

CLEARANCES	Initial	Date	Date Received in Council Office:	Agenda date	Assigned to:
Originator: Dan Taylor	D.T.	3/17/95		3/28/95	Council
Division Head: Dan Taylor	D.T.			4/11/95	Council
Dept. Head: Nate Brown	N.B.			4/25/95	Council
Prosecutor:					
Purchasing/Budget:					
Executive:	h.g.				

**SUBJECT:** File #05-93:CZM Ordinance Amending the Text and Map of the Birch Bay-Blaine Subarea Plan From Rural to Light Impact Industrial (LII) for Approximately 440 Acres

**ATTACHMENTS:** Proposed Ordinance  
 Original Staff Report with MDNS and Other Attachments  
 February 20, 1995 letter from Maurice Knight

**SUMMARY STATEMENT:** Please complete sections of box as appropriate & explain the item below.

Related County contract #: n/a	Should Clerk schedule a hearing? NO /X/ YES / / Requested date:
Amount budgeted for this item/project: \$ n/a	Is it (or will it be) within budget? YES / / NO / / (Please explain below) n/a
Budget line item number(s): n/a	

The Planning Commission recommendation on these amendments was negative. Therefore Council is required to hold a hearing if it desires the flexibility to consider approval. The proposed ordinances were prepared for consideration at the hearing which has been scheduled for April 11, 1995.

The staff report submitted to the Planning Commission with the Mitigated Determination of Non-significance and other attachments provide background information. The files contain additional public input pro and con received by the Planning Commission. See Agenda Bill 95-25 in the January 10 Council packet for additional information including Planning Commission minutes.

The Findings and Conclusions were those drafted by staff as part of the staff report. If Council chooses to recommend approval of this request, the findings also should be reviewed to insure they represent the Council's position. One property owner has his property split by the original request (see attached letter). Council may wish to add his additional, approximately 18 acres.

**ORIGINATOR'S RECOMMENDED ACTION:** For Council Determination

**COMMITTEE ACTION TAKEN:**

**COUNCIL ACTION TAKEN:**

- 3/28/95: Introduced
- 4/11/95: Tabled until 4/25/95. Public comment held open until 4/18/95
- 4/25/95: Amended and adopted 4-3 with Brenner, Harris, and Henderson opposed.

SPONSORED BY: Planning

PROPOSED BY: Council

INTRODUCTION DATE: 3/28/95

ORDINANCE NO. 95-022

AN ORDINANCE AMENDING THE MAP OF THE BIRCH BAY - BLAINE SUBAREA TO INCORPORATE THE LIGHT IMPACT INDUSTRIAL ZONE DISTRICT AND TO REDESIGNATE APPROXIMATELY 440 ACRES FROM RURAL ONE UNIT PER TEN ACRES (R10A) TO LIGHT IMPACT INDUSTRIAL (LII)

**WHEREAS**, a group of property owners represented by Philip Serka have requested to amend the Birch Bay-Blaine Subarea Comprehensive Plan Map and official Whatcom County Zoning Map from a rural comprehensive plan designation and a Rural One Dwelling Unit per Ten Acres zone to a Light Industrial designation and zone for approximately 440 acres bounded, generally, by Birch Bay-Lynden Road on the north, Portal Way and the Burlington Northern Railroad on the east, and Arnie Road on the south. The western boundary follows property lines approximately one-half mile west of Valley View Road; and

**WHEREAS**, a Mitigated Determination of Non-significance (MDNS) was issued by the Deputy SEPA Responsible Official on July 13, 1994; and

**WHEREAS**, pursuant to RCW 36.70.590 legal notice was published in the Bellingham Herald on Thursday, July 14, 1994; and

**WHEREAS**, Planning Commission held a public hearing on July 27, which was continued to September 21, 1994; and

**WHEREAS**, because the audio tapes of the September 21 continuation were stolen, the Planning Commission held an additional public hearing on October 25, 1994; and

**Whereas**, after due deliberation at a work session on November 9, 1994, the Planning Commission recommended denial of the request; and

**WHEREAS**, the Council held a public hearing on April 11, 1995 to further consider the matter and approved the request; and

**WHEREAS**, the Council found the amendments in the best interest of the public health, safety, and welfare; and

**WHEREAS**, the Council has adopted the following Findings and Conclusions:

**FINDINGS**

1. The property requested for a map amendment is located in the Birch Bay/Blaine Subarea. The comprehensive plan for this subarea addresses the desirability of future rezoning to LII where rail access is available and other criteria can be met.

- 1 2. The property is designated Rural and zoned R-10 which allows for a variety of uses.  
2 Present uses include a rail spur, residential, a dairy, grazing, and other limited  
3 agricultural use.  
4
- 5 3. Since the original zoning of the property in 1987, there has been a substantial  
6 change of circumstances to justify rezoning the property to LII:  
7
  - 8 a. The adoption of the Free Trade Agreement between the U.S. and Canada  
9 has increased the demand for a prime transportation location for industry.  
10
  - 11 b. Amtrak service has been financed and will service the Northwest. Train  
12 traffic on the existing B N line will increase to an additional three round trips  
13 per day by 1998.  
14
  - 15 c. High Speed Rail - The railroad line in question has been identified as part of  
16 five high speed rail corridors established by the Federal government. As a  
17 result, funds will be allocated to improve train crossings in order to  
18 accommodate high speed rail.  
19
  - 20 d. There is significant need to provide industrial jobs in Whatcom County.  
21
  - 22 e. Whatcom County has adopted Resolution 94-025 (3-22-94) which requires  
23 all county agency actions to consider the establishment and maintenance of  
24 a healthy job-based economy. Approval of this rezone will support the goals  
25 in establishing Resolution No. 94-025.  
26
  - 27 f. Since 1987, power lines have been upgraded to service industrial  
28 development. The rezone includes properties that front Birch Bay-Lynden  
29 Road. Thus, Cascade Natural Gas lines can be extended from Birch Bay-  
30 Lynden to service Industrial zoned properties.  
31
  - 32 g. Since 1987, the Peace Arch Factory Outlet has been developed at the  
33 intersection of Exit 270 and I-5. This particular development has been fully  
34 developed without public sewer and water and Gateway Industrial zoned  
35 property. Demands for public sewer and water will be even less for  
36 Industrial uses than the demands associated with the demands placed on  
37 commercial development.  
38
- 39 4. California Creek crosses the area; wetlands are also present in the area. California  
40 Creek is addressed to a large extent through MDNS mitigating measures. California  
41 Creek fish habitat would most likely be improved.  
42
- 43 5. The site has good access to I-5 via the Birch Bay/Lynden Road interchange, Portal  
44 Way and Valley View Road. Portal Way is an all weather road. Valley View will  
45 need to be upgraded to all weather standards as a result of mitigating measures  
46 required by the Deputy SEPA Official.  
47

- 1 6. The site is adjacent to the Burlington Northern main north-south railroad line. The  
2 Cherry Point spur rail line crosses the property east-west. The spur has a Y  
3 connection to the main line with fully signalized junctions and road intersections.  
4
- 5 7. The site is in close proximity to existing Gateway Industrial zoning and the town of  
6 Custer which was historically a railroad town.  
7
- 8 8. The request generally meets all of the criteria required for a comprehensive plan  
9 amendment in the subarea.
- 10 9. There is a shortage of suitable property with good rail access and good interstate  
11 highway access to be used for warehousing, open storage, a transfer point, and rail  
12 car storage and marshalling in Whatcom County and lower British Columbia, or any  
13 other use allowed in the Light Industrial zone.  
14
- 15 10. Certain types of development of the area could facilitate the transfer of freight from  
16 truck to rail with a probable reduction of truck trips south along 1-5.  
17
- 18 11. The availability of public services, although not a certainty, appear likely. Unused  
19 or excess capacity could also be available from other sources.  
20  
21

1 **CONCLUSIONS**

- 2 1. Because of its location and amenities including substantial existing rail facilities, the  
3 area is ideally suited for Light Impact Industrial uses and could make an important  
4 contribution to Whatcom County's economic base by providing warehouse,  
5 processing, and or shipping facilities necessary for a full service economy,  
6 particularly one with a major trade component with British Columbia.  
7
- 8 2. Changing the plan designation, zoning, and subsequent development of the site will  
9 eliminate land presently in rural uses. The site does have some soil and  
10 environmental constraints, which can be mitigated. The proposed use is not  
11 inherently compatible with the surrounding properties. Relatively direct access to  
12 I-5 for any increased truck traffic and the low intensity use normally associated  
13 with Light Industrial zoning will limit impacts to surrounding properties. Mitigation  
14 provided as a condition of the rezone MDNS acts to minimize many impacts and  
15 additional SEPA requirements resulting from substantial development applications  
16 will go further to protect the best interests of the public.  
17

18 **NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that:

19  
20 Section 1. The Birch Bay-Blaine Subarea Plan Map is hereby amended by re-designating  
21 approximately 440 acres from Rural One Unit Per Ten Acres (R10A) to Light Impact  
22 Industrial (LII) as legally described and mapped on Exhibit A.  
23

24 Section 2. Adjudication of invalidity of any of the sections, clauses, or provisions of this  
25 Ordinance shall not affect or impair the validity of the Ordinance as a whole or any part  
26 thereof other than the part so declared to be invalid.  
27

28 ADOPTED this 25th day of April, 1995.

29  
30  
31 ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

32  
33  
34 Marina McAllister  
35 for Dana Brown-Davis, Council Clerk

Robert A. Imhof  
Robert A. Imhof, Chairperson

36  
37  
38 APPROVED as to form & content:

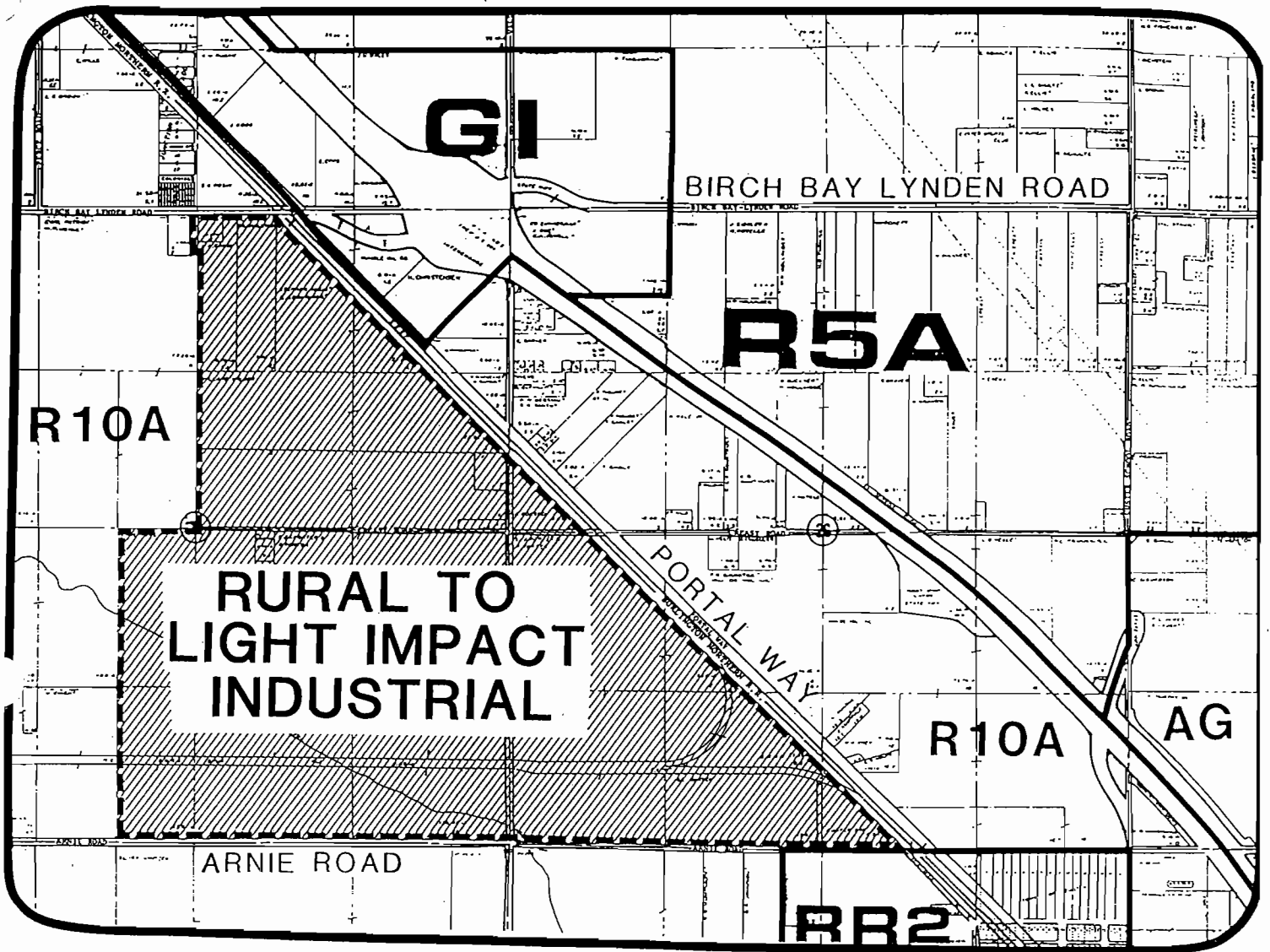
Approved ( ) Denied

39  
40 Karen Frakes  
41 Karen Frakes, Civil Deputy Prosecutor

Shirley Van Zanten  
Shirley Van Zanten, Executive

42  
43  
44 Date: 4-26-95  
45

# EXHIBIT "A"



## Proposed Plan Map Amendment - Rural to Light Impact Industrial

Those portions of Sections 26 and 27, Township 40 Range 1 East W.M. as follows:

All of the E 1/2 of Section 27 lying southwest of the main BNRR R/W line, including the BNRR R/W spurline and operating property and Also the E. 71 feet of the E. 2 acres of the N. 10 acres of the NE 1/4 NW 1/4 of Section 27 and also the E 1/2 of the E 1/2 of the SW 1/4 of Section 27, including the BNRR R/W spurline therein

and also

All of that portion of Section 26 lying southwest of the main BNRR R/W, including the BNRR R/W spurline and operating property lying therein.

Situated south of Birch Bay - Lynden Road to the north, southwest of Portal Way and the main BNRR R/W and north of Arnie Road to the south.