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WHATCOM COUNTY COUNCIL  
**Planning and Development Committee**

March 11, 2003

The meeting was called to order at 3:05 p.m. by Committee Chair Seth Fleetwood in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

Present:

Dan McShane  
Laurie Caskey-Schreiber

Absent:

None

Also Present:

Barbara Brenner  
Sam Crawford  
L. Ward Nelson  
Sharon Roy

**COMMITTEE DISCUSSION AND RECOMMENDATION TO COUNCIL**

**2. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING MAP FROM RURAL (R5A) TO LIGHT IMPACT INDUSTRIAL (LII) FOR 50.3 ACRES ON ATWOOD ROAD NORTH OF THE I-5/GRANDVIEW INTERCHANGE (SITE SPECIFIC REZONE) (AB2003-104)**

Dave Grant, Senior Civil Deputy Prosecutor, stated the Council decision in this matter must be made on the official record. The councilmembers do not have the prerogative to receive new testimony. However, the councilmembers may make inquiries of staff if they are regarding matters already on the record. This is a quasi-judicial decision. The Council must exercise discretion in interpreting County Code, State law, and strict criteria. The decision may be discussed in executive session because it involves interpretation of the law. The committee can recommend to the Council to adopt the Hearing Examiner recommendation, reject the Hearing Examiner recommendation, by resolution send the matter back to the Hearing Examiner if the Hearing Examiner missed or needs to clarify some point, or serve the public interest by departing from the Hearing Examiner recommendation. The Council would have to conduct its own public hearing in this matter. The Council would have to submit an amendment to the Hearing Examiner recommendation.

The councilmembers are bound by the appearance of fairness doctrine. If any councilmember had any ex parte' communication, it must be disclosed, even if it occurred when the Hearing Examiner was conducting proceedings. The law requires that the decision maker reveal the communication by producing a summary of the communication. The committee would have to allow the parties an

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1 opportunity to provide rebuttal testimony. If the decision maker can assure that he  
2 or she can provide unbiased decision, then he or she may continue.

3  
4 Fleetwood stated they are at the point where the committee members and  
5 other councilmembers need to make disclosures.

6  
7 Fleetwood stated the committee would ask questions today. He asked if they  
8 should choose to go into substantive debate now or tonight. Grant stated that if  
9 the committee needs to go into executive session to make its recommendation to  
10 the full Council, then it should do so now. If it is not necessary, reserve the action  
11 for this evening.

12  
13 Crawford disclosed that he's received about forty emails pro and con in this  
14 matter. Grant stated copies of those have been made available to the clerk and are  
15 now a part of the record. They don't need to be disclosed. Written correspondence  
16 received from constituents on this matter and that have already been made a part  
17 of the record need not be disclosed. They are made a part of the record to fulfill  
18 the appearance of fairness requirement. They do not constitute ex parte'  
19 communications so long as they are made a part of the record.

20  
21 McShane disclosed that his communication has been the same as those Mr.  
22 Crawford disclosed. Grant stated those have been forwarded to the clerk.

23  
24 Fleetwood disclosed that he also received those emails. He also disclosed  
25 that the weekend before the last Council meeting, he received a phone call from a  
26 neighbor. He went to see the part of the county, met with the neighbor, and went  
27 on a site walk for about an hour. He can still be partial, unbiased, and neutral. The  
28 neighbor learned that there was a project, and wanted him to take a look at it,  
29 which he did. They talked about the neighbor's opposition to the proposal. At that  
30 time, he did not know the issue and how it would be presented to the Council. He  
31 learned later that it was a site-specific rezone. There was some confusion, as often  
32 happens. He's not sure the neighbors were sure of the procedure.

33  
34 Caskey-Schreiber disclosed that she also received the email. She also  
35 responded to one opponent and encouraged the opponent to testify to the Council,  
36 which was bad information. She also contacted the City of Ferndale Council  
37 Member who stated that this project was premature. She does not feel that it  
38 affects her ability to be neutral. She also received a number of letters that she will  
39 make sure are available for the record. The impact of the communication has not  
40 affected her ability to remain impartial.

41  
42 Crawford disclosed that he also might have responded to some of the emails.  
43 He can't recall which one.

44  
45 Brenner disclosed that she also received email. She called several of the  
46 people to get clarification. One email said the City of Ferndale was opposed to the  
47 proposal. She called to find out where the person got that information, which was

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1 information on the record. People on both sides of the issue contacted her. She  
2 was fairly noncommittal in her response. She can be objective. The  
3 communication did not bias her one way or another. She can be impartial in her  
4 decision.

5  
6 Nelson stated he had no ex parte communication of any sort, did not read  
7 anything outside of the record, and is impartial for the record.

8  
9 Fleetwood asked if any audience members who are parties of the record  
10 would like to provide information on the disclosed information or challenge any  
11 declared impartiality.

12  
13 Phil Serka, attorney, stated he represents I-5 Properties, the applicant. He  
14 would like to reserve any challenges to impartiality. He is concerned about one  
15 councilmember going out on the site and meeting with the opposition.

16  
17 Fleetwood apologized for the visit. It was before he recognized what the  
18 issue was.

19  
20 Serka stated the party has the right to rebut the communication the  
21 councilmembers received from opponents.

22  
23 Caskey-Schreiber stated they also received communications from the  
24 proponent.

25  
26 Brenner stated the letter from Mr. Jansen might be her fault. She could not  
27 meet with him, and encouraged him to write a letter.

28  
29 Serka stated there was a concern about the water quality. There is a storm  
30 drainage plan in the record. Ten acres are set aside to control and deal with water  
31 quality. There is also a recommendation from the Engineering Division that is  
32 consistent with the Act. All agencies, including Whatcom County, have approved it.

33  
34 There was an issue brought up about uncontrolled sprawl. This property was  
35 zoned since 1970. It is adjacent to general commercial zoned property. It was  
36 designated in 1997 as a Ferndale short term planning area and is designated light  
37 impact industrial. It has been planned for light impact industrial since the early  
38 1990's.

39  
40 In terms of consistency with the area, there is a 50-foot buffer. Two sides  
41 are adjoining light impact industrial and general commercial zones. To the west  
42 there is a ten-acre buffer. To the south are Atwood Road and Interstate 5. There  
43 aren't a lot of homes adjoining the property. It is a short-term planning area. No  
44 traffic would go past the neighborhood on Atwood Road. The roads in the  
45 development are internal and don't go into the neighborhood. Habitat and  
46 stormwater have been approved. The critical areas have been approved by all  
47 agencies. That is all in the record.

1  
2 The letter in the record regarding the City of Ferndale says that the City will  
3 offer no formal approval as long as five conditions were met, which are conditions  
4 incorporated in the Hearing Examiner recommendation.  
5

6 The issue brought up by Mr. Verhoeven is that of water quality, which he  
7 already addressed. In addition, the Public Utility District (PUD) will bring potable  
8 water to the area where it doesn't exist now. People in the area will be able to  
9 have potable water instead of well water. The Health Department approval for the  
10 septic system is in the record.  
11

12 Regarding property values, the residents are more than 400 feet away.  
13 There are buffer areas. Development is primarily next to Interstate 5. The area is  
14 classified as light impact industrial.  
15

16 Mr. Alan Cheesman says in the record that there may not be a need for this.  
17 However, the City of Ferndale growth has increased from 5,000 to 8,000 since  
18 1990. It is an urban growth area and short term planning area. There is a need  
19 for industrial property. Light impact industrial can be developed with septic. It has  
20 potable water from the PUD. In addition, Ferndale commits to provide PUD water  
21 and sewer when it is extended.  
22

23 Regarding the issue of industrial waste causing a stormwater problem, there  
24 is no issue of industrial waste. Performance standards will be dealt with in the  
25 zoning code. The stormwater treatment has already been approved.  
26

27 Mr. John Sarich indicated in a letter that the development is forced to have a  
28 ten-acre conservancy easement. That is not correct. It is just habitat area and a  
29 storm retention area. Four hundred trees will be planted in that ten-acre area. It  
30 will provide habitat that is not there now. The Department of Fish and Wildlife will  
31 develop fish habitat and move a drainage ditch, which is unusual for a light  
32 industrial development to have that kind of approval.  
33

34 There was a concern by Mr. Sarich about whether the time is appropriate  
35 now for the industrial use. It is appropriate now. It has been designated a short-  
36 term planning area and light impact industrial (LII) zone. The County has 12 acres  
37 of general commercial zone adjoining it, and it is next to Interstate 5 and other LII  
38 properties. It is next to Grandview and Cherry Point. It is not next to a  
39 neighborhood. Traffic will not go past the neighborhood. The Hearing Examiner  
40 has established buffers. There will be a conservancy area.  
41

42 There is a concern that the two-acre septic site will pollute the drainage  
43 ditch, but it is 1,000 feet away from the drainage ditch.  
44

45 Brenner asked if the development would enter and exit from Grandview  
46 Road, and does not go onto Atwood Road.  
47

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1           Roland Middleton, Land Use Division Manager, stated the record shows that  
2 access appears to be at the intersection of Grandview and Atwood.

3  
4           Sylvia Goodwin, Planning Division Manager, stated the traffic goes onto  
5 Atwood Road, but very near Grandview Road.

6  
7           Brenner asked if there is a remedy if a neighboring well is contaminated due  
8 to the development. Grant stated there are legal remedies.

9  
10          Brenner asked if there would be no traffic where the houses are. Goodwin  
11 stated that is correct. Houses are at the north end of the road. Access is at the  
12 south end of the road.

13  
14          Caskey-Schreiber asked if that is locked in as a condition. Goodwin stated it  
15 is on the binding site plan. It could be changed if it came back as an amendment.

16  
17          Middleton stated the Hearing Examiner has approved the binding site plan.  
18 The site-specific rezone is what is before the Council. Anything that increases  
19 impacts to neighbors or environmental issues would be turned back to Hearing  
20 Examiner for amendment.

21  
22          Nelson stated there was mention of light industrial land in the southwest  
23 corner. He asked about the current occupancy of that land. He also asked if the  
24 Ferndale Comprehensive Plan has goals and objectives regarding light industrial,  
25 and the percentage of light industrial land that Ferndale has used.

26  
27          Brenner stated she would like to know the number of acres in the urban  
28 growth area and how many have been used. Goodwin stated she didn't think that  
29 is in the record. They are in the process of doing an industrial land supply study of  
30 the entire county now. The City concluded that there is a need for it when it  
31 designated the area as an industrial area. That is in the record.

32  
33          Nelson referenced the letter from the City of Ferndale Planning Director,  
34 which stated the City didn't need the land at the time, and conditions must be met.  
35 He asked if Ferndale no longer had problems with this once the Hearing Examiner  
36 set those conditions. Middleton stated the letter from Ferndale in the record stated  
37 that if the conditions are made part of the approval, the City will offer no formal  
38 objections to the application made to the County. The Hearing Examiner included  
39 those conditions as conditions of the binding site plan.

40  
41          Goodwin stated there has been no formal communication or correspondence  
42 from the City of Ferndale since that letter.

43  
44          Caskey-Schreiber asked if the criteria of the Atwood Road community  
45 amiable conditions were met. Middleton stated the only portion that he is sure of is  
46 in page eight of the Hearing Examiner decision, item (C)(vi). Item (vii) if the  
47 decision is regarding the City of Ferndale question.

1  
2 Brenner asked for a summary of how the onsite sewage would be handled.  
3 Middleton stated the onsite sewage application was given approval by the Health  
4 and Human Services Department. It is part of the record. In the northeast corner,  
5 they propose to put in a septic system, which has been approved by Health  
6 Department.

7  
8 Brenner asked if the high water table was taken into consideration.  
9 Middleton stated he couldn't speak to that, but assumed so.

10  
11 McShane asked the widths of the buffer on the east and north side of the  
12 strip. Middleton stated those buffers are 50 feet. That is a code requirement. To  
13 reduce that, the County would have to issue a variance.

14  
15 McShane asked if there are currently no houses on the north and east sides  
16 of the parcel. Middleton stated that is correct. The Hearing Examiner addressed  
17 that in his findings.

18  
19 Nelson stated it was mentioned that a number of trees would be planted  
20 along the edge. He asked if they are not there now. Middleton stated the full  
21 mitigation plan is in the Hearing Examiner findings. It describes the planting  
22 schedule.

23  
24 Nelson asked if it is typical for LII development that plantings go in as the  
25 site is approved. Middleton stated it is typical. The development has to apply for a  
26 specific phasing plan. It would have been part of the review.

27  
28 Caskey-Schreiber asked if there is a buffer on the lower portion of the creek.  
29 It looks like there are none designated.

30  
31 *(Clerk's Note: End of tape one, side A.)*  
32

33 Middleton stated he would have to look and see if it is required. He will look  
34 it up in the record.

35  
36 Roy disclosed that she had two telephone conversations with individuals in  
37 support of the item. During the time of one conversation, she had not yet read the  
38 packet or any information on the issue. She felt like she was totally neutral  
39 because she had not yet read the Council packet. During the second conversation  
40 with a proponent, she expressed some of her concerns about it, but was clear that  
41 she had not made up her mind about how she would vote.

42  
43 Grant asked if new information was proposed in the conversations.

44  
45 Roy stated they were statements of general support. Neither of the  
46 conversations caused her to be biased. She is able to remain unbiased in her  
47 decision.

1  
2 Fleetwood asked if any members of the audience wanted to rebut any of the  
3 disclosure made by Councilmember Roy.

4  
5 *(Clerk's Note: No rebuttal was offered.)*  
6

7 Roy asked if the size and type of tree planting are specified. Middleton  
8 stated the Hearing Examiner record describes a requirement for a detailed  
9 landscape buffer plan. That was established through Whatcom County zoning  
10 ordinance Title 20.

11  
12 Caskey-Schreiber asked if the proposed access is the best to avoid impacts  
13 to the neighbors. Middleton directed that question to the traffic study and  
14 conditions that are on the record. It addresses that issue.

15  
16 Nelson asked if staff would always approve a spot-specific rezone. Grant  
17 stated that is outside the scope of the record.

18  
19 Nelson asked if the staff has the authority or ability to not approve a spot  
20 specific rezone. Grant stated the staff could make a recommendation to the  
21 Hearing Examiner.

22  
23 Fleetwood stated that if there is going to be any substantive discussion and  
24 debate between the committee members they need to go into executive session.  
25 They need to decide whether to do that now or this evening. If they wait until this  
26 evening, they will have time to discuss the other agenda item. He asked if there  
27 are any councilmembers who would like to have debate regarding the substance of  
28 the proposal right now.

29  
30 ***Caskey-Schreiber moved*** to go into executive session for ten minutes to  
31 discuss this item.

32  
33 ***Motion carried unanimously.***  
34

35 *(Clerk's Note: The committee went into executive session for ten minutes at*  
36 *4:05 p.m.)*  
37

38 Fleetwood stated this item is on the Council agenda, and he anticipates  
39 taking action this evening.  
40

- 41 **1. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING**  
42 **ORDINANCE, TITLE 20, CHAPTER 20.71 – WATER RESOURCE**  
43 **PROTECTION OVERLAY DISTRICT, CHAPTER 20.80 –**  
44 **SUPPLEMENTARY REQUIREMENTS (STORMWATER AND CLEARING),**  
45 **CHAPTER 20.85 – PLANNED UNIT DEVELOPMENTS, AND CHAPTER**  
46 **20.97 – DEFINITIONS, TO PROVIDE ADDITIONAL REGULATORY**  
47 **PROTECTION FOR SENSITIVE WATERSHEDS (AB2002-222B)**

1  
2 Fleetwood stated the committee would not make a recommendation today,  
3 and would discuss final consideration in two weeks. There have been enough  
4 changes to have a public hearing in two weeks. They would finish the discussion on  
5 seasonal clearing and then take comments.  
6

7 Caskey-Schreiber stated they need to finish addressing the concerns  
8 expressed by Mr. and Mrs. Henifin.  
9

10 Amy Pederson, Planner I, stated there is an official code interpretation that  
11 worked out Mr. Henifin's situation. She would bring that interpretation to the  
12 committee in two weeks.  
13

14 Gary Reid, Gary Reid Homes, stated he is not representing the Building  
15 Industry Association (BIA) at this time. Myron Wlaznik made slanderous comments  
16 about him at the previous committee meeting. His integrity is all he has to sell.  
17 Mr. Wlaznik said that the only five sites he checked all belonged to Gary Reid, and  
18 that Gary Reid wasn't in compliance. Enforcement guys said the only thing that  
19 wasn't right was that the amount of area that wasn't covered, but that is because  
20 he was doing landscaping, which is an exception. The enforcement officer has  
21 found no runoff. It is totally false to characterize him as not caring about the  
22 watershed. The reason landscaping is an exception is because they are bringing in  
23 the final product. Kids squashed the silt fences, but they still retained the runoff.  
24 He took pictures of it. He went through the classes to be a certified stormwater  
25 person. When gutters and rain drains, which is what he's done, are on the house,  
26 they've done 90 percent of what is needed to protect the property. The water is  
27 standing on the adjacent lot. On his lot, with two feet of impervious fill, he is  
28 apparently not okay with it. There was never a complaint against him.  
29

30 Paul Isaacson, Shallow Shore Road, provided information on his background.  
31 He's very concerned about Lake Whatcom and other watersheds. He reviewed the  
32 amended land-clearing ordinance, which took up a lot of his time. Not everyone  
33 has enough time to properly understand this information. There is almost no public  
34 process anymore. The February 25 draft does not include any of the Planning  
35 Commission or staff recommendation. All that is included is the Council decisions.  
36 It may come down to one person who holds the future of this, depending on the  
37 votes. At the last Forestry Forum meeting, he was elected to speak on behalf of  
38 the Forestry Forum regarding the land clearing regulations and tree retention  
39 requirements. He received an email from Clare Fogelsong about the Forestry  
40 Forum advising the Lake Whatcom Management Committee, not the Council. He  
41 can't speak to the Council about the opinion of the Forestry Forum because it  
42 doesn't follow protocol. The Lake Whatcom Management Committee would have to  
43 ask the Forestry Forum to take a position and then advise the Management  
44 Committee  
45

46 McShane stated they would all like to hear what the Forestry Forum  
47 recommends. He shouldn't worry about the protocol.

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Isaacson stated there is no possibility for him to provide clear cut amendments. Yesterday was the first time he was able to receive the amendments. County Staff is overworked. If he were to represent the Forestry Forum, he would say that regulating forestry activity this way is not productive. Any lands platted after 1960 would require a class IV logging permit, which establishes the County as lead agency. If the County is lead agency, the property owner would lose over 50 percent of the trees if the property is over one acre. That impact on five acres of a typical Douglas Fir stand would have a net loss of over \$18,000. They need to make a provision that if this is the drinking water source and it is to be protected, then figure out a mechanism to compensate the few good stewards they've had in the watershed.

They have class I, II, III, and IV permits. Class III, Class IV, and Class IV special permits are the ones they are talking about. If the County regulations are difficult, a person may get a class III permit and not have to abide by critical areas ordinance or other protections. That person could clear cut the property, retain no trees, and operate near wetlands and critical areas. What the County is trying to do would be avoided if someone knew they had too high of a tree retention value. There is a way to circumvent that requirement. If it is circumvented, the creeks and wetlands are ruined. Encourage people to get a conversion option harvest plan (co-hop), or to get a class IV permit and the protection that goes along with it.

In King County, it is normal practice to get a class III permit, harvest the land, not follow the critical areas requirements, get a six-year moratorium, and then proceed with development after six years. That is what they are creating here. That isn't what they want in the Lake Whatcom watershed. The class III permit rules are not strong enough to protect water quality to the level that people perceive they should be. However, they do have Lake Whatcom watershed prescriptions throughout the state. They are not as strong as the County wants. Scientists would argue that protections are already in place. He understands what this Council and community want to do to go above and beyond the protections. He is concerned about the unintended consequences.

Caskey-Schreiber stated that the June 18, 2002 memo from Mr. Isaacson says that parcels larger than two acres or more can get a class III permit. She asked if Mr. Isaacson is asking that the tree retention language not apply to anything greater than two acres. Isaacson stated that is not correct. He proposes a five-acre threshold. Nothing under five acres has much long-term viability for forestry. Anything over five-acres would be exempt from tree retention.

Caskey-Schreiber asked what prompts a class IV permit. Isaacson stated it goes by platting, not size. Anything platted after 1960 requires a class IV permit.

Clare Fogelsong told him that the City of Bellingham's position is to promote forestry in the watershed instead of housing. This legislation promotes conversion

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1 and scares the timber industry. It has unintended consequences that they don't  
2 want. They are going to push people to getting a class III permit.

3  
4 This version no longer reflects the staff's or Planning Commission's  
5 regulations. They have not consulted with a forester on the tree retention  
6 language. Under the Whatcom County Charter 1.11, they must consider provisions  
7 for compensation of legislation. They must assume that it is a potential taking.  
8 They have not considered where the compensation will come from. There has been  
9 no consideration of that.

10  
11 This applies to Lake Samish and potentially Drayton Harbor in addition to  
12 Lake Whatcom. Two or three people are going to control all the future of all this  
13 timber. He recently spoke to his bank, which will not renew his credit line because  
14 it is concerned about the tree retention regulations.

15  
16 This regulation hasn't been looked at in terms of what it will do to housing  
17 costs. He is more interested in the forestry aspects of this legislation. He is also  
18 interested in conversion because the legal fees, problems, hassles, loss of timber  
19 revenue, change in Canadian market, and influx of South American timber has  
20 dropped his prices dramatically. His alternative is to convert his land, but he  
21 doesn't want to do that. They have to look at the unintended consequences of this  
22 legislation. Don't put it on the weight of the few good stewards who kept their  
23 timber. He would like to provide alternate language, but he didn't have time to  
24 develop them. He would also like time to be given authority to speak on behalf of  
25 the Forestry Forum.

26  
27 *(Clerk's Note: End of tape one, side B.)*

28  
29 Isaacson continued to state that some or all of the County staff might  
30 support his recommendation on the five acres. He understands that they want to  
31 encourage people to have large tracts in the watershed. Those who have less than  
32 one acre get to clear off 70 percent of the parcel. Those with over one acre have to  
33 keep 50 percent. They are penalizing the larger tract owner. That is not  
34 concurrent with stormwater or urban growth area regulations, which are both five  
35 acres. They want to encourage people to consolidate lots. Many regulations should  
36 be less difficult if lots are consolidated into larger parcels. Encourage that in the  
37 watershed.

38  
39 Brenner asked about going to the original recommendation of 30 percent  
40 across the board instead of an exemption.

41  
42 Fleetwood asked that any proposals to fix certain problems be submitted to  
43 Amy Pederson for Council consideration.

44  
45 Isaacson stated going to the 30 percent would be less of a problem. The  
46 question is whether they lose a little or lose a lot. He just got this draft yesterday.

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1 No one can go through it that fast. He asked to table this for a while and get more  
2 people involved so they can have more discussion.  
3

4 Roger Almskaar, consultant, stated he agreed with almost everything Paul  
5 Isaacson said, including pointing out the unintended consequences. The County  
6 regulations don't recognize clearly enough the difference between commercial  
7 logging and removal of vegetation for development purposes. He suggested as a  
8 short-term solution that he, Mr. Isaacson, and others work with staff on a revision  
9 on the issue of the rule about removing no more than 50 percent of the tree canopy  
10 on lots greater than one acre. The tree retention part of the ordinance is better  
11 today than a couple of weeks ago. It is a good compromise between specificity and  
12 flexibility. The only exception was what Mr. Isaacson talked about. Regarding  
13 seasonal clearing, it is a compromise. He was a member of the work group that  
14 worked on it with staff. The numbers on the worksheet are a judgment call. There  
15 is no scientific way to come up with those numbers. The reality is that they have to  
16 make a judgment call once in a while. In reading through this, it is easy to get lost  
17 in the numbering system. He suggested that all the stormwater and environmental  
18 rules be pulled out of 20.80 and put in a new section of Title 20. He's worked with  
19 codes for 30 years, and finds them confusing.  
20

21 Tom Pratum, 2241 Northshore Road, North Cascades Audubon, stated he  
22 gave the Council a memo a few days ago, and submitted additional information on  
23 CD-ROM for the record (*on file*). He attended the Forestry Forum meeting that Mr.  
24 Isaacson referred to. The Audubon representative on the Forestry Forum did not  
25 vote, so it was not a unanimous opinion that Mr. Isaacson should speak on behalf  
26 of the Forestry Forum.  
27

28 In section 20.80.733 there are exemptions. One of the exemptions is that  
29 proposed activity consists of non-conversion forest practices. He asked why that  
30 does not take care of Mr. Isaacson's issue. Goodwin stated that anything platted  
31 after 1960 is considered a conversion. There are some platted parcels out there  
32 that are five or ten acres that would be treated as a conversion, even though they  
33 are still doing commercial forestry. Staff just discovered this issue, and will know  
34 in a couple of days how many there are. Most of the bigger pieces are not platted.  
35

36 McShane asked that staff also look into the viability of development at the  
37 plat level that those parcels are platted at. Goodwin stated staff would put the  
38 information onto a GIS map that shows zoning. Many of those platted parcels, if  
39 zoned rural or commercial forestry, wouldn't be developed. She guessed they are  
40 talking about the rural areas. The Committee has a lack of information today to  
41 move this forward for a hearing. Staff can meet with Mr. Isaacson or Mr. Almskaar  
42 for additional input. She shares their concern about the forestry. Staff did not  
43 intend for this to apply to commercial forestry lands. If it does, they need to come  
44 up with better solutions.  
45

46 Brenner asked the percentage of the Lake Whatcom watershed that is  
47 impervious right now and that would be impervious with full build out. Goodwin

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1 stated they have to look at the sub-basins. Toward Silver Beach and that end of  
2 the lake, it is 40 percent impervious. In areas of commercial forestry, it is well  
3 under ten percent impervious. Staff has done maps in the past that showed the  
4 impervious surfaces by sub-basin.

5  
6 Pratum stated the impervious surface of the entire watershed is probably  
7 only a few percent. He was talking about the sub-basins.

8  
9 Regarding tree retention, they need to find out what the problem really is.  
10 They are not in favor of making a five-acre limit. That could be abused. He is in  
11 favor of promoting forestry over housing. That is the purpose of the Forestry  
12 Forum. He doesn't agree with a lot of the things that Mr. Isaacson said. He is in  
13 favor of the current tree retention language. Councilmember McShane made some  
14 good changes. If they are going to change it, they need to find out if there is a  
15 problem.

16  
17 Regarding seasonal clearing regulations, he is not in favor of the checklist  
18 system. If it is a qualitative judgment, then call it what it is. He objects to putting  
19 a number on it. If it goes through, allow point adjustments for staff review so  
20 permits don't just sail through. Kurt Baumgarten doesn't have time to cover all the  
21 permits that are out there. The number of permits given out each year needs to be  
22 strictly limited. If the number of applications exceeds the number of permits, there  
23 could be a lottery system.

24  
25 Brenner asked if having more staff would be a solution. She found places in  
26 the budget for that. Pratum stated the number of permits given out should be  
27 commensurate with the amount of staff required to cover the permits. Another  
28 way to give out more permits would be to charge substantial fees during the winter  
29 months to pay for more staff. Now, it seems like they are giving out more permits  
30 than what the staff can cover.

31  
32 In section 20.97.187, the definition of impervious surface, gravel roads is  
33 removed. That should be included. Most of the impervious surfaces will be in the  
34 urban residential (UR) zone, which is where most of the building will occur. That is  
35 based on the staff report. Even if the downzone is not adopted, most of the build  
36 out will occur in the urban residential zones. Restricting the impervious surface  
37 could do a lot of good. There is no reason why they can't restrict it more. If they  
38 are going to let people build on those areas, they should be held to strict standards.

39  
40 Brenner asked about retrofitting in the watershed. Pratum stated he would  
41 not speak on that because he is not an expert. Preventative measures are easier to  
42 do right now. There is some information in the CD-ROM about how well different  
43 stormwater treatment systems work.

44  
45 Gary Reid, Building Industry Association (BIA) of Whatcom County President,  
46 stated he would like this discussion held over. He submitted letters on the  
47 impervious surface issue. They have disregarded the fact that they can improve

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1 engineering in this area. Retrofitting can be done. Certain areas have no  
2 stormwater systems, and that should be addressed. The best way to address the  
3 water quality is to address the problems that exist today by retrofits. It is a high  
4 priority of the homebuilders associations.  
5

6 There is a major flow in how they look at impervious surfaces. There are two  
7 aspects to it. One is the collection of pure water and one is the collection of water  
8 that might run across the bare soil. They should address not having the bare soils.  
9 His biggest concern and the biggest problem is determining a total square footage  
10 allowed for square footage. One could end up with a long driveway and no house.  
11 Just look at the house. Rainwater is considered pure. The rainwater coming off a  
12 roof is pure. If they address how they deal with pure water, it is one step. When  
13 they start limiting the area of a house, they end up with a house that doesn't meet  
14 market needs, especially in the watershed where homeowners are more affluent.  
15 The homeowners also tend to be of retirement age, and want a one-story house.  
16 Square footage limitations have enormous impacts. Separate the house from the  
17 other impervious surfaces, and then address how they deal with clear water.  
18

19 Caskey-Schreiber stated water needs to be stored and run into the lake all  
20 throughout the year, not just during rain events. That's what Mr. Reid's proposal  
21 would do. Part of the problem with impervious surfaces is that runoff hits the lake  
22 the same day as the rain event.  
23

24 Reid stated they are not reaching their goal by restricting the size of the  
25 roof. It has a very negative impact on the consumer, who they are supposed to be  
26 protecting. There is a way to engineer subdivisions so the water goes under  
27 ground and there is no impact. In one instance, code restricts impervious surfaces  
28 to no more than 2,000 square feet. However, the subdivision covenants require a  
29 house of at least 2,000 square feet. The lot can't be built on.  
30

31 McShane stated he's heard of this example. He would be interested in  
32 seeing those covenants. Reid stated every subdivision has to have covenants and  
33 conditions.  
34

35 In terms of dealing with water, this watershed is unique. It is not like other  
36 basins in the state. This area is far more complex. The impact is much less than  
37 what people are concerned about. Sit down in a committee and get into the detail.  
38

39 Isaacson suggested that councilmembers review his plat at the top of  
40 Hillsdale Road. There are nine lots. He was required to asphalt it because of the  
41 grade and fire access. Gravel was working fine, but it exceeded the 12 percent  
42 grade. He's seen the water come off the asphalt, but not the gravel. It is clear  
43 that gravel has more retention value than asphalt, but there is no motivation to go  
44 that way.  
45

46 One person has an impervious gravel path going to the lake. Another person  
47 has a deck that is not pervious. Every year, the person stains the deck. That stain

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1 goes all the way to the beach. The concrete pathway never gets touched, but they  
2 don't encourage it. That is ridiculous. They do not encourage solid surface docks,  
3 but pervious docks, which are wood. Those wood docks get stained. The best  
4 thing is a concrete dock. There are horrible misconceptions that they have to deal  
5 with. He asked the committee to look through the rules more, and postpone it until  
6 the Forestry Forum and Lake Whatcom Management Committee looks at them.  
7

8 Goodwin stated it sounds like they have a lot more work to do, and they are  
9 not making good progress. Each meeting, people come forward with issue from  
10 different viewpoints. She suggested giving the public a certain amount of time to  
11 write down their issues and viewpoints and get them to staff. Staff can evaluate  
12 them and provide a recommendation. The committee still needs to make a  
13 decision. Roger Almskaar suggested having a subcommittee. That is not going to  
14 work. They have viewpoints that are too far apart. She can't take environmental  
15 and BIA input and find a solution. There will not be a compromise because it is a  
16 political decision. Staff can provide staff recommendations on the different  
17 viewpoints. Otherwise, they will be here forever. It might take more than two  
18 weeks.  
19

20 McShane stated he has three amendments to make right now. They need to  
21 get the committee's version done so everyone can look at it. In the future, they  
22 can work with the individual sections, such as impervious surfaces. Start with a  
23 restrictive regulation, with the idea of loosening the restriction of the potential can  
24 be demonstrated. One thing they've heard from everyone is that time is needed to  
25 review the complete package. They are not going to approve this in a couple of  
26 weeks. They could get it out of committee during the next meeting, without taking  
27 any more comments, and then have one meeting just for comments. If they want  
28 to make any more changes, they can do it after those comments are made. Don't  
29 put the staff in the position of struggling with the two opposing viewpoints. That's  
30 the Council's job, not staff's job.  
31

32 Brenner stated it would help her if staff made recommendations on the  
33 different opinions.  
34

35 Caskey-Schreiber stated staff has been participating every step of the way.  
36

37 McShane stated that part of the problem is that the comments they are  
38 receiving are not very specific. They heard comments today that clearly pointed  
39 out difficulties and concerns, but were not specific on how to solve the problem. He  
40 thinks that the public can provide specific solutions.  
41

42 Goodwin stated that if the committee would like staff to take another look at  
43 this, it won't have time between now and Friday, which is the packet deadline.  
44 Staff can only look at specific comments from the public.  
45

46 Fleetwood asked that people submit proposals that be an actual fix in the  
47 form of a memorandum, which staff and the Council could review.

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1  
2 Caskey-Schreiber stated the public needs to comment on a final draft.  
3  
4 Fleetwood stated the committee will consider final amendments just from the  
5 committee in two weeks, to finish the draft.  
6

7  
8 **OTHER BUSINESS**  
9

10 There was no other business.  
11

12  
13 **ADJOURN**  
14

15 The meeting adjourned at approximately 5:30 p.m.  
16  
17

18 \_\_\_\_\_  
19 Jill Nixon, Minutes Transcription  
20

21  
22 ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

23  
24  
25  
26 \_\_\_\_\_  
27 Dana Brown-Davis, Council Clerk

\_\_\_\_\_  
Seth Fleetwood, Committee Chair