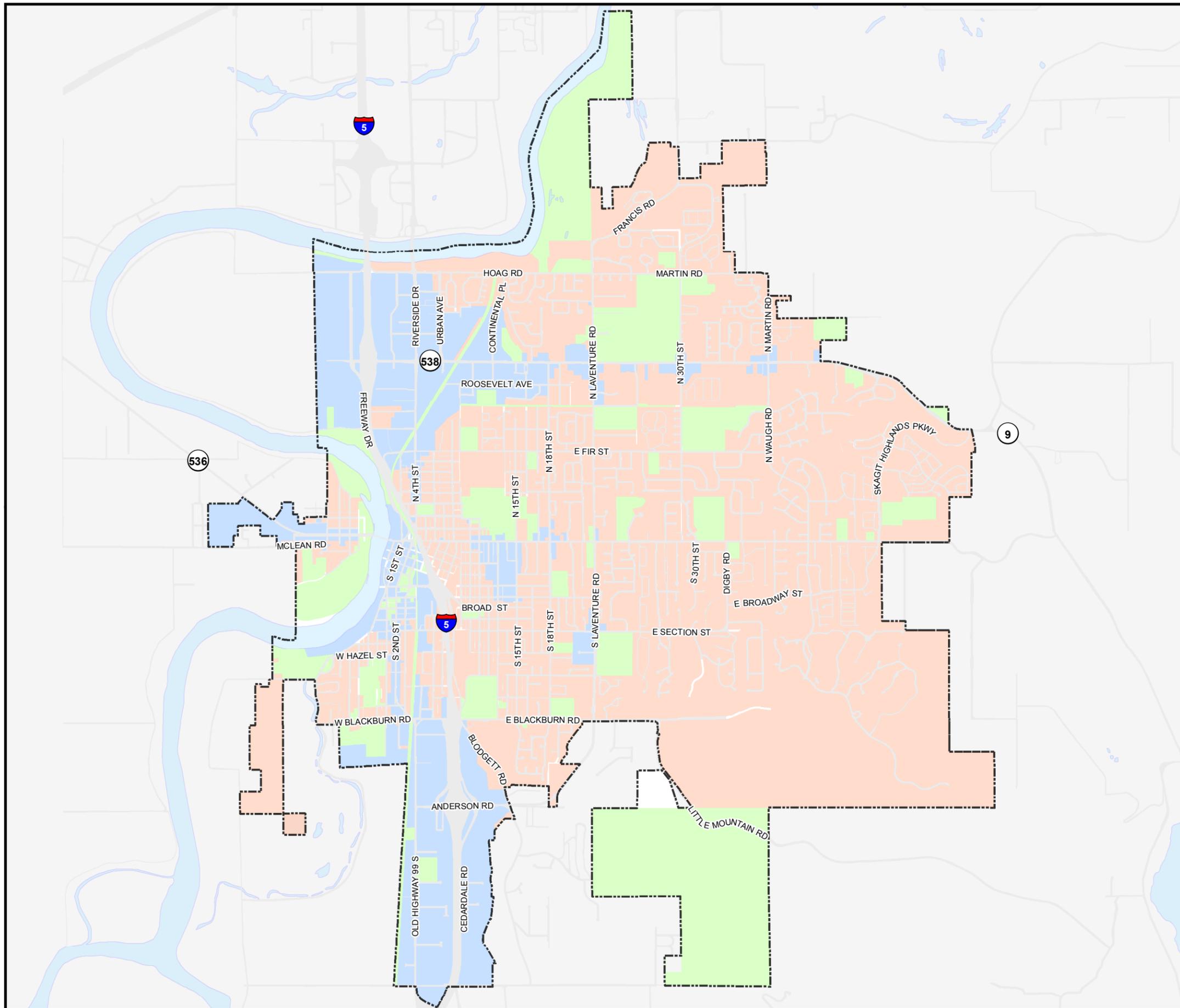
Following is **Map 3.0** that illustrates the City's overall land use types; e.g., commercial/industrial, residential, and other (public, open spaces, etc). In addition to this map, Tables 5.0, 6.0 and Graph 6.1 summarize the acreage of the City's land use types. Evident is that the City is composed predominately of areas used for residential purposes.

It is important to understand that **Map 3.0**, Tables 5.0, 6.0 and Graph 6.1 have been created using the City's existing zoning information. This distinction is important because the zoning designation of property does not always directly correlate to the actual use of a site. For example, the City has a number of properties that are zoned for commercial or industrial uses that contain existing residential structures being used for residential purposes. While existing residential uses in commercial or industrial zones are observed throughout the City it is far more unusual to see commercial or industrial uses in residential zones.

Additionally, the City has four zoning designations that allow for mixed use development that either do, or potentially could, have both residential and commercial primary permitted or conditional uses in close proximity to each other. These mixed use zones include: Residential Office (MVMC Chapter 17.33), Central Business District (MVMC Chapter 17.45), Community Commercial District (MVMC Chapter 17.51), and Neighborhood Commercial District (MVMC Chapter 17.54).

**"Adult Uses" Planning Study
Map 3.0
General Land Use Types**

-  Residential Zoning
-  Commercial Zoning
-  Other Non-Commercial Zoning
-  City Boundary
-  Water Body



0 2,500 5,000 Feet



Map updated 10/24/2016 by MV GIS, Parcel data courtesy of Skagit County GIS
The City of Mount Vernon does not warrant, guarantee or accept any liability for the accuracy, precision or completeness of any information shown or described hereon or for any inferences made therefrom. Any use made of this information is solely at the risk of the

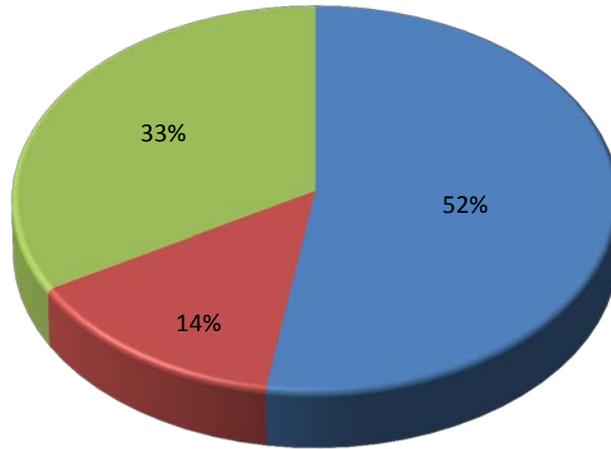
TABLE 5.0: MOUNT VERNON LAND USE TYPES

	ZONING DESIGNATIONS	ACRES
RESIDENTIAL LAND USES	Single-Family Residential (R-1, 3.0, 4.0, 5.0, 7.0, Eaglemont PUD, and R-A)	3,999
	Multi-family Residential (R-2, R-3, R-4)	363
	Mobile Home Park (MHP)	126
COMMERCIAL AND INDUSTRIAL LAND USES	Commercial (C-2)	510
	Commercial Allowing Residential Uses (C-1, C-3, C-4, R-O)	78
	Commercial Light Industrial (C-L)	416
	Industrial (M-1, M-2)	112
	Healthcare Development District	29
	Professional Office, Limited Commercial (P-O, LC)	33.5
OTHER LAND USES	Public	1,376
	Skagit River, Dike, Flood, Right-of-Way, and Railroad	991.5
TOTAL ACREAGE:		8,034

TABLE 6.0: SUMMARY OF LAND USE TYPES

LAND USE INFORMATION	ACRES	% OF THE CITY
Total Land Area within Mount Vernon	8,034	100%
Residential Uses Land Area	4,178	52%
Commercial & Industrial Land Area	1,149	14%
Public, River, Floodplain & Right-of-Way	2,668	33%

GRAPH 6.1: MOUNT VERNON LAND USE TYPES



■ Residential ■ Commercial and Industrial ■ Public, River, floodplain and row

This existing conditions section can be summarized as follows:

- Mount Vernon is more than three times larger (in land area) than Burlington or Sedro-Woolley.
- Unincorporated Skagit County is 134 times larger (in land area) than Mount Vernon and Anacortes is .53 square miles larger than Mount Vernon.
- Mount Vernon has two times as many residents as Anacortes, three times as many residents as Sedro-Woolley, and nearly four times as many residents as Burlington.
- Unincorporated Skagit County has close to 16,000 more residents than Mount Vernon; however, unincorporated Skagit County is 134 times larger (in land area) than Mount Vernon making Mount Vernon's population density per square mile of land area 89 times more dense than unincorporated Skagit County.
- As a percentage of total population, Mount Vernon has more residents under the age of 18 than any of the other Skagit County cities do. In addition, as a total number Mount Vernon has three times as many residents under the age of 18 than any other Skagit County city.

C. IMPACTS ANALYSIS:

The City is vested with the authority to regulate land uses to ensure the public's health, safety, welfare, and economy is protected. When evaluating new regulations, or updating existing ones, the first item planning staff considers are foreseeable impacts generated from a given use that could produce land use and other secondary adverse impacts.

Research compiled to-date shows that numerous communities both in Washington State and across the Country have experienced negative secondary impacts from adult uses. Evaluating experiences from other jurisdictions that have experience with regulating adult uses is important because Mount Vernon is able to learn from these experiences and adopt regulations to mitigate the negative impacts others have endured.

A summary of some of the more significant negative impacts from existing adult entertainment uses in other jurisdictions are briefly summarized below with the full text of these reports accompanying this study in **Appendix A**.

- The City of Bellevue, WA lists secondary effects of increased incidence of crime, property values declining, and incompatibilities between land uses.
- The City of Des Moines, WA identified negative impacts from adult uses including: decreases in property values, deterioration of areas including deferred maintenance, economic impacts from increased turnover in tenants adjacent and near these uses, parking and traffic problems, attraction of transients, interference with parental responsibilities for children, incompatibility with residences, schools, churches, and park areas, and increased crime.
- The City of Kent, WA documented Incidence of increased crime, property values decreasing and neighborhoods deteriorating within areas located near adult uses.
- The City of Olympia, WA notes that adult oriented businesses generally create an atmosphere for increases in crimes such as assault, theft, robbery, prostitution, drug use, and others, that surrounding property values tend to decline as a result of the appearance of these businesses and the activities they attract.

Table 7.0, below, summarizes sensitive uses identified by other jurisdictions when they completed evaluations of adult uses in their respective jurisdictions.

TABLE 7.0: SENSITIVE USES IDENTIFIED BY OTHER JURISDICTIONS

JURISDICTION	SENSITIVE USES DEFINED
EVERETT	Public Library Public playground or park Public or private school and its grounds, from kindergarten to twelfth grade Nursery school or day care center Church, temple, mosque, synagogue, or other place of religious worship Lot located in Residential zones
FEDERAL WAY	Public Park Library Day care center for children, nursery, or pre-school Church or other facility or institution used primarily for religious purposes Public or private elementary or secondary school
KELSO	Existing youth-oriented business or activity defined as: “Youth-oriented business or activity” means a business utilizing a permanent building or facility where children under the age of eighteen years are invited onto the business premises in conjunction with such business activity and at least fifty percent of the business revenue is generated from their patronage.
KENNEWICK	Residential zone Public or private school, or any trade or vocational school that on a regular basis has at least one student under the age of eighteen years Church or other religious facility or institution Park or any public facility or open space zone
KING COUNTY	Certain residential zones Schools Licensed daycare centers Public Parks or trails Community centers Public Libraries Churches
MUKILTEO	Residential zones Public Park Public library Public or private nursery school or preschool Public or private primary or secondary school Daycare Community Youth Center Place of Worship
OAK HARBOR	Schools Religious institutions Parks Certain Residential Zones

JURISDICTION	SENSITIVE USES DEFINED
THURSTON COUNTY	Property used for public and private schools; Property used for public parks; Property used for public libraries; Property used for state-certified day care; Property used for public community centers; Property used for churches, cemeteries or other religious facilities or institutions; Certain residential zones
VANCOUVER	Public park Child care facility licensed by the State of Washington Preschool Permanent religious institution Public or private elementary, middle, junior high or high school Certain residential districts
SNOHOMISH COUNTY	Private School Preschool Educational Institution Church or other Religious Facility Public or Private Park Youth Oriented Facility Establishment Serving Alcohol by the Drink

After much research, planning staff identified the following list of uses that should be buffered from adult uses due to the sensitive nature of these uses and the high potential for secondary adverse impacts. The following list of sensitive uses were chosen primarily because they are uses in areas where minor children and families are likely to congregate and be present.

TABLE 8.0: SENSITIVE USES IDENTIFIED BY MOUNT VERNON

SENSITIVE USE:	DEFINITION OF SENSITIVE USE:
PARKS	A tract of land owned or maintained by a public entity that is designated for and used by the public for active and passive recreational activities.
TRAILS	Linear shaped facilities designed and intended for the public to walk, run, or otherwise travel across that are owned or maintained by the City of Mount Vernon.
CHURCHES	Are buildings or structures, or groups of buildings or structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith.
SCHOOLS	Any building or part thereof designed, constructed, or used for formal educational uses that are recognized by the Washington state superintendent of public instruction. This definition includes both public and private schools.

SENSITIVE USE:	DEFINITION OF SENSITIVE USE:
CHILD CARE CENTERS	Are facilities that regularly provide child day care and early learning services for a group of children for periods of less than twenty-four hours licensed by the Washington state department of early learning under chapter 170-295 WAC.
LIBRARIES	Facilities that include organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.
GAME ARCADES	Are entertainment venues featuring primarily video games, simulators, and/or other amusement devices where persons under twenty-one years of age are not restricted.

D. LOCATION ANALYSIS:

Now that staff has outlined the existing conditions of the City in terms of its landscape setting, demographics, and land use patterns and evaluated the land use and secondary impacts likely to occur from adult uses, staff is able to make informed recommendations with regard to where these uses will result in the fewest negative impacts.

The list below contains the steps of the assessment that staff completed to answer the question of where should adult uses should be allowed in the City.

1. **REMOVED RESIDENTIALLY ZONED AREAS FROM CONSIDERATION.** The City is comprised of nineteen distinct zoning classifications. The intent of, and primary permitted uses, in six of these zones are residential uses (R-A, R-1, R-2, R-3, R-4 and MHP). These zones largely prohibit commercial, industrial and other similar uses as a way to protect the living environment within these zones.

Additionally, these residential areas have historically, and will continue to be subject to development regulations in terms of road width, utility sizing and the like, aimed at residential areas and uses. This is important because roads would need to be widened, paved parking areas would need to be created, and utilities like potable water and sanitary sewer would likely need to be upsized to serve a commercial or industrial use in an existing residentially zoned area.

For these reasons all of the City's residential zones listed above were not considered as areas where adult uses could be located. Please see the accompanying **Map 3** that delineates the described residential areas from other zones within the City.

2. **BUFFERED EXISTING SENSITIVE LAND USES.** Due to the well documented negative secondary impacts from adult uses, staff determined that these uses are not compatible with certain sensitive land uses where minor children and families are likely to congregate and be present including: residences, parks, trails, churches, schools, child care facilities, libraries, and game arcades.

To buffer these sensitive uses from adult entertainment uses staff needed to determine the distance these incompatible uses need to be separated from adult uses. To make a recommendation on the appropriate separation staff evaluated different separations (or buffers) that a number of different jurisdictions have adopted as part of their development regulations for adult uses. **Table 9.0** summarizes these separations.

TABLE 9.0: EXAMPLES OF ADULT USE BUFFERS FROM OTHERS

	SENSITIVE USES	OTHER ADULT USES
EVERETT	250'	1000'
FEDERAL WAY	1000'	1000'
KELSO	600'	NA
KENNEWICK	500'	1500'
KING COUNTY	300'	3000'
MUKILTEO	800'	500'
OAK HARBOR	750'	NA
VANCOUVER	1000' 500' residential districts	NA
SNOHOMISH COUNTY	330' and 660' (depending on adult use)	660'
THURSTON COUNTY	330'	NA

Analyzing the buffers that other jurisdictions have chosen in conjunction with an evaluation of the City’s street network and block length has led staff to recommend a minimum distance of 650 feet between adult uses and sensitive uses.

Map 4.0, found on the following page, identifies 650-foot buffers around the sensitive areas the City has identified in Table 8.0.

- 3. SELECTED C-L ZONING SOUTH OF BLACKBURN ROAD.** Analyzing the commercial and industrial zoned property outside of the 650-foot buffer zones placed around sensitive land uses listed in **Table 8.0** lead staff to select the C-L zoned property south of Blackburn Road and east of the Burlington Northern Santa Fe (BNSF) rail line (illustrated on **Map 5.0** that follows) as the least impactful area to locate adult uses.

Staff found that although there were small pockets of commercial and industrial zoned property outside of the sensitive use buffers not within the C-L zoned area south of Blackburn Road and east of the BNSF rail line, many of these areas are in close proximity to commercial and retail uses frequented by minor children and their families. For example, in the northwest part of the City there exists many retailers and restaurants such as Wal-Mart, Lowes Home Improvement, Rite Aid, Burger King, IHOP, among many others.

The City’s adopted Comprehensive Plan contains the following Goals, Objectives and Policies related to buffering incompatible uses, protecting residential neighborhoods, enhancing tourism, and prioritizing the beautification of the City.

LAND USE ELEMENT:

OBJECTIVE LU-1.2 Maintain and enhance the character of existing single-family neighborhoods but not preclude redevelopment and/or new development within established neighborhoods.

Policy LU-1.2.1 Provide development regulations that create a compatible pattern of development within established neighborhoods. The development standards shall address densities, building setbacks, parking and landscaping.

GOAL LU-5 ENHANCE AND IMPROVE THE QUALITY OF SINGLE-FAMILY LIVING ENVIRONMENTS THROUGHOUT THE CITY.

OBJECTIVE LU-5.1 Ensure that new development in the single-family residential designations are designed to provide quality homes and neighborhoods for residents and take care to mitigate impacts of new development on existing neighborhoods.

GOAL LU-6 ENHANCE AND IMPROVE THE QUALITY OF MULTI-FAMILY LIVING ENVIRONMENTS THROUGHOUT THE CITY THAT PROVIDE AREAS THAT OFFER A LARGER RANGE OF HOUSING OPTIONS IN THE FORM OF MULTI-FAMILY UNITS.

Policy LU-6.1.3 Due to increased impacts to privacy and personal living space inherent in higher density living environments, new development shall be designed to create a high quality living environment with ample public open spaces within a walkable urban context.

Policy LU-6.1.4 Evaluate project proposals in residential multi-family designations to consider the transition to lower density uses where multi-family sites abut lower density zones. Setbacks may be increased, heights reduced, and additional landscape buffering required through site plan review.

Policy LU-6.1.5 New multi-family residential projects should demonstrate provisions for an environment that contributes to a high quality of life for future residents, regardless of income level.

Policy LU-8.2.6 Development should be designed to mitigate potential adverse impacts on adjacent properties with different zoning designations (i.e., residential or public zoning). Careful consideration of impacts from lighting, landscaping, and setbacks should all be evaluated during site design.

GOAL LU-9: TO MINIMIZE POTENTIAL NOISE IMPACTS TO THE SURROUNDING RESIDENTIAL NEIGHBORHOOD ALL NON-RESIDENTIAL USES SHOULD BE CLOSED FOR BUSINESS AT REASONABLE TIMES.

GOAL LU-10: DEVELOPMENT REGULATIONS SHALL BE ADOPTED TO REDUCE THE NEGATIVE VISUAL, NOISE, ODOR, AND EXHAUST IMPACTS FROM GARBAGE AND RECYCLING RECEPTACLES, LOADING DOCKS, AND DRIVE THROUGH LANES.

GOAL LU-12: DEVELOPMENT REGULATIONS SHALL BE ADOPTED TO REDUCE THE APPARENT MASS OF LARGER COMMERCIAL BUILDINGS, TO PROVIDE VISUAL INTEREST, AND TO HELP BLEND INTO THE RESIDENTIAL NEIGHBORHOODS IN WHICH THEY ARE LOCATED.

GOAL LU-13: ENSURE THAT COMMERCIAL BUILDINGS ARE IN SCALE WITH THE SURROUNDING RESIDENTIAL NEIGHBORHOODS.

GOAL LU-14: DEVELOPMENT REGULATIONS SHALL BE ADOPTED THAT ENSURE THAT MECHANICAL EQUIPMENT, VAULTS, AND OUTDOOR STORAGE ARE SCREENED TO ENHANCE THE APPEARANCE OF THE COMMERCIAL BUILDINGS WITHIN THE NEIGHBORHOOD COMMERCIAL ZONE.

GOAL LU-15: DEVELOPMENT REGULATIONS SHALL BE ADOPTED THAT BALANCE SAFETY AND SECURITY AND THE RESIDENTIAL NATURE IN WHICH COMMERCIAL USES IN THE C-4 ZONE ARE LOCATED.

HOUSING ELEMENT:

GOAL 1: Promote the preservation, maintenance and enhancement of existing housing and residential neighborhoods throughout the City.

Objective HO-1.1 Promote infill housing that is compatible with abutting housing styles and with the character of the existing neighborhood.

Policy HO-1.1.1 Encourage infill housing on vacant or underutilized parcels having adequate services, and ensure that the infill development is compatible with surrounding neighborhoods.

Policy HO-1.1.2 Adopt development regulations that enhance existing single family neighborhoods by requiring significant changes in density be transitioned near these existing neighborhoods. Ways to transition from higher-density to existing single-family neighborhoods include (but are not limited to) the following: reducing densities and building heights closest to existing neighborhoods; and require landscaping treatments and fencing surrounding higher density developments.

Objective HO-1.2 Enhance the value, character and health of the City's existing housing stock by improving and extending the life of such housing.

Policy HO-1.2.1 In cooperation with Skagit County, the City should encourage the preservation of existing housing. Private investment should be encouraged in older residential neighborhoods, manufactured home parks, and multifamily complexes to ensure the health, safety and affordability of existing housing. Programs supporting weatherization, home repair and rehabilitation, and infrastructure maintenance should be supported.

HEALTH AND WELLNESS ELEMENT:

GOAL HW-2 IMPROVE THE SAFETY OF NEIGHBORHOODS AND PUBLIC SPACES.

Policy HW-2.1 Study ways to improve neighborhood involvement in crime prevention, neighborhood beautification, and the reduction of blight throughout the City.

GOAL HW-4 PRIORITIZE THE BEAUTIFICATION OF THE CITY.

Policy HW-4.2 Make streets, trails and other public spaces more visually appealing and comfortable for the public by ensuring that street trees are planted, landscaping is maintained and regularly inspecting and cleaning these areas.

ECONOMIC DEVELOPMENT ELEMENT:

GOAL 1 HAVE A STRONG PROACTIVE POSITON TOWARDS ECONOMIC PROSPERITY THAT PROMOTES A POSITIVE CIVIC IMAGE AND ESTABLISHES MOUNT VERNON AS A PREFERRED PLACE FOR INVESTMENT.

OBJECTIVE ED-1.5 Have a strong proactive positon towards revitalization of the downtown as a preferred place to live, work, and play.

OBJECTIVE ED-1.5 Enhance and support tourism in Mount Vernon

Policy 1.5.1 Grow the city’s tourism through special events that are consistent with the community’s values.

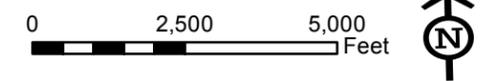
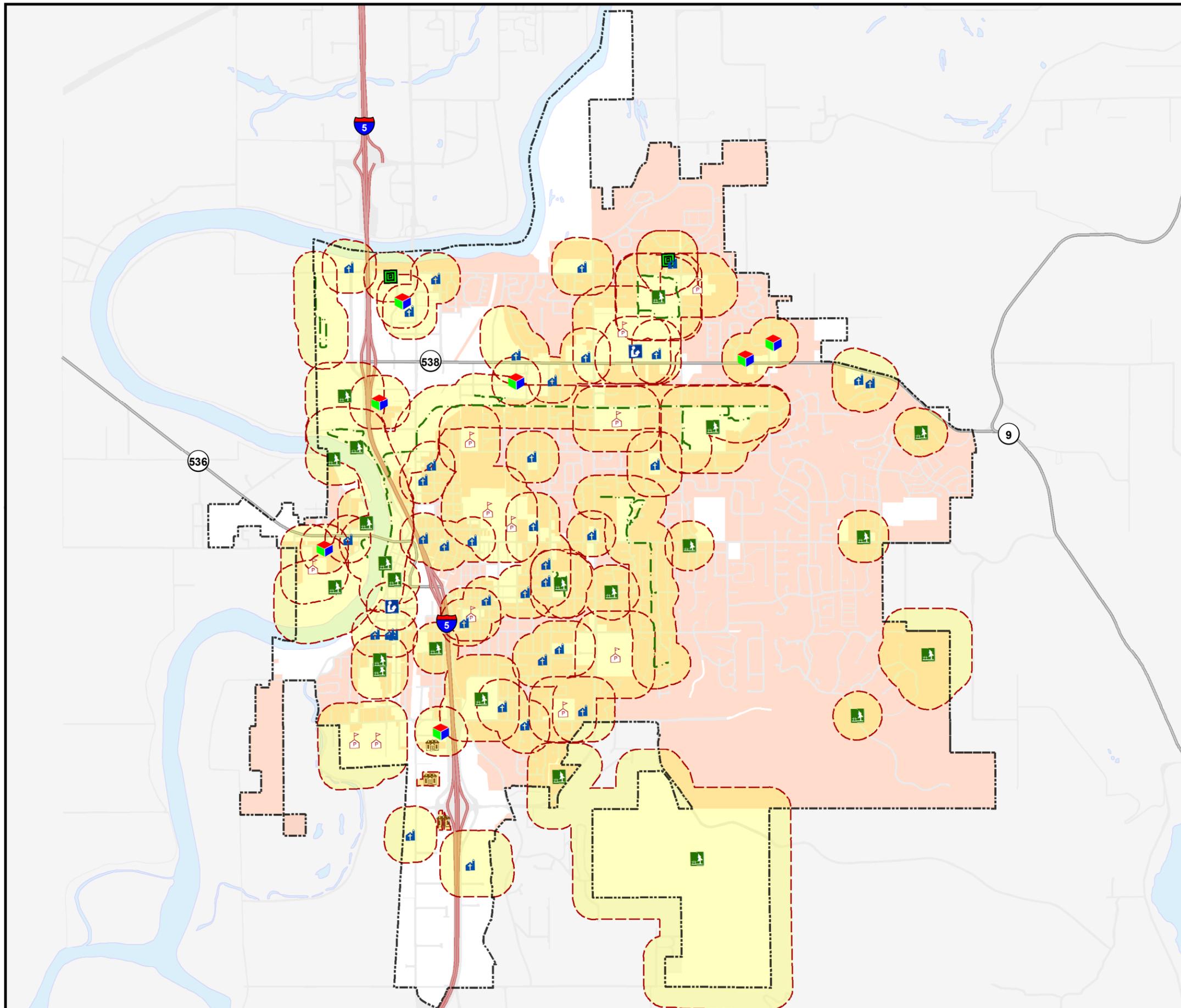
Policy 1.5.2 Promote tourism using multiple media outlets and highlight the community assets.

Policy 1.5.3 Continue to emphasize the City’s connection to its rich history to strengthen our community identity.

The permitted uses in the Commercial-Limited Industrial zone, codified as Chapter 17.56 of the MVMC, includes commercial uses such as retail stores, eating and drinking establishments, theaters, bowling alleys, skating rinks, and other entertainment uses. These types of commercial uses mirror the commercial uses allowed in the City’s Central Business District (C-1) and General Commercial District (C-2).

**"Adult Uses" Planning Study
Map 4.0
Sensitive Areas & Buffers**

-  650' Sensitive Area Buffer
-  Residential Zone
-  City Boundary
-  Water Body
- Sensitive Areas**
-  Park
-  Residential Use
-  Church
-  School
-  Daycare
-  Library
-  Game Arcade
-  Trail



Map updated 10/24/2016 by MV GIS, Parcel data courtesy of Skagit County GIS

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4. **INVENTORY OF C-L ZONED PROPERTY SOUTH OF BLACKBURN ROAD.** To ensure there exists ample opportunities for those wishing to own and operate businesses with adult uses staff completed an in-depth inventory and analysis of the geographic area staff selected as the least impactful area to allow these uses to operate in the City.

To begin this inventory and analysis the following bulleted list of data was collected. All of this data was and analyzed using Geographic Information System (GIS) software.

- Skagit County Assessor’s tax parcels;
- Aerial photography produced in the Spring of 2015;
- Zoning designations;
- Physical improvements on the site (building(s), parking lot(s), storage yards, etc);
- Parcel size;
- Approximate square footage of critical areas including wetlands, streams, and their associated buffers;
- Existing public utilities (sanitary sewer, storm sewer, potable water, power, and lighting);
- Existing public and private roads and associated pedestrian facilities; and,
- Location of the sensitive uses and their associated 650-foot buffers.

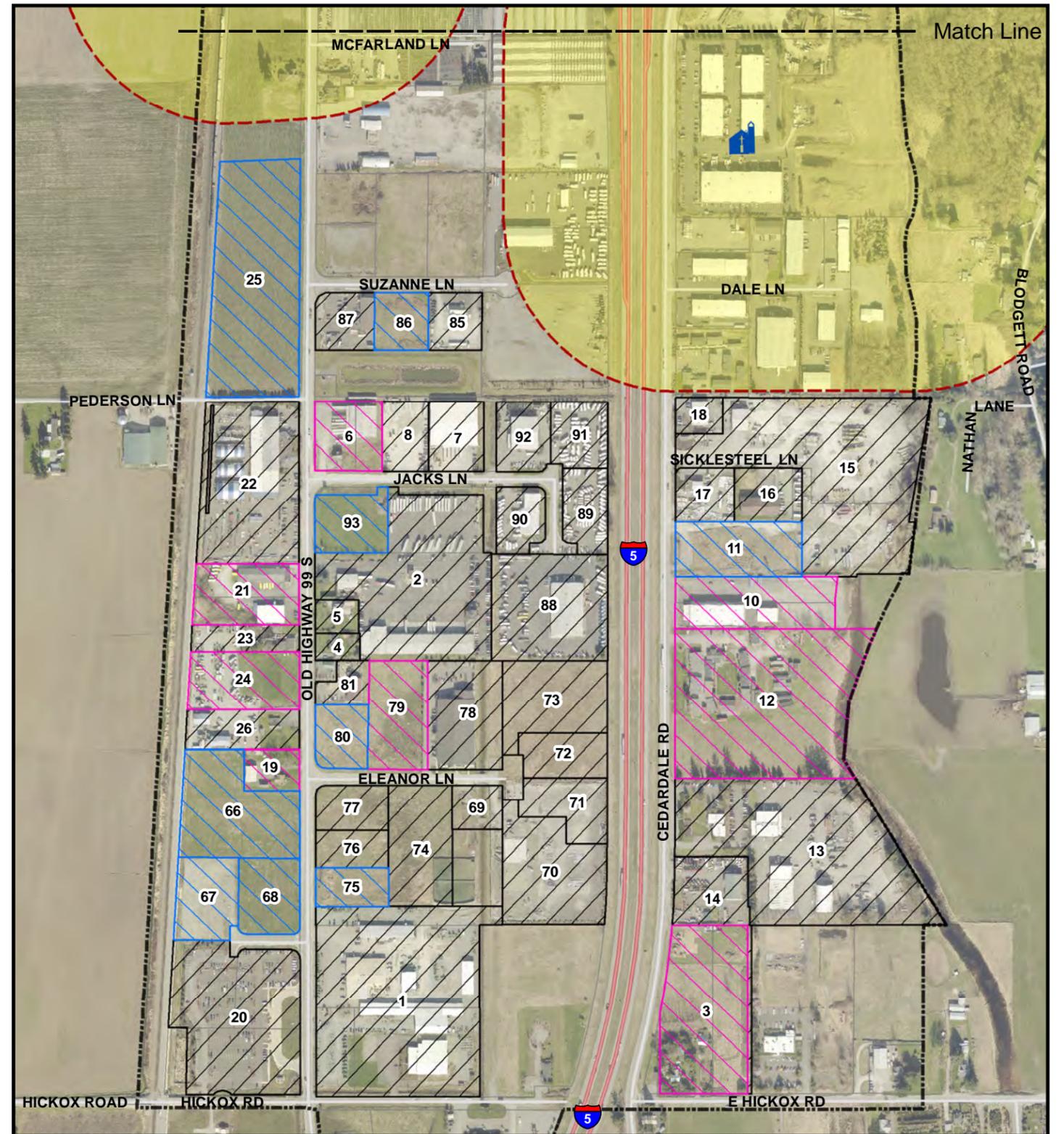
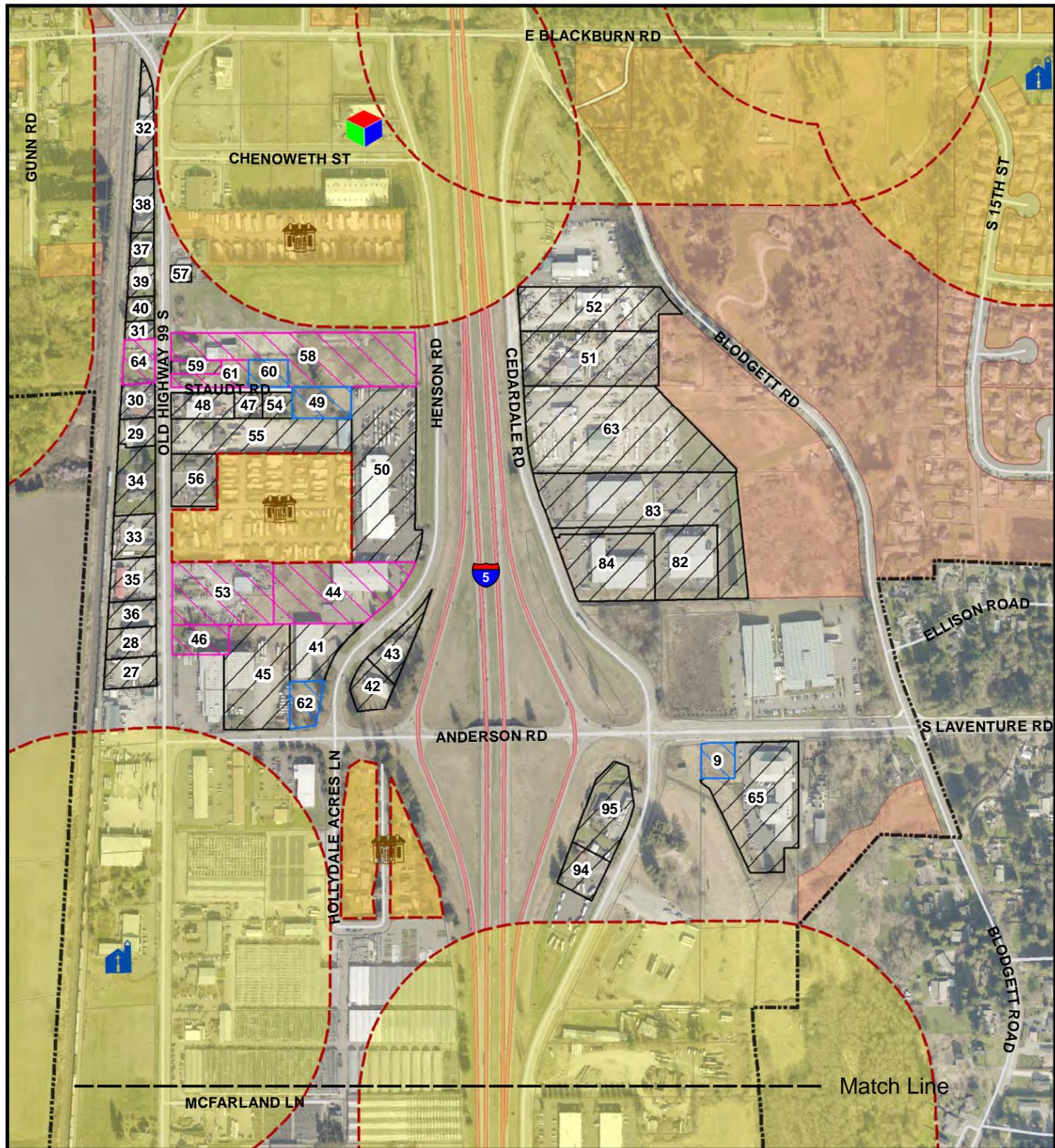
Once the above bulleted list of data was imported into the GIS software staff removed several areas from consideration:

- The sensitive uses and their associated 650-foot buffers that included a daycare center and two churches. If the 650-foot buffer touched part of a nearby parcel that entire parcel was removed from consideration.
- Location of the two existing mobile home parks, and the residential neighborhood accessed by Hollydale Acres Road; and,
- The property where the Skagit County jail is currently under construction.

With the sensitive land uses and their assigned buffers, existing parcels used for residential purposes, and the jail property removed staff was left with 95 sites needing to be evaluated further. The term “site” is used here to describe one or more Skagit County Assessor parcels; in many locations multiple contiguous assessor parcels with overlapping uses under common ownership were logically combined into single sites, e.g. the two parcels comprising the Barnhardt Crane property were combined into a single site.

These 95 remaining sites were then separated into three categories described below and shown on **Map 5.0** that follows.

1. Sites that had existing structures and parking lots such that no new buildings could be constructed – these were labeled as “fully-developed” sites;
2. Sites that have at least 10,000 square feet of un-encumbered property where new buildings and parking areas could be constructed – these were labeled as “partially-developed” sites; and
3. Sites that have not been developed with buildings, parking, etc – these were labeled as “vacant” sites.



"Adult Uses" Planning Study
Map 5.0
C-L Property South of Blackburn

Sensitive Areas

- Park
- Alcohol Sales
- Residential Use
- Church

Facilities

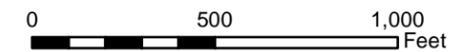
- School
- Daycare
- Library
- Game Arcade

Parcel Types

- Trail
- South MV Vacant C-L Parcel
- South MV Partially-Developed C-L Parcel
- South MV Fully-Developed C-L Parcel

Other Features

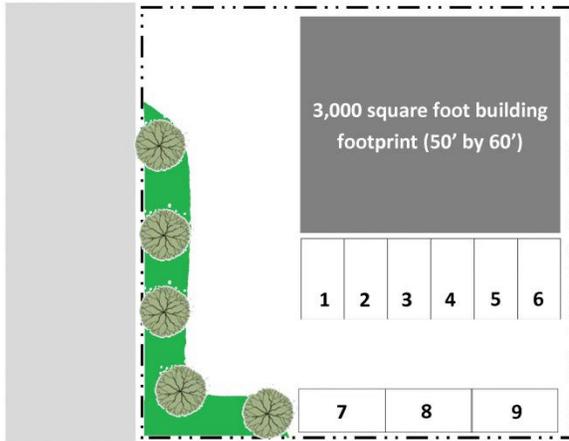
- 650' Sensitive Area Buffer
- Residential Zone
- City Boundary
- Water Body



Map updated 10/25/2016 by MV GIS, Parcel data courtesy of Skagit County GIS

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A 10,000 square foot lot size was chosen as the ideal lot size for a standalone development after evaluating dozens of commercial/industrial lots that are already developed and finding that a building with a 3,000 square foot footprint, with code compliant parking and landscaping could be developed on a 10,000 square foot lot. Please note that a 3,000 square foot building footprint means that a second or third story could be constructed that would double or triple the square footage of the hypothetical commercial/industrial building. Following is an illustration of how a building footprint, parking and landscaping could all be developed on a 10,000 square foot lot.



- 100' by 100' site shown
- 3,000 s.f. building footprint
- 9 parking stalls = 10' by 20'
- 10' landscape along front yard

All three categories of sites (fully-developed, partially-developed, vacant) were also evaluated to ensure that infrastructure to serve these sites was reasonably available; which staff defined as being within 100± feet of a site. The infrastructure that was inventoried included public and private roads, pedestrian access, lighting, potable water, sanitary and storm sewers and power. This reasonably available infrastructure analysis resulted in five Hickox Road sites totaling over 23 acres in size being removed from consideration prior to evaluation of aforementioned existing uses and critical area buffers.

The flowchart on the next page summarizes the steps staff took in making a determination about whether or not a particular parcel was available for future development or re-development.

1. PROPERTY DATA ON THE COMMERCIAL-LIMITED ZONE PARCELS SOUTH OF BLACKBURN ROAD COMPILED

2. All locations were evaluated for city-standard access road(s) and public utilities within 100 ± feet of the site. Parcels not meeting this test were removed from further study.

3. Quantified site area and square footage of physical improvements (buildings, parking lots, storage yards, stormwater ponds, etc)

4. Identified location of streams and wetlands and their associated buffers and removed these areas from consideration for future development.

5. Vacant sites, and sites with 10,000 s.f. or more of area not encumbered with buildings, parking lots, critical areas, and other similar improvements, were identified as available for development.

6. Sites with existing buildings that could be repurposed for uses other than those they are currently used for were also identified as available for re-development.



When evaluating the subject parcels staff made efforts to determine whether or not a developed parcel was encumbered with a long-term lease. This was done by pulling available title reports and reading through deed histories available by the Skagit County Assessor’s office for parcels identified on **Map 5.0**.

Nearly all of the parcels within the area being evaluated are within the 100-year floodplain as shown on **Map 6.0**. FEMA identifies the flood zone these areas are located in as Zone AO (Depth 1) at the far north of the area closest to Blackburn Road and Zone AO (Depth 2) across the remaining areas. Just because property is located in a flood zone it is not precluded from development. Rather, the City’s development regulations (Chapter 15.36 of the MVMC, that are subject to continued review and approval by FEMA and the WA State Department of Ecology) require property developed in these flood zones to either elevate their buildings or flood proof them. In the AO (Depth 1) zone the finished floor of a building (not parking areas – just buildings) is required to be elevated two foot above the average adjacent grade or have the first two feet above grade flood proofed and in the AO (Depth 2) zone the finished floor of a building is required to be elevated three feet above the average adjacent grade or have the first three feet above grade flood proofed.

Accompanying this study in **Appendix B** is a spreadsheet of the parcels that staff has identified as being reasonably available to be developed for adult uses. In addition to the spreadsheet there are copies of as-built maps proving the availability of infrastructure, site specific wetland reports, and documentation of the location of type of streams that flow through this area.

Table 10.0 summarizes the total number and acreage of sites available on property zoned C-L south of Blackburn Road and east of the BNSF rail line shown on Map 5.0.

TABLE 10.0: SUMMARY OF SITE THAT COULD BE DEVELOPED WITH ADULT USES

	# OF SITES AVAILABLE FOR DEVELOPMENT OR RE-DEVELOPMENT	# OF SITES AVAILABLE FOR DEVELOPMENT OR RE-DEVELOPMENT
FULLY DEVELOPED SITES THAT COULD HAVE A NEW TENANT	68	123.7 acres
PARTIALLY DEVELOPED SITES THAT COULD ACCOMMODATE AT LEAST A 10,000 S.F. NEW DEVELOPMENT (BUILDING + PARKING + LANDSCAPING)	14	33.5 acres
VACANT SITES THAT COULD ACCOMMODATE AT LEAST A 10,000 S.F. NEW DEVELOPMENT(BUILDING + PARKING + LANDSCAPING)	13	21.7 acres
TOTAL OF ALL CATEGORIES	95	178.8 acres

With the information found in **Appendix B**, shown on **Map 5.0**, and summarized in **Table 10.0** staff is able to calculate the percentage of the City’s overall commercial/industrial acreage potentially available for adult uses as well as the number of sites potentially available in relation to the City’s population as follows.

TABLE 11.0: POTENTIAL ADULT USE AREAS & RELATIONSHIP TO POPULATION & ACREAGE

2015 POPULATION ¹	# SITES AVAILABLE FOR ADULT USES ²	RATIO
33,350	95	1 available site per every 351 people

CITY WIDE COMMERCIAL AND INDUSTRIAL ACREAGE ³	TOTAL ACREAGE AVAILABLE FOR ADULT USES ²	PERCENT
1,038	178.8	17.2%

¹ 2015 population: Office of Financial Management (2016, April 1). Population of Cities, Towns and Counties Used for Allocations of Selected State Revenues State of WA.

² See page 28, Map 5 and Appendix B of this report for this data

³ See page 14, Table 5.0, aggregate of C-2, C-L, M-1, and M-2 zones

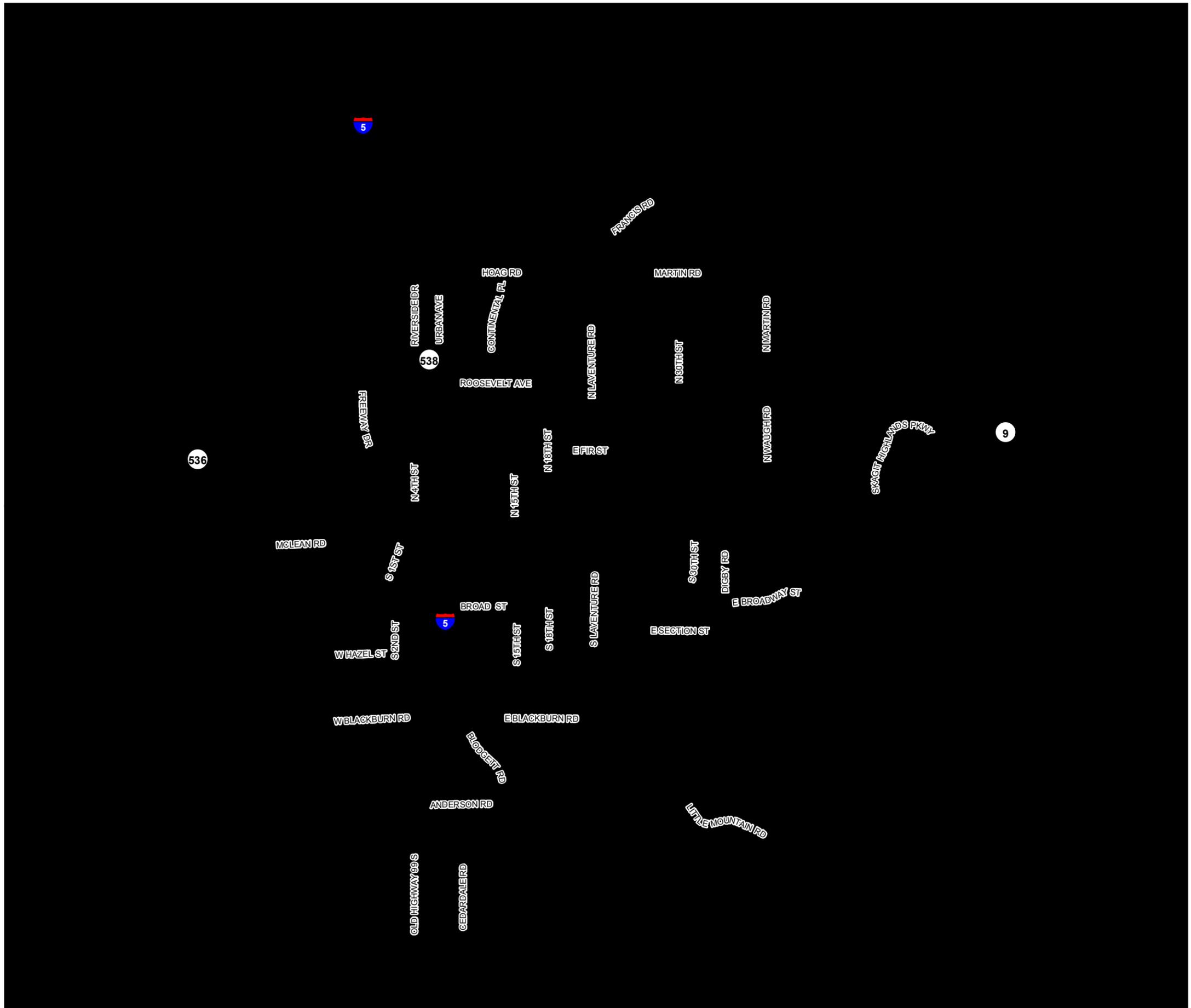
TABLE 12.0: COMPARISON OF MOUNT VERNON ADULT ENTERTAINMENT USE AREAS TO OTHER JURISDICTIONS

JURISDICTION	RATIO OF SITES AVAILABLE FOR ADULT USES TO POPULATION	PERCENT OF JURISDICTION WIDE COMMERCIAL/INDUSTRIAL ACREAGE AVAILABLE FOR ADULT USES
Mount Vernon	1 available site per every 351 people	17.2%
Snohomish County ¹	1 available site for every 3,805 people	7%
San Diego County ¹	1 available site per every 6,911 persons	4.46%
City of Everett	1 available site per every 3,522 persons ^{2,3}	NA

¹ McKibben v. Snohomish County, 72 F. Supp. 3d 1190 (2014) – court case cites the ratio and percentages listed within this table

² Wallock v. City of Everett, Central Puget Sound Growth Management Hearing Board, WA State, Case No. 96-3-0025, Final Decision and Order. This case references the fact that Superior Court Judge Anita Farris made findings in the related Superior Court case including that she found there were 24 parcels of lots to choose from.

³ In 1996 when the above referenced Wallock v. City of Everett case (No. 96-3-0025) was heard by the Central Puget Sound Growth Management Hearings Board the population of the City of Everett was listed at 84,534 by the Office of Financial Management in their Intercensal Estimates of April 1 Population and Housing, 1990-2000.

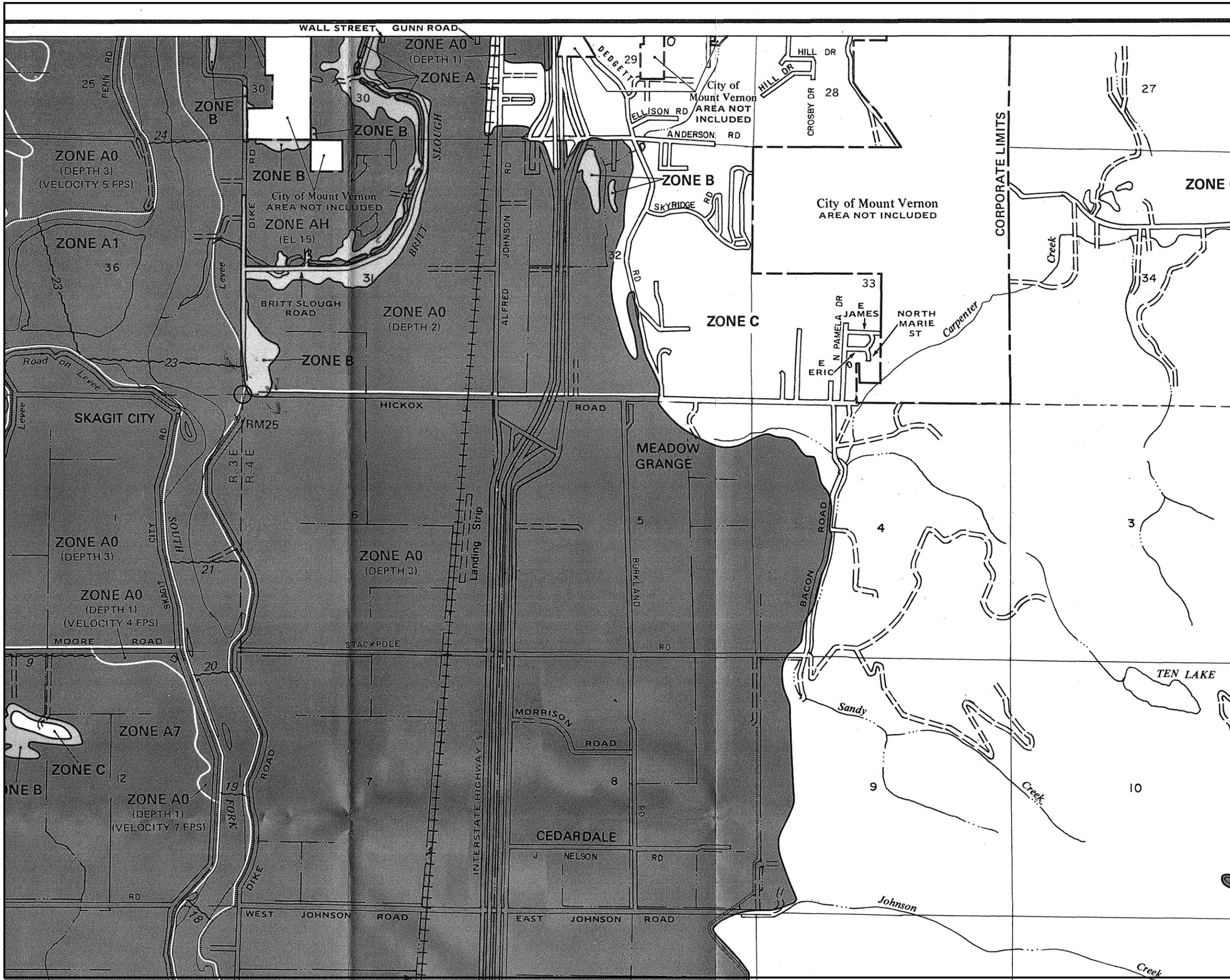


**"Adult Uses" Planning Study
Map 6.0A
FEMA 100-year Floodplain**

-  FEMA 100-yr Floodplain
-  City Boundary
-  Water Body



Map updated 10/25/2016 by MV GIS, Parcel data courtesy of Skagit County GIS
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APPROXIMATE SCALE
 2000 0 2000 FEET

NATIONAL FLOOD INSURANCE PROGRAM

**FIRM
 FLOOD INSURANCE RATE MAP**

**SKAGIT COUNTY,
 WASHINGTON
 (UNINCORPORATED AREAS)**

**PANEL 425 OF 550
 (SEE MAP INDEX FOR PANELS NOT PRINTED)**

**"Adult Uses" Planning Study
 MAP 6.0B**

**COMMUNITY-PANEL NUMBER
 530151 0425 C**

**EFFECTIVE DATE:
 JANUARY 3, 1985**



Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at www.msc.fema.gov