

**RECORD OF PROCEEDINGS OF THE  
WHATCOM COUNTY PLANNING COMMISSION  
February 28, 2019**

Regular Meeting

1

1 **Call To Order:** The meeting was called to order, by acting Whatcom County Planning  
2 Commission Chair, Kelvin Barton, in the Whatcom County Northwest Annex at 6:30  
3 p.m.

4  
5 **Roll Call**

6 Present: Stephen Jackson, Kimberley Lund, Robert Bartel, Dominic Mocerri, Gary  
7 Honcoop, Jon Maberry, Kelvin Barton

8 Absent: Natalie McClendon, Atul Deshmane

9  
10 **Staff Present:** Matt Aamot, Mark Personius, Becky Boxx

11  
12 **Department Update**

13  
14 Mark Personius deferred the department update to Mr. Aamot's presentation of the  
15 work program later in the meeting.

16 Commissioner Bartel was welcomed as the newest member to the Planning  
17 Commission.

18  
19 **Open Session for Public Comment**

20  
21 There was no public comment.

22  
23 **Commissioner Comments**

24  
25 There were no commissioner comments.

26  
27 **Approval of Minutes**

28  
29 **Commissioner Lund moved to approve. Commissioner Honcoop seconded. The**  
30 **motion carried (ayes-5, nays-0, abstain-2)**

31  
32 **Annual Business Meeting**

33  
34 Election of Chairperson: Commissioner Honcoop nominated Commissioner Barton.  
35 Commissioner Mocerri seconded. The motion carried.

36  
37 Election of Vice-Chairperson: Commissioner Honcoop nominated Commissioner Lund.  
38 Commissioner Jackson seconded. The motion carried.

39  
40 **Review of Business Rules**

41  
42 Commissioner Lund asked for clarification regarding Section 7: Conflict of Interest and  
43 Appearance of Fairness, in the 2019 Business Rules. She asked who would accept a  
44 submission if one of the commissioners were to receive something, such as a written  
45 document.

46

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1 Ms. Boxx clarified that the submission would go to herself or Ashley Ubil, the Planning  
2 Commission Secretary, so the documents could be distributed to all members.

3  
4 Commissioner Lund addressed that her name was spelled incorrectly in the 2019  
5 Business Rules and requested that it gets corrected.

6  
7 Commissioner Mocerri addressed that the date on the Business Rules was listed  
8 incorrectly and requested that it gets corrected.

9  
10 Commissioner Honcoop stated that the incorrect date was due to the original business  
11 meeting being postponed due to inclement weather.

12  
13 **Commissioner Honcoop moved to adopt the 2019 Business Rules as is.**  
14 **Commissioner Jackson seconded. The motion carried (ayes-7, nays-0,**  
15 **abstain-0)**

16  
17 **Proposed Work Program**

18  
19 Matt Aamot presented an overview of the 2019 Long Range Planning Work Program.

20  
21 This proposal was for informational purposes so the commission would be aware of  
22 upcoming agenda items. Items are numbered 1-35.

23  
24 Number 1: Simply the docket. Under County Code on an annual basis, people can  
25 submit applications or the Council and Planning Commission can request docketing  
26 items. This year's docket will go to Council on March 12, 2019. There are seven new  
27 items on the docket, which have the "PLN2019" file number associated with them. The  
28 proposed amendment to allow motorized trails in the commercial forestry zone was  
29 withdrawn, and the project will not be coming before the Planning Commission.

30  
31 Number 2: This is a private application for a mineral resource lands expansion south of  
32 Everson. It is approximately 21 acres. The underlying zoning is Rural 5 Acre. Council  
33 will decide whether to docket it for review.

34  
35 Number 3: This is also a private application for a mineral resource lands expansion  
36 east of Nooksack. It is approximately 22.8 acres. The underlying zoning is Rural 5  
37 Acre. Council will also decide whether to docket it for review.

38  
39 Number 4: The final private application is to amend the Comprehensive Plan from  
40 Mineral Resource Land to Rural Forestry for the Nooksack Falls exclave off of Mt. Baker  
41 Highway. This is approximately 66 acres. It would also amend the zoning code to allow  
42 certain conditional uses that are already allowed in other specific areas in the foothills.  
43 This would include, but is not limited to, educational meeting facilities, rental cabins,  
44 logging structures, cooking/dining facilities, retail sales, and supplies and gifts.

45  
46 Number 5: This is regarding the Lummi Island Ferry Amendments that was brought to  
47 the Planning Commission in January. The commission recommended approval of those

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1 amendments to modify the Comprehensive Plan ferry level of service and deleting the  
2 ferry feasibility study because it was already completed.

3  
4 Number 6: This involves the density credit program relating to zoning code  
5 amendments. Basically density credits are similar to transfer of development rights.  
6 They allow developers to access incentives, such as a density bonus, if they pay into  
7 the purchase of development rights fund. For example, a developer may be able to get  
8 more houses on the property and the money would go to the PDR fund, and the PDR  
9 administrator would use the funds to preserve land in agricultural or rural areas. This  
10 project would amend the zoning code to implement recommendations to the TDR/PDR  
11 Work Group. They issued the final report in October 2018. The recommendations were  
12 discussed with Council in January and February of 2019. Council recommended  
13 docketing two items: (1) Modify the Urban Residential 4 unit per acre zone in Birch  
14 Bay. If a developer or land owner were to purchase density credits they could go from  
15 4 units per acre to 5 or 6 units per acre. (2) This would allow accessory dwelling units  
16 to become larger with the purchase of density credits. They would go from 1,248  
17 square feet to 1,748 square feet. King County has a similar system in place.

18  
19 Number 7: Whatcom County Code amendments. This is a general task that allows  
20 issues that come up throughout the year to be addressed to the Planning Commission  
21 as needed.

22  
23 Number 8: The last new application involves the Point Roberts Subarea Plan and Point  
24 Roberts Special District. There will be some recommendations from the Advisory  
25 Committee in Point Roberts that have not been received yet.

26  
27 The remaining items on the Work Program have already been docketed or do not need  
28 to be docketed.

29  
30 Number 9: This involves the Ag Strategic Plan implementation. County Council  
31 approved Resolution 2018-027 in August declaring support for the new Ag Strategic  
32 Plan which has gone through the Agricultural Advisory Committee. They are looking for  
33 additional ways to preserve agricultural land.

34  
35 Number 10: The Mineral Resource Lands County-wide designation process. County  
36 Council adopted the policy in 2016. Historically, the County received MRL applications  
37 in different places from individual land owners. The County wanted to have a County-  
38 wide process of looking at designating Mineral Resource Lands. There are several  
39 studies to show where gravel and mineral resources are and staff is working with the  
40 Surface Mining Advisory Committee with the process.

41  
42 Number 11: Mineral Resource Lands expansion on North Star Road. This is currently on  
43 hold because additional information is needed from the applicant.

44  
45 Number 12: Critical Areas Ordinance – on-going agriculture. The ordinance that  
46 adopted the Critical Areas Ordinance in 2017 included a section that had the Planning  
47 department working with the farming community to develop solutions that allowed

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1 farmers to maintain ongoing agriculture. The Critical Areas Ordinance was appealed, so  
2 this item is on hold until it gets resolved.

3  
4 Number 13: Code Enforcement amendments. This would be working with Code  
5 Enforcement staff to consolidate different enforcement provisions in WCC 15, 16, and  
6 20 into a new code 22.15 called code compliance procedures.

7  
8 Number 14: Shoreline Management Program update. Under state law, the County is  
9 required to update our program by June 2020. The County is in the process of hiring a  
10 consultant to assist with the process. This will have to be approved by Council and the  
11 Department of Ecology at the state level.

12  
13 Number 15: This is another density credit issue. This related to the Comprehensive  
14 Plan policy that went to the Planning Commission last year and was approved. It is in  
15 concurrent review, but is waiting for other Comprehensive Plan amendments to catch  
16 up.

17  
18 Number 16: Cherry Point Amendments. Council docketed this item in February 2018,  
19 Resolution 2018-005. They have been working on these amendments since May 2018.  
20 They decided in January 2019 that they would like to hire a legal counsel to develop or  
21 review Comprehensive Plan policies and zoning regulations. They are anticipating that  
22 this will come to the Planning Commission this year.

23  
24 Number 17: Repealing the Cherry Point-Ferndale Subarea Plan. This is a plan from  
25 1981. This came to the Planning Commission last July, but was requested to be put on  
26 hold until the Cherry Point Amendments were resolved.

27  
28 Number 18: Wind Energy. This was proposed by a Planning Commissioner last year to  
29 revise the wind energy system section of code. Nothing has been done in regards to  
30 this yet.

31  
32 Commissioner Honcoop asked if this item has been docketed by the Council.

33  
34 Mr. Personius stated that it was docketed last year.

35  
36 Commissioner Honcoop asked if staff has been instructed to move forward on this  
37 issue.

38  
39 Mr. Personius stated no.

40  
41 Number 19: This involves the Sustainable Salmon Harvest Goal. This would amend the  
42 Comprehensive Plan to work with the Lummi Nation, Nooksack Tribe, and State Fish  
43 and Wildlife to establish a sustainable salmon harvest goal for the County.

44  
45 Number 20: The State Legislature in 2017 amended the Growth Management Act. Prior  
46 to 2017, there were 6 counties that were subject to review and evaluation programs,  
47 also called Buildable Land Requirements. In 2017, the State Legislature amended the

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1 statute and included Whatcom County as the 7<sup>th</sup> county involved. There will be a  
2 number of things involved with this. One is updating the County-wide planning policy.  
3 The statute also requires annual collection of data, such as building permits, number of  
4 residential units, square footage of various structures, and things like that. The County  
5 has hired a consultant to assist with this. The County will have to produce a report by  
6 June 2021, which will look back to see if the densities achieved over the last 5 years  
7 match the planned densities, and will look forward to see if based on the UGA  
8 densities, do we have enough suitable land in the UGA to accommodate growth in the  
9 planning period. It also looks to see if there are any needed changes, or reasonable  
10 measures, that might need to be taken. This report will feed into the Comprehensive  
11 Plan update that is due June 2024.

12  
13 The next couple items are monitoring loss of agriculture land and monitoring loss of  
14 forestry land. Those are associated with policies in the Comprehensive Plan and are  
15 ongoing tasks.

16  
17 Number 23: The Public Participation Plan. After the docket is approved by Council, the  
18 County will prepare a Public Participation Plan. This will categorize projects on the  
19 docket in levels 1, 2, or 3. Level 1 is the basic process. Level 2 has alternatives. Level  
20 3 has alternatives and a town hall meeting in addition to the normal hearing.

21  
22 Number 24: Annexation Review. This is an ongoing task that is taken care of within the  
23 County. Currently, there are outstanding annexations from Bellingham, Ferndale, and  
24 Everson.

25  
26 Number 25: Relates to the Columbia Valley UGA in the County. The subarea plan was  
27 finalized in 2011. There was a policy within the plan to look at infrastructure, utility,  
28 and service needs to establish a Light Impact Industrial zone. This will eventually come  
29 before the Planning Commission.

30  
31 Number 26: Open Space/Current Use Tax Program. This is an ongoing program that  
32 people can apply for to reduce taxes on their properties.

33  
34 Number 27: Growth Monitoring Report. The County has policies in the Comprehensive  
35 Plan that discusses monitoring growth both in the UGA and in the rural areas. This  
36 report is completed every November.

37  
38 Number 28: Water and Sewer Plan Review. This is an ongoing task as needed. The  
39 water and sewer districts periodically update their plans and the County tries to ensure  
40 that their population protections and service are consistent with the land use plan.

41  
42 Number 29: Purchase of Development Rights (PDR) Program/Committee. The PDR  
43 administrator for the County provided Mr. Aamot the information that in 2018, 235  
44 acres were protected through the PDR program, 4 easements and the purchase of 12  
45 development rights. The Council has approved the purchase of 4 additional easements.

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1 The next few items discuss the committees that the Planning and Development  
2 department staffs, including the Ag Advisory Committee, Climate Impact Advisory  
3 Committee, Forestry Advisory Committee, Planning Commission, Surface Mining  
4 Advisory Committee, and the Wildlife Advisory Committee. These committees all look  
5 at different topics.

6  
7 This completed the rundown of the Long Range Planning work program.

8  
9 Commissioner Honcoop asked what the total acreage amount is for the PDR Program in  
10 Whatcom County.

11  
12 Mr. Aamot stated that he is unsure of the exact amount, but that there is a report that  
13 includes this information that he would like to reference prior to answering the  
14 question.

15  
16 Mr. Personius stated that Chris Elder (PDS staff) received a grant of about \$1.3 million  
17 from a variety of federal agencies to offset the cost of purchasing the easements. This  
18 money became available to expand development rights to include certain forest lands  
19 as well as agriculture land.

20  
21 Mr. Aamot stated that historically, the County used the Conservation Futures fund, but  
22 there has been a lot of matching funds from the federal government to assist with  
23 these purchases.

24  
25 Mr. Personius stated that the upcoming Planning Commission schedule has been  
26 changed and delayed due to Cherry Point Amendments and unmaterialized anticipated  
27 items. Looking ahead, there are a lot of items that will be on the schedule, but it is a  
28 matter of when the topics are able to be brought forward.

29  
30 Commissioner Honcoop asked if the upcoming CAO issue is related to the appeals.

31  
32 Mr. Personius stated that it is not related to the appeal. The Department of Ecology  
33 updated their wetland buffer guidelines. They changed how they evaluate habitat  
34 functions and have a new scoring sheet. It has the effect of lowering buffers on certain  
35 lower quality wetlands and increasing buffers on certain higher quality wetlands. This  
36 will be brought to the Planning Commission in March. The appeal of the CAO is still in  
37 the process of discussion and nothing has been decided at this time.

38  
39 Mr. Honcoop asked Mr. Personius what items he anticipates coming to the docket,  
40 specifically the Mineral Resource Lands item on North Star Road.

41  
42 Mr. Personius stated that in the 2016 Comprehensive Plan updates there was a  
43 discussion of the MRL designation process. At this time it is driven by the property  
44 owners and is not an easy process. The miners believe this is a very difficult process as  
45 well. The hope is that the process will become more streamlined. The Council had  
46 asked if the County could go out and designate areas for MRL extraction so the miners

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1 were only tasked with retrieving the permit. This process is slowly being worked  
2 through.

3  
4 Commissioner Honcoop stated that this issue was addressed by the Planning  
5 Commission about 5 or 6 years ago and feels that the County should take on processes  
6 similar to those of Skagit County.

7  
8 Mr. Personius stated that the PDS staff member in charge of the Surface Mining  
9 Advisory Committee has been having a difficult time with the process due to members  
10 of the committee coming to term and catching new members up to speed. Another  
11 issue is that the majority of the quality gravel is located under agriculture lands. Mr.  
12 Personius then asked what the greater resource is to protect – the agriculture land or  
13 the gravel.

14  
15 Commissioner Honcoop stated that in the history of gravel removals, there can be  
16 some benefit between the agriculture land and the mining if it is done correctly. Past  
17 commissioners have argued that that is not the case. There have been some successful  
18 cases, such as the corner near Meridian Middle School, and Pole Road.

19  
20 Mr. Personius stated that he expects that there could be incremental expansions of  
21 those existing mines.

22  
23 Commissioner Honcoop stated that the consumption rate of aggregates is far being  
24 exceeded by what is being put on for availability. There will be a crossroads at some  
25 point and there will likely be a significant shortage. Whatcom County has been viewed  
26 as a resource for these minerals, but the MRL extraction is a concern.

27  
28 Mr. Personius stated that Josh Fleishman (PDS staff) is working on it and it will  
29 hopefully come to fruition shortly.

30  
31 Commissioner Barton asked if that was the end of the staff report.

32  
33 Mr. Personius stated no, but wanted to address that the March 14<sup>th</sup> meeting will  
34 discuss CAO buffer amendments. He also stated that the County has been receiving  
35 inquiries from solar manufacturers interested in establishing solar farms. Also, the SMP  
36 update is moving forward. There will be a workshop with the Planning Commission in  
37 the spring.

38  
39 Mr. Aamot stated that the FCC came out with some rules which discuss the roll out of  
40 5G and trying to facilitate that. Some of it may be within the right of way. The 5G is a  
41 smaller unit that can potentially be attached to a telephone pole. There have been  
42 some appeals to the FCC rules, so some jurisdictions are waiting to move forward.

43  
44 Mr. Personius wanted to update the commission on vacation rental regulations. The  
45 Planning and Development department has been discussing it with the Council over the  
46 last few months. The Council has decided to put this issue on hold for the time being to  
47 see how state legislature reacts to the issue.

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Mr. Aamot stated that the Cherry Point Amendments will likely be the largest upcoming item. These meetings will include town hall meetings because it is a level 3 item.

Mr. Personius stated that those meetings will likely take place in the Council Chambers.

The meeting was adjourned at 7:20 p.m.

Minutes prepared by Ashley Ubil.

WHATCOM COUNTY PLANNING COMMISSION ATTEST:



Kelvin Barton, Chair



Ashley Ubil, Secretary