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WHATCOM COUNTY COUNCIL  
**Planning and Development Committee**

March 25, 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:

Sharon Roy  
Barbara Brenner  
L. Ward Nelson

**COMMITTEE DISCUSSION AND RECOMMENDATION TO COUNCIL**

**2. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING ORDINANCE, TITLE 20, CHAPTER 20.22 – URBAN RESIDENTIAL MEDIUM DENSITY (URM) DISTRICT TO REMOVE “PROFESSIONAL OFFICES” AS AN ALLOWABLE CONDITIONAL USE (AB2003-124)**

Sylvia Goodwin, Planning Division Manager, stated the urban residential medium (URM) zone allows offices as a conditional use. This became an issue recently. The City of Bellingham didn't want an office building in an area identified as a residential area. County staff went through the process and conditioned the project. The City was concerned because it didn't want office buildings in residential areas that it would annex. The City requested that the use be removed from that zoning district. There are also areas in Birch Bay and Lynden zoned URM. The community plans for both cities envision residential development in those areas.

Roy stated they talk a lot about the village concept that has residential development around small businesses that support and service the community. She asked if they are still allowing for that concept. Goodwin stated this would take the County further away from that concept. If they take offices out of the residential URM area, there would be less of that mixed use. That doesn't mean houses can't surround commercial uses. There are broad areas of Birch Bay that are zoned URM but are considered residential. She thought about how the residents would feel if big office buildings came in. There would be a lot of opposition. There are areas in Birch Bay, Lynden, and Bellingham that allow the type of mixed use in the resort recreational and commercial zones. This area

1 didn't seem appropriate for that. The urban residential-mixed use (UR-MX) zone is  
2 for mixed uses.

3  
4 **McShane moved** to recommend approval to the full Council.

5  
6 **Motion carried unanimously.**

7  
8 **3. CONSIDERATION OF HEARING EXAMINER'S RECOMMENDED**  
9 **APPROVAL OF A PLANNED UNIT DEVELOPMENT, FILED BY RON**  
10 **KILMER AND TOM FENTON FOR "ANCHOR MANOR, PHASE II"**  
11 **(PUD97-002 AND PLS97-0003) (AB2003-129)**

12  
13 Roland Middleton, Land Use Division Manager, stated the planned unit  
14 development (PUD) is recommended for approval.

15  
16 Brenner stated this is usually considered in executive session.

17  
18 Fleetwood stated legal counsel recommends treating this like the site-  
19 specific rezone done last week.

20  
21 Caskey-Schreiber asked if the Hearing Examiner made it a condition to  
22 adhere to Natural Resource Specialist Peter Sims' Anchor Manor Wetland Mitigation  
23 memo regarding the mitigation plan. They do have to adhere to the extensive  
24 plan. Middleton stated the first Hearing Examiner condition states that the  
25 applicant shall comply with the mitigation plan. There are a total of eight  
26 conditions that are required.

27  
28 Roy stated the packet references that the wetland mitigation was not  
29 followed in phase I, and wetlands were disturbed without following procedure. She  
30 asked why they would recommend approval before they see the mitigation plan.  
31 Middleton stated the mitigation plan for this is included. He did not know how it  
32 pertains to previous violations. The mitigation plan is detailed. It describes the  
33 area impacted, function, buffers, hydrology, and other factors.

34  
35 Peter Sim, Natural Resource Specialist, stated there is an approved  
36 mitigation plan.

37  
38 **McShane moved** to recommend approval to the full Council.

39  
40 **Motion carried unanimously.**

41  
42 **1. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING**  
43 **ORDINANCE, TITLE 20, CHAPTER 20.71 – WATER RESOURCE**  
44 **PROTECTION OVERLAY DISTRICT, CHAPTER 20.80 –**  
45 **SUPPLEMENTARY REQUIREMENTS (STORMWATER AND CLEARING),**  
46 **CHAPTER 20.85 – PLANNED UNIT DEVELOPMENTS, AND CHAPTER**

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1                   **20.97 – DEFINITIONS, TO PROVIDE ADDITIONAL REGULATORY**  
2                   **PROTECTION FOR SENSITIVE WATERSHEDS (AB2002-222B)**  
3

4                   Fleetwood stated the committee hopes to make amendments and vote a  
5 version out of committee. They won't recommend to the full Council tonight. It  
6 will require a public hearing. This should address the public's concerns about  
7 creating one version for people to look at.  
8

9                   Sylvia Goodwin, Planning Division Manager, provided additional comments  
10 that deal with the current draft (*on file*). The comments are regarding all the  
11 issues that were brought up at the committee meeting two weeks ago.  
12

13                   *(Clerk's Note: The Committee took a ten-minute break at 3:20 p.m. to*  
14 *review the additional comments.)*  
15

16                   Goodwin stated the first issue is to section 20.803735(2)(b) regarding  
17 phased clearing. Timber representatives were concerned this could be applied to  
18 commercial logging operations, and it would add to the cost of logging.  
19

20                   McShane stated he has faith that the technical administrator would require  
21 phased clearing for logging operations. He's not sure it is an issue.  
22

23                   Paul Isaacson, Shallow Shore Road, stated the phased clearing suggestions  
24 are good.  
25

26                   Goodwin stated the next issue is 20.80.735(2)(d) regarding tree retention.  
27 The question is whether they intend to retain just trees, or also the under story  
28 and soils. It was modified a couple of weeks ago. The issue is enforcement. If  
29 someone is clearing trees, that person needs a permit. If trimming bushes, he or  
30 she doesn't. The concern is how people know that a permit is needed if they are  
31 just clearing brush.  
32

33                   Caskey-Schreiber stated it is trees and vegetation that contribute to soil  
34 stabilization. She asked if a person has to submit a clearing plan, and whether the  
35 County inspects after clearing and before building. Goodwin stated that their  
36 would be an inspection during the initial subdivision. Areas would be flagged or  
37 marked for retention. Once the house is built, someone will likely go in and  
38 remove certain vegetation.  
39

40                   Caskey-Schreiber stated she is not as concerned once the house is there and  
41 the yard is in.  
42

43                   Brenner stated she liked the language about implementing a parallel process  
44 of increased education. Give incentives to people to retain that vegetation.  
45

1 Goodwin stated they need to make sure that everyone is clear if they require  
2 that the under story be retained, and define the level of enforcement. The staff  
3 concern is the enforcement and ongoing maintenance.  
4

5 Roy asked if they could clarify that they are talking about tree retention and  
6 under story protection during the construction phase. Goodwin agreed that they  
7 could.  
8

9 **Caskey-Schreiber moved** to amend section 20.80.735(2)(d), "...with the  
10 following provisions **during the construction phase of home building:**"  
11

12 McShane stated they should remove the reference to the under story.  
13

14 **Caskey-Schreiber withdrew her motion.**  
15

16 **McShane moved** to remove all references to the associated under story in  
17 section 20.80.735(2)(d) and all subsections.  
18

19 **Motion carried unanimously.**  
20

21 Goodwin stated the next issue is with section 20.80.735(2)(d)(1) regarding  
22 tree retention thresholds. It has been modified so that lots one acre or less must  
23 retain 5,000 square feet or 30 percent, and lots larger than one acre have to retain  
24 50 percent. The larger lots are going to have to retain more trees. That is an  
25 issue of equity and whether people would be encouraged to have smaller lots.  
26 Also, the foresters commented that a five-acre parcel managed as forestry would  
27 only be able to log 50 percent of the trees. The foresters suggest including the  
28 five-acre exemption. The problem is that a five-acre subdivision could remove all  
29 the trees. If a parcel is platted, even if it is five acres, it is still treated as a  
30 converted lot even if it is managed in forestry. There aren't many of those parcels.  
31 Other parcels that are not platted could be exempt from County regulations under  
32 the State Department of Natural Resources (DNR) rules if not doing a conversion  
33 or a conversion option harvest plan (co-hop).  
34

35 Brenner suggested Isaacson's recommendation, "On lots or five acres and  
36 greater, tree canopy and associated under story shall not be required, however  
37 encouraged. All class IV forest practices or co-option harvest plans shall protect  
38 and provide site plans in accordance with the Whatcom County critical areas  
39 ordinance." The critical areas ordinance provides good protection. She doesn't  
40 want the person to go to a State plan that doesn't have any protection.  
41

42 Fleetwood asked how they encourage people who are otherwise exempt to  
43 retain the tree canopy and under story.  
44

45 Brenner stated education is one method. There may be incentives they  
46 could develop.  
47

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1 McShane stated the suggestion is to apply a single percentage for lots less  
2 than five acres. They can always go to a class III permit. If it is a co-hop, the  
3 forester has to replant. If it is a conversion, the forester doesn't have to replant.  
4

5 Randy Bartelt, Trillium Forester, stated a co-hop permit holder has up to  
6 three years to designate an intention. If the intention is not to convert, then the  
7 property must be replanted.  
8

9 McShane asked if the owner has to follow the rules that apply if he or she  
10 chooses to go to a conversion. Bartelt stated the owner has to declare if he or she  
11 wants to convert or go to a class III general permit. If the owner does not know  
12 whether or not to convert, the co-hop process is helpful. The co-hop process is a  
13 County process, where the County implements its critical areas ordinance. The  
14 County is getting the same buffer requirements for a co-hop as a conversion. That  
15 just protects the landowner from going through the six-year moratorium process.  
16

17 If removing 5,000 board feet of timber, the forester also has to abide by  
18 forest practice rules and regulations. There are strict requirements for buffers and  
19 wetlands. Sometimes the requirements are more stringent than the critical areas  
20 ordinance. According to the forest practice rules, the forester has to abide by  
21 whichever is more stringent.  
22

23 McShane asked if there is a requirement for replanting any portion of a five-  
24 acre conversion property that has protected wetlands and streams according to the  
25 critical areas ordinance. Isaacson stated they have to replant any area not  
26 declared converted.  
27

28 McShane asked if a five-acre parcel is replanted if it is converted. Bartelt  
29 stated his concern is about large landowners if the tree retention regulations are  
30 required. He interprets that the Council views the critical areas ordinance as not  
31 being protective enough of public resources. There is adequate protection through  
32 the critical areas ordinance as it applies to buffers on streams and wetlands. The  
33 foresters must also abide by state forest practice regulations, or whichever is more  
34 stringent. If the foresters are required to leave additional trees, beyond the  
35 current requirement, it is a taking. He would have no problem with language to  
36 reimburse for the additional retention buffers, similar to what the forest practice  
37 rules have done for small forestland owners. They compensate the landowners for  
38 the additional buffers. The forest practice rules were amended in 2001 through the  
39 forest and fish process, which included the state, National Marine Fisheries Service,  
40 tribes, and Department of Fish and Wildlife. In this process, scientists came  
41 together and determined that the rules were adequate to protect public resources.  
42 All the agencies bought off on it. Councilmember Nelson was presented with a  
43 letter from the Department of Ecology, which said that the forest practices rules  
44 and regulations, the forest and fish model, was adequate to address water quality  
45 in the State of Washington. The question is whether the County Council believes  
46 that the existing regulations are adequate to protect public resources. If it doesn't,

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1 he would like to see the science before they go forward. He also wants to see  
2 compensation because the public will view this as a taking.  
3

4 Isaacson stated he supports his recommendation to reinstate the five-acre  
5 exemption, as recited by Councilmember Brenner.  
6

7 *(Clerk's Note: End of tape one, side A.)*  
8

9 Isaacson continued to state he agreed with a lot of the things that Randy  
10 Bartelt said. There is a lot of thought behind the Council on why this is happening.  
11 It is not all scientific-based. There are a lot of concerns besides science, such as  
12 aesthetics.  
13

14 He provided information on his major concerns. If a portion of a property is  
15 used for tree retention, it will have a major impact with the Assessor. That needs  
16 to be looked at and reviewed. It won't be considered a taking. There are  
17 considerable State revenue problems. There is a five percent excise tax on timber.  
18 If they take millions of board feet off the market, the State will have something to  
19 say about it. The percentage of the tree retention area is a matter of perception.  
20

21 Brenner stated there was a charter amendment that requires the Council to  
22 assess the economic impact of major changes to property owners.  
23

24 Roy stated the impression is that they are shutting down logging in the  
25 entire watershed. She doesn't think that is correct, because there may not be that  
26 many lots. Goodwin displayed a map of affected lots that are over five acres and  
27 platted after 1960 in the Lake Whatcom watershed, which are treated as  
28 conversion lots.  
29

30 Isaacson stated the map is inaccurate. More than one piece that is smaller  
31 than five acres may be adjacent and owned by the same person. Many  
32 subdivisions already have to have conditions attached, which are the best tools the  
33 County has, even if none of this is approved. There are many holes in the  
34 proposed language, but staff doesn't have enough time to analyze them all.  
35

36 Roger Almskaar, Land Use Consultant, stated that going to a five-acre  
37 maximum on the retention policy is a good idea. He supported potential action two  
38 in the memo submitted today by Sylvia Goodwin. Also, specify a nominal five  
39 acres instead of a net five acres.  
40

41 Tom Pratum, North Cascades Audubon Society, stated he is concerned about  
42 reinstating the five-acre maximum lot size. Someone could clear ten acres and  
43 subdivide it. There would be no tree retention requirements for those lots that are  
44 created. They could require replanting back to what the tree retention amount  
45 would have been. The trees that were there first are better than trees that are  
46 planted. Promote forestry over houses. However, if houses are built, this is a way  
47 around the tree retention regulations.

1  
2 Isaacson stated that if they go to a class III permit, they lose all regulations.  
3

4 Fleetwood stated the object is to do the best they can to protect Lake  
5 Whatcom and Lake Samish. They are balancing some peoples' economic well  
6 being with watershed protections. He asked if the unintended consequences of  
7 keeping the language as it is will make people go to a class III permit and log the  
8 area anyway. Goodwin stated it is true. They have to replant within a certain  
9 period of time and have a six-year moratorium against subdividing. The  
10 commercial foresters will probably get a class III permit. Those who want to  
11 convert to development are more likely to go with a conversion option harvest  
12 permit or a conversion permit. Those who are going to commercially log and  
13 replant are exempt no matter what. They need to worry about the smaller logging  
14 operations that might be converted to subdivisions. There are options to  
15 encourage the trees to grow back, but not prevent them from being logged.  
16

17 Caskey-Schreiber asked if is feasible to establish an incremental retention  
18 plan based on lot sizes. Goodwin stated that's what this language already does.  
19 They could refine that. Rather than make it complicated, determine the overall  
20 goal, pick a percentage that would be applied across the board, and then provide  
21 exemptions for commercial foresters. Five acres seems to be a reasonable  
22 threshold. Encourage that they leave the stumps in and replant, which will protect  
23 soils and prevent runoff.  
24

25 **McShane moved** to exempt lots that are a nominal five acres or more.  
26 He's not entirely happy with that. It needs more work. It will send a message that  
27 the committee is considering that issue. They'll get some input on this over the  
28 next few weeks.  
29

30 Caskey-Schreiber asked how the class III permit works.  
31

32 McShane stated there are three options. The first option is a class III special  
33 permit, which means that the owner would not have to follow critical areas rules,  
34 only forest practice rules. The forester would be required to replant, and could not  
35 develop for six years.  
36

37 The second option is a co-hop permit, which keeps the owner's options  
38 open. The forester follows the critical areas ordinance, and then must choose  
39 between replanting or developing.  
40

41 The third option is a straight conversion, where an owner harvests and then  
42 builds the houses. He would like to see a requirement for replanting a percentage  
43 of the property for a conversion. The intent is to maintain a hydrologic regime,  
44 which can be done by replanting.  
45

1 Caskey-Schreiber suggested that they could develop a reverse scale of the  
2 percentages. Make the required retention percentage less as the size of the parcel  
3 gets larger.

4  
5 ***Motion carried unanimously.***  
6

7 Goodwin stated the next issue is with section 20.80.735(2)(f) regarding  
8 seasonal clearing limitations. There was discussion about whether or not to include  
9 Drayton Harbor. The environmental community feels that the point system isn't  
10 stringent enough. Any parcel can be cleared if there is an engineered plan. There  
11 was discussion that some parcels shouldn't be cleared, even with an engineered  
12 plan.

13  
14 Fleetwood stated they need to address the point system.  
15

16 Goodwin stated the point system wouldn't become part of the code, but  
17 would be used administratively as a checklist to make decisions on this issue. The  
18 points were assigned to various items on the checklist. She described the point  
19 assignments to the various criteria. If a project scores 40 points or less, it is  
20 approved, subject to best management practices. If a project scores greater than  
21 40 and less than 75, it can be done with conditions. Any project that scores 75 or  
22 greater would require an engineered plan.  
23

24 Caskey-Schreiber asked if there is an obvious area that is not scored  
25 appropriately. Goodwin stated she couldn't think of anything in particular. The  
26 one thing staff was concerned about was allowing any project that scored over 75  
27 points to go forward, even with an engineering plan. All manmade engineering  
28 measures can fail, and that property would be in a very critical area.  
29

30 Fleetwood asked how the time of year, February and March, was chosen.  
31 Goodwin stated the committee looked at the amount of rainfall. Later in the year,  
32 when it had been raining all winter and the soils are saturated, there will be more  
33 runoff. Usually, the amount of rain received in January is much greater than in  
34 February.  
35

36 Isaacson stated it doesn't matter how much it rains. What matters are the  
37 activity and the rain that occur after saturation.  
38

39 Bill Quehrn, Building Industry Association, stated the question is what  
40 criteria they have to make sure staff has some mechanism to enforce that, and  
41 that it makes some sense to people who are doing projects. It must have  
42 predictability and certainty. The point system developed out of that concern. Most  
43 of the time, they don't need to worry so much about the soil composition. They  
44 need to make sure the staff can work with any application to develop a plan that  
45 makes sense on the associated parcels. This establishes a middle ground between  
46 the technical administrator and the applicant. If it is expensive enough, it will  
47 make more economic sense to wait to do the project during the summer months.

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1 A lot of people spent a lot of time working on this system. A reasonable limitation,  
2 not a total ban, on seasonal clearing is a good idea.  
3

4 Caskey-Schreiber stated she would be more comfortable with the point  
5 system if any project scoring over 40 points must wait until the dryer months. She  
6 doesn't want to allow a high-risk project, knowing it is a high risk, to go forward  
7 instead of just making them wait a few months.  
8

9 Fleetwood stated it is the Council's prerogative to amend the ordinance if it  
10 deems necessary to develop the best regulations they can.  
11

12 Nelson stated forest practices in the watershed occur more in the wetter  
13 months because they are precluded from the dryer, fire season. He asked if that is  
14 taken into account. Goodwin stated forest practices are exempt if there is a class  
15 III permit. Co-hops and conversions have to comply.  
16

17 Nelson stated the Department of Ecology stated that forest practices have  
18 little impact on water quality. However, this will penalize a property just for being  
19 five acres in size.  
20

21 Brenner suggested an exemption for commercial logging activities. She  
22 asked if there is an option for the County to deny the engineered plan. Goodwin  
23 stated there is not.  
24

25 Kurt Baumgarten, Planning Technician, stated staff might suggest  
26 modifications to the plan, but they wouldn't actually deny it unless it is woefully  
27 inadequate. It will be difficult for a non-engineer to say that the engineering plan  
28 is woefully inadequate.  
29

30 Roy stated it would be useful if the Planning Department matched actual  
31 construction sites to the point system to see how it works. This should be passed  
32 on. They can come back later and make those revisions. That would be good  
33 information to have. Goodwin stated staff could do that review for various current  
34 and past projects.  
35

36 *(Clerk's Note: End of tape one, side B.)*  
37

38 Roy stated that it would make those on both sides of the issue feel better.  
39

40 Caskey-Schreiber stated she would like to remove the last two thresholds.  
41 If a project doesn't make the 40-point criteria, then it has to wait.  
42

43 Nelson stated it needs to be evaluated in terms of forest practices, which are  
44 typically larger than a five-acre piece. Take into consideration how they deal with  
45 a forest practice versus a development. The intention is not to inhibit or preclude  
46 the ability to use a property for forest practices, even though they may want to  
47 retain the ability to develop in the future.

1  
2 **McShane moved** to amend Council packet page 117, section  
3 20.80.735(2)(f)(1)(c), "...during the wet season. ~~If a licensed engineer designs~~  
4 ~~and submits an engineered erosion and sediment control plan for the proposed~~  
5 ~~site, the technical administrator may further review the proposed clearing activity.~~  
6 ~~If the technical administrator determines that the engineered erosion control~~  
7 ~~measures will control erosion and prevent silt laden runoff from leaving the~~  
8 ~~construction site in accordance with this section, the administrator may approve~~  
9 ~~the proposed clearing activity during the wet season."~~ Don't let the technical  
10 administrator make that determination and fight that fight.

11  
12 **Motion carried unanimously.**

13  
14 McShane moved to amend Council packet page 116, section  
15 20.80.735(2)(f)(1)(a), "...for seasonal clearing limitations **or is limited to forest**  
16 **practices only**, the proposed activity shall be exempt..."

17  
18 Nelson stated there is an exemptions section for forest practices land  
19 clearing. He asked if those would be exempt, but would still have to meet the  
20 requirements of the Whatcom County development standards, chapter three. He  
21 asked what those are. They need to make sure that the amendment is not  
22 contradictory to the regulations. Goodwin stated she believes it cross-references a  
23 section that is no longer there.

24  
25 **Motion carried 2-1 with Caskey-Schreiber opposed.**

26  
27 Goodwin stated an exemption is listed in section 20.80.735(2)(f)(3) that  
28 cross-references a section she cannot find. The staff will have to renumber the  
29 language and find out what it was supposed to cross-reference. These are the  
30 exemptions. That might be where they want to exempt forestry practices.

31  
32 **McShane moved** to rescind the previous motion.

33  
34 **Motion carried 2-0 with Caskey-Schreiber abstaining.**

35  
36 **McShane moved** to add the exemption to section 20.80.735(2)(f)(3).

37  
38 **Motion carried unanimously.**

39  
40 Goodwin stated the next issue is in section 20.97.419 regarding the  
41 definition of a "significant tree." The definition no longer exists. It used to be  
42 what they used to determine the percentage of the trees that were retained. In  
43 section 20.80.735(2)(d)(1) the question comes up about which trees could be  
44 removed.

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1 Isaacson stated that there are a number of factors that have to be dealt with  
2 on a site. When they get that specific about tree size, he becomes concerned. The  
3 County should not take a position that one size fits all, in this case.  
4

5 Goodwin stated the canopy size of a two-inch tree will be small, so it won't  
6 add much to the percentage.  
7

8 Roy stated there is an issue of confidence and trust that people will  
9 understand the intention.  
10

11 Caskey-Schreiber stated some buffer trees on a slope might be essential to  
12 retain.  
13

14 Kurt Baumgarten, Planning Technician, stated the initial intent in defining  
15 the trees was to have some predictability. With that, they have a tree that is more  
16 established, has a larger canopy, and intercept more rainfall before it hits the  
17 ground. Unfortunately, it conflicts with the views that people want to have on a  
18 property. Encourage trees in areas near the slopes or on slopes. There is still a  
19 section in the code about prioritizing trees for retention. If the Council's intent is  
20 to intercept rainwater prior to striking the ground to mitigate for stormwater, then  
21 he recommends keeping the larger trees.  
22

23 Isaacson stated he was concerned with section 20.80.735(2)(f)(1)(b)(iii) on  
24 Council packet page 117. He submitted alternate language. An engineer who  
25 hasn't completed a recent certified erosion control and who designed the plan  
26 would not be able to review it.  
27

28 Goodwin stated the last issue was with section 20.97.187 regarding the  
29 impervious surface definition.  
30

31 Isaacson stated gravel can be impervious when done to specific  
32 specifications to meet certain requirements. There is a lot of rock that is pervious,  
33 and would be better for a site than the natural dirt after it is disturbed. He  
34 proposed that non-compacted gravel be allowed for use when the material is no  
35 less than 1 ½ inches when crushed, and is relatively clear material.  
36

37 Brenner stated the issue is with driveways. It gets compacted on driveways.  
38 Isaacson stated 1 ½ inch of clear material doesn't get compacted. A number of  
39 roads have been done with that type of rock.  
40

41 **McShane moved** to include gravel roads as an impervious surface in  
42 section 20.97.187.  
43

44 **Motion carried unanimously.**  
45

46 Roy stated they have not discussed whether or not to include Drayton  
47 Harbor. She is not sure if she has an opinion on it yet. Much of the land within the

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1 Drayton Harbor watershed would score under the 40 points on the point system,  
2 and the question may be moot because it is flat and well drained. The only  
3 question is how close it is to a water body. If the point system is correct, the  
4 impact may be only to those areas where they want to impact, which is by water  
5 bodies.  
6

7 **Caskey-Schreiber moved** to include Drayton Harbor if the point system  
8 stays as it is. If the point system is altered at all, they should go back to the  
9 Drayton Harbor discussion.

10  
11 Goodwin stated Drayton Harbor is currently a stormwater special district and  
12 a water resource special management area. The seasonal land clearing regulations  
13 are for the special management area, of which Drayton Harbor is not.  
14

15 **Caskey-Schreiber withdrew her motion** until they address the point  
16 system fully.  
17

18 **McShane moved** to amend section 20.71.302(1), "For uses in the UR and  
19 URM zone districts, at least 50 80 percent of the lot..." If one is in the UR zone in  
20 the Lake Whatcom watershed, a typical lot will be 15,000 square feet. On those  
21 lots, they can have half the lot, 7,500 square feet as impervious surface. If it is  
22 over 10,000 square feet, the percentage can go to 60 percent. They should  
23 increase the percentage to 80 percent. Sixty percent of a 15,000 square foot lot is  
24 a 6,000 square foot footprint. That is an area where they have some significant  
25 problems with stormwater runoff. Those individuals are going to be dealing with  
26 significant problems. It is draining in an area where they are going to have  
27 problems with the total maximum daily load is decided. Minimizing that to a  
28 degree is important.  
29

30 McShane asked if there is any UR zoning in Lake Samish. Goodwin stated  
31 there is not anymore.  
32

33 McShane stated it does not apply to Birch Bay.  
34

35 Caskey-Schreiber asked the typical percentage of impervious surfaces for a  
36 home site, including driveway.  
37

38 McShane stated that, as a comparison, his entire lot and half his neighbor's  
39 lot would total 6,000 square feet. That is a large area.  
40

41 Roy asked if the goal for sensitive watershed area is to limit impervious  
42 surfaces to ten percent. Goodwin stated that is the limit drainage-wide. It applies  
43 more to streams than lakes. That is the best available science that they have.  
44

45 McShane stated a standard lot is 15,000 square feet. If it is 80 percent  
46 open space, there could be 3,000 square feet of impervious surfaces on the lot.  
47

1 Brenner stated there will be people who can't build up. They should not use  
2 their own living situations as comparisons.  
3

4 McShane stated that his property is not a demonstration of how he expects  
5 other people to live. It is used for comparison-purposes only. The point is that  
6 this is a drinking water source for half the county. People who live within the  
7 drinking water source area should be held to higher standards than elsewhere.  
8 Because of the fact that they are going to allow development to continue, those  
9 folks should live with it. Three thousand square feet of impervious surfaces is  
10 ample. He would propose an amendment to section 20.71.302(4).  
11

12 Brenner stated the people already living in the watershed are the majority.  
13 If they are going to do something like that, they need to add retrofitting.  
14

15 McShane stated that in the end, there would be retrofitting occurring in that  
16 neighborhood. It will be required by the total maximum daily load study in two or  
17 three years. Those areas are going to be defined by how much they are allowed to  
18 discharge. Those individuals are facing a retrofit bill down the road. One reason to  
19 reduce the amount of impervious surfaces is to save new developments, the  
20 County, and the City the cost of doing retrofitting. What he is proposing is  
21 aggressive. He is willing to give a little more to property owners with small lots  
22 that are limited now to 2,000 square feet. It would be more equitable.  
23

24 **McShane repeated and amended his motion** to amend section  
25 20.71.302(1), "For uses in the UR and URM zone districts, at least 50 **80** percent of  
26 the lot shall be kept free of structures and impervious surfaces, ~~except in the UR~~  
27 ~~zone, where on lots larger than 10,000 square feet, 60 percent of the lot shall be~~  
28 ~~kept free of impervious surfaces."~~  
29

30 **Motion carried unanimously.**  
31

32 **McShane moved** to approve an amendment to section 20.71.302(4),  
33 "...~~2,000~~ **2,500** square feet of impervious surface shall be allowed."  
34

35 **Motion carried unanimously.**  
36

37 Fleetwood stated this version would go forward for public review.  
38

39 McShane stated they would take this up in about a month, after they get the  
40 public input.  
41

#### 42 **OTHER BUSINESS**

43  
44 There was no other business.  
45  
46  
47

**DISCLAIMER: This document contains the Whatcom County Council or Committee minutes, as approved. However, unless an attested signature page is attached, they are not the final approved minutes.**

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1 **ADJOURN**

2  
3 The meeting adjourned at approximately 5:20 p.m.  
4  
5

6  
7 \_\_\_\_\_  
8 Jill Nixon, Minutes Transcription  
9

10 ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

11  
12  
13  
14  
15  
16 \_\_\_\_\_  
17 Dana Brown-Davis, Council Clerk

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