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WHATCOM COUNTY COUNCIL  
**Planning and Development Committee**

August 5, 2003

The meeting was called to order at 3:10 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  
L. Ward Nelson

**COMMITTEE DISCUSSION**

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

Kurt Baumgarten, Planner I, handed out a memo (*on file*) regarding tree retention and is based on conversations with the public, staff, and the State Department of Natural Resources (DNR). His proposal is for language that would not unfairly burden smaller landowners with land platted after January 1960 and that is being used for non-conversion forest practices. The current language makes it not economically viable to harvest trees on those lots. Staff reviewed all applicable state rules and regulations, and found that an exemption could be placed into the tree canopy area retention section. It is a simple statement that will take care of the issue. The tree canopy retention language would regulate a conversion. A person doing a simple non-conversion harvest on platted land would apply for a County clearing permit, subjected to the rest of the review, and would have to get a DNR class IV general permit.

Also, Whatcom County Code (WCC) section 20.80.733(2) of the Amended June 9, 2003 version must include the language that is currently stricken from it. It is a State requirement. It is not a substantial change to the ordinance.

**McShane moved** to amend WCC 20.80.735(2)(d), "...clearing activities on any lot or parcel, with the exception of non-conversion forest practices occurring on lands platted after January 1, 1960, shall comply with the following provisions:"

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1 and to reinstate WCC 20.80.733(2), "The proposed activity consists of non-  
2 conversion forest practices other than a Class IV General forest practices on platted  
3 land, and other than those with an approved COHP regulated under Chapter 76.09  
4 RCW; or"

5  
6 ***Motion carried unanimously.***  
7

8 Caskey-Schreiber stated she wanted to discuss the impervious surface  
9 language. Use the language that Councilmember McShane proposed in his June 10,  
10 2003 memo. Add language to section 20.71.302, "(8) Gravel covered driveway  
11 surfaces will be counted as impervious surfaces unless all of the following criteria  
12 are met, in which case one-half of the surface area of the gravel driveway shall be  
13 calculated as impervious surface:

- 14 (a) The site is not located in an urban zoning district.  
15 (b) The slope of the driveway is less than 5%.  
16 (c) The site soils consist of hydrologic group A or B soils.  
17 (d) The depth to seasonal groundwater is at least 6 feet.  
18 (e) The driveway is sloped in such a manner that any runoff generated will  
19 be infiltrated into the ground."  
20

21 Brenner stated that language makes people think they have a chance to use  
22 gravel, when they really don't because the criteria disqualify most people.  
23

24 Caskey-Schreiber stated that, as an alternative, she would just prefer to  
25 treat gravel as an impervious surface, as King County does.  
26

27 McShane stated that staff provided a map that shows all the areas that meet  
28 the criteria in his proposed language. The slope criterion would be site-specific.  
29

30 Fleetwood asked if Mr. Brueske has had a chance to look at the language  
31 proposed.  
32

33 Chris Brueske, Engineering Manager, stated the intent of his July memo was  
34 to present an objective analysis of what Whatcom County development standards  
35 would require for an engineering analysis. His analysis tried to address the factors  
36 in Councilmember McShane's memo. Using the required engineering analysis,  
37 gravel calculates as producing 40 to 90 less runoff volume than pavement,  
38 depending on slope. He can't evaluate the other criteria proposed, such as the  
39 zoning. He'd prefer to comment on the aspects of the proposal that he can test for  
40 engineering analysis.  
41

42 Brenner stated gravel has 40 to 90 percent less runoff than pavement,  
43 according to Mr. Brueske. Based on the restrictions in Councilmember McShane's  
44 proposal, people will opt for using pavement. Her proposal was to give someone  
45 more credit for using gravel than for using pavement. Her language is to allow  
46 twice the credit for using gravel instead of pavement. Most people will see that

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1 they don't fit Councilmember McShane's criteria for using gravel, so they will use  
2 pavement.

3  
4 Caskey-Schreiber stated these numbers and Councilmember Brenner's  
5 proposal don't calculate slope. That's important in a watershed area. She would be  
6 willing to add in type C soils.

7  
8 McShane stated he proposed this language because he felt that the original  
9 proposal didn't make sense. Since then, his proposal has been clouded and  
10 debated heavily. He's become frustrated. He preferred to defer to what other  
11 people have thought regarding these types of surfaces. He doesn't want to debate  
12 this at all because of his frustration.

13  
14 Brenner stated she would rather have people use gravel than pavement. It's  
15 not a credibility issue. Both options make sense.

16  
17 Caskey-Schreiber stated their purpose is to limit the amount of impervious  
18 surface. By giving credit for a gravel driveway that is undeserved is to encourage  
19 someone to have more impervious surfaces. The goal in the watershed is to keep  
20 as much pervious surface as possible. Treat gravel as it is. In certain conditions,  
21 gravel may act imperviously, but it depends on the soil type. If they have the right  
22 soils, slope, and other conditions then it would be fine. In situations where the  
23 gravel won't be pervious in a few years, it's not okay. The County needs to say up  
24 front how much impervious surface will be allowed.

25  
26 Brenner stated that according to Mr. Brueske, gravel is still 40 to 90 percent  
27 less impervious than pavement.

28  
29 Caskey-Schreiber stated that doesn't include slope. Brueske stated his  
30 models did include consideration of slope, and he didn't find much difference in the  
31 results. Slope does not affect the runoff numbers because of the way they ran the  
32 analysis. The type of storms in Western Washington is called a 1A storm. A 1A  
33 storm has a rainfall distribution that starts very low, gradually builds and peaks  
34 eight hours into the storm. Once the maximum infiltration rate of the soils is  
35 achieved, any rainfall after that becomes runoff. On a small area such as a  
36 driveway, the slope will only change the infiltration and runoff rate by a minute or  
37 two.

38  
39 Brenner stated that if the committee doesn't approve her proposal, then she  
40 would rather do the alternative to evaluate the scenarios on a case-by-case basis.

41  
42 **Caskey-Schreiber moved** to add language to section 20.71.302, "(8)  
43 Gravel covered driveway surfaces will be counted as impervious surfaces unless all  
44 of the following criteria are met, in which case one-half of the surface area of the  
45 gravel driveway shall be calculated as impervious surface:

- 46 (a) The site is not located in an urban zoning district.  
47 (b) The slope of the driveway is less than 5%.

- 1 (c) The site soils consist of hydrologic group A or B soils.  
2 (d) The depth to seasonal groundwater is at least 6 feet.  
3 (e) The driveway is sloped in such a manner that any runoff generated will  
4 be infiltrated into the ground."  
5

6 Caskey-Schreiber stated that she may want to add A, B, or C soil types,  
7 depending on the amount in the watershed.  
8

9 McShane stated he thought most of the rest is either C or D type soils. They  
10 don't have good infiltration. Look at the difference on the flow curves of the  
11 percent change between C and D, which depends on the storm event. For the six-  
12 month storm, there is over 50 percent greater runoff from type C soils. For two-  
13 year storm, it is less than that. The bigger the storm, the less percentage  
14 difference there is because it overwhelms all soil types. Even on forested land,  
15 shown on Table 3 of Mr. Brueske's memo, they start to see runoff with Type C soils.  
16

17 Caskey-Schreiber stated she would not add those soils.  
18

19 Brenner stated her language specified one and one-quarter inch gravel. She  
20 wanted to change her language to say "clean" gravel instead.  
21

22 ***Motion carried 2-1 with McShane opposed.***  
23

24 ***Caskey-Schreiber moved*** to amend 20.97.187 to remove the reference to  
25 one and one-quarter inch gravel by deleting the last sentence, "...determining total  
26 impervious surface. ~~However, gravel roads using one and one-quarter inch, or~~  
27 ~~greater, clean gravel shall be considered low grade pervious surface and shall be~~  
28 ~~allowed twice the limit of impervious surface."~~  
29

30 ***Motion carried unanimously.***  
31

32 Amy Pederson, Planner I, submitted a handout dated August 5, 2003 (*on*  
33 *file*) for suggested amendments.  
34

35 ***McShane moved*** approval of item two, financial assurance language for  
36 tree retention to amend section 20.80.735(2)(d)(9), and item three, financial  
37 assurance language for land clearing to amend section 20.80.735(2)(e)(v), in Ms.  
38 Pederson's list of Possible Alternative Language to Address Areas of Concern, dated  
39 August 5, 2003.  
40

41 ***Motion carried unanimously.***  
42

43 ***McShane moved*** to approve item four, tree retention language limitation to  
44 one-time 5,000 square feet or 35 percent clearing to amend section  
45 20.80.735(2)(d)(1), in Ms. Pederson's list of Possible Alternative Language to  
46 Address Areas of Concern, dated August 5, 2003.  
47

1           ***Motion carried unanimously.***  
2

3           Sylvia Goodwin Planning Division Manager, asked if the Council would  
4 schedule a public hearing on this item on September 9.  
5

6           Fleetwood stated they would, unless there is a good reason not to.  
7

8           McShane stated one of the reasons they put this item back in committee was  
9 to compare tree retention language, discuss why tree retention is important to  
10 protect water quality in a drainage area, and consider alternative approaches.  
11 Derek Booth reviewed alternative approaches to a variety of streams in the King  
12 County area. Those approaches include stormwater retrofits, stormwater design  
13 standards, and zoning. From that study, they found all the approaches had limited  
14 success, including zoning. Rural zoned areas do not provide protection because of  
15 the runoff once a tree canopy is removed. There are impacts to water quality and  
16 biology that occur inside a stream channel. They need to think of whether there  
17 are other approaches for success. That is something that should be done in  
18 committee. He gets the sense that staff isn't ready to do that today. The question  
19 is whether they want to do that at the Council or in committee.  
20

21           Goodwin stated staff is working on those issues and is preparing a memo to  
22 the councilmembers so that information could be in the findings for the ordinance.  
23 The Council could discuss it in committee, and continue the discussion at the  
24 Council meeting.  
25

26           McShane stated he would be concerned about scheduling a public hearing at  
27 that time. He would not want the public to come to an evening meeting not  
28 knowing the information and where the councilmembers are going. Wait to have  
29 the public hearing on a following meeting. It will give people an opportunity to  
30 provide rebuttal to what the Council is doing. Don't have the public hearing the  
31 same night as the day of the committee discussion. The interim is good until  
32 December.  
33

34           Caskey-Schreiber stated she's been referring to information on the hydrology  
35 process and forestry retention. She would include that information in the packet.  
36

37           *(Clerk's Note: End of tape one, side A.)*  
38

39           Goodwin stated certain staff would rather wait until at least the second  
40 meeting in September. However, Comprehensive Plan amendments will be coming  
41 forward soon.  
42

43           Dave Grant, Senior Civil Deputy Prosecutor, stated it would be beneficial for  
44 the community to have time to put thought into the information the committee  
45 would receive for its discussion.  
46

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1           McShane stated he has great admiration for the entire Council on this item,  
2 which has been very difficult to work on. The councilmembers have had to  
3 understand some cutting edge science.  
4

5           Fleetwood stated this would be held in committee until the second meeting in  
6 September.  
7

8  
9           **OTHER BUSINESS**

10           There was no other business.  
11  
12

13  
14           **ADJOURN**

15           The meeting adjourned at 3:55 p.m.  
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19 \_\_\_\_\_  
20 Jill Nixon, Minutes Transcription  
21

22  
23           ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

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28 \_\_\_\_\_  
29 Dana Brown-Davis, Council Clerk

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