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WHATCOM COUNTY COUNCIL  
**Planning and Development Committee**

February 8, 2005

Committee Chair Seth Fleetwood called the meeting to order at 3:00 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

Present:

Barbara Brenner  
Dan McShane

Absent:

None

Also Present:

None

**COMMITTEE DISCUSSION AND RECOMMENDATIONS TO COUNCIL**

**RESOLUTION INITIATING COMPREHENSIVE PLAN AND ZONING AMENDMENTS FOR 2005 (AB2005-084)**

Fleetwood stated these are only half of the applications submitted. The committee will review this half of the applications, and take a formal vote on them all in two weeks.

Sylvia Goodwin, Planning Division Manager, submitted the three-year schedule of major planning division projects (*on file*). Now, the critical areas ordinance update is late and they are out of compliance with the Growth Management Act (GMA). The Bellingham urban fringe plan is also late. The City of Bellingham is out of compliance because it doesn't have an adequate land supply to meet its projected population, and there are many other items.

McShane asked if the City has reached the conclusion that it doesn't have adequate land supply. Goodwin stated everyone recognizes there is a deficit, but they don't know how big the deficit is. The City is not out of compliance unless someone challenges it. They are all aware the City missed the deadline. The City and County passed a resolution saying it will attempt to get it done by July 1.

The County Planning Commission is booked through the July. Staff is 100 percent booked. Any comprehensive plan items docketed means they need to schedule additional Planning Commission meetings, add additional staff, or shift some of the additional projects further back. They may not get to the critical areas ordinance (CAO) or urban fringe plan when they hoped, or will have to push the docket back. Anything the Council adds will require a shift of resources.

Whatcom County Code (WCC) 20.10.060 has criteria the Council will use to determine whether or not to docket an item. First, if an amendment is in a city

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1 urban growth area (UGA), the County will consult with the city. Second, if an  
2 amendment is removing designating agriculture, forest, or mineral land, the Council  
3 will consider the cumulative impact to the loss of resource land. The third criterion  
4 is whether Council has already set a date for future consideration of the item.  
5

6 She referenced Council packet pages 110 and 111 for all items.  
7

8 DOCKET # 2005-A: Bellingham UGA Expansion  
9

10 Goodwin read the description listed on Council packet page 110 and showed  
11 the location on a map of the area. The area is generally located north of  
12 Bellingham between the end of the Guide Meridian and James Street. It is to the  
13 west of King Mountain and surrounding the top of King Mountain. The property is  
14 east of the existing UGA. It is not part of the five-year review or UGA. The  
15 proposal is to bring the property into the UGA.  
16

17 Brenner asked if it would even out their UGA a bit. Goodwin stated it gets  
18 closer to evening it out some.  
19

20 Brenner asked if this touches the UGA to the west. Goodwin stated it fits into  
21 a notch of the UGA. The other part of the UGA is further to the west.  
22

23 Brenner stated it tends to make the UGA more irregular than regular. She  
24 asked why they are going farther north. Goodwin stated that is the proposal the  
25 County received. It's up to the Council whether or not it goes forward with the  
26 proposal.  
27

28 McShane asked about the area to the west. Goodwin described the map.  
29 Part of the property is in a seismic hazard area, which also covers a good part of  
30 the city UGA. There are no wetlands delineated in the area.  
31

32 Fleetwood asked if the property includes the crown of King Mountain.  
33 Goodwin stated it does. An area nearby the property in this proposal is already at a  
34 suburban density. That is part of the reason for the proposal. The property would  
35 be developed at an urban density as opposed to a density of two houses per acre.  
36

37 Fleetwood asked the density of urban residential, mixed use. Goodwin stated  
38 the density is a minimum of six units per acre and a maximum of ten units per  
39 acre, with the transfer of development rights. If brought into the UGA, the staff will  
40 fold it into the urban fringe plan and find areas where the density could be higher.  
41

42 Fleetwood asked if there is a possibility of a density close to 1,000 units.  
43 Goodwin stated that would be close.  
44

45 McShane asked if the area south of Smith Road and west of the Guide  
46 Meridian is being considered as part of the urban fringe area. Goodwin stated it is  
47 in the five-year review area. If docketed, this would be included.

1  
2 McShane asked about the area west of the airport. Goodwin stated that is an  
3 urban fringe area, but is not proposed for adding to the UGA. This area is within  
4 the Bellingham urban fringe subarea. In theory, the County will look at this area as  
5 part of urban fringe, but not necessarily as an expansion of UGA.  
6

7 McShane asked the purpose of the urban fringe. Goodwin stated the urban  
8 fringe includes UGA's and surrounding rural lands. The urban fringe is intended to  
9 be an area that provides a buffer or eventually becomes part of the Bellingham  
10 UGA. The urban fringe is to make sure uses are compatible. Don't let it get  
11 chopped up into parcels that could not later be developed at an urban density. A  
12 density of rural residential, two units per acre (RR2) is not exactly what they want  
13 in there.  
14

15 Fleetwood asked who established the five-year review process. Goodwin  
16 stated the County Council established the five-year review process in 1997. The  
17 decision was a ten-year joint process between the City and County planning  
18 commissions and councils.  
19

20 Fleetwood asked if it is important that the County or City has not proposed  
21 this area for review. Goodwin stated it's relevant, but the owner has talked with  
22 the City as well. If docketed, the City and County would both discuss it.  
23

24 Fleetwood asked if the Hitz property on the Hannegan Road is in the five-  
25 year review area. Goodwin stated she believes it is.  
26

27 Brenner asked if this property is in one person's ownership. Goodwin stated  
28 she believes so.  
29

30 Brenner asked if they have heard from anyone in the surrounding areas.  
31 Goodwin stated they haven't yet. She would notify the neighboring property  
32 owners and go through a full public process if docketed.  
33

34 Fleetwood asked for staff's recommendation. Goodwin stated it makes sense  
35 to look at it since they're already looking at the urban fringe and it's already zoned  
36 RR2.  
37

38 Fleetwood asked if it is an added big burden. Goodwin stated they are  
39 looking at it already.  
40

41 Ralph Black, Alliance Properties, stated he has been in touch with the  
42 neighbors to the west. He is currently under contract with a number of them. He  
43 anticipates having a contract with all, so he would eventually acquire all the  
44 property to the west. His vision is to go forward with the urban village concept.  
45 The key has been acquiring the large King Mountain property to make it fit. Part of  
46 the proposal is to have a large park on the top. He has been in contact with the  
47 City. There is some strong support that this does make sense. There are services

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1 on three sides of the project. If it goes forward, the project can be brought into  
2 productivity fairly quickly. He can take densities and bring the project online in a  
3 reasonable amount of time. Infrastructure is there or nearby. The project at this  
4 point seems fairly well received by the City and County.  
5

6 McShane stated that over the next couple weeks, they should have  
7 communication from the City saying that it is interested in this area. He is inclined  
8 to recommend docketing this item with the caveat that they have some  
9 communication with the City saying that it is interested as well. Goodwin stated  
10 the Planning Director for the City said the project has merit. She hasn't talked to  
11 the City Council.  
12

13 **McShane moved** to recommend docketing this item for consideration.  
14

15 **Motion carried unanimously.**  
16

17 DOCKET # 2005-B: Blaine UGA Reduction  
18

19 Goodwin read the description on Council packet page 110 and indicated the  
20 location on the map. The proposal is for all of the Blaine UGA except a small area  
21 next to the city.  
22

23 Brenner asked the zoning of the houses under construction at Loomis Trail  
24 golf course. Goodwin stated the zoning is urban residential, four units per acre  
25 (UR-4), which allows golf courses and housing. That area is currently served by  
26 water and sewer. The area has quite a few houses now. The rest of it is fairly  
27 rural. There are a fair number of houses along Blaine Road. At Sunday Harbor  
28 there is an older trailer park with sewer. The rest is mostly five-acre tracts.  
29

30 Fleetwood asked if it is more difficult to rescind a UGA. Goodwin stated they  
31 can rescind a UGA. The only difficulty is property owners have their expectation of  
32 development taken away.  
33

34 Fleetwood asked if the Council has to justify public benefit and changed  
35 circumstance, like a rezone. Goodwin stated the Council would have to. The  
36 Council could also say there was a mistake in designating an area a UGA.  
37

38 Goodwin explained the area on the map. The northern part does not have  
39 agricultural soils. There are some agricultural soils along Lincoln Road. There are  
40 some seismic hazard areas along California Creek and east of the city. There are  
41 some steep bluffs in the city limits and along the shoreline of Semiahmoo Drive.  
42 There are a tremendous number of wetlands in the Blaine UGA. There are also a  
43 wildlife conservation area and an aquifer recharge area. The aquifer recharge area  
44 doesn't recharge a drinking water source. A fair bit of the soils allow infiltration to  
45 a clay layer. There are two large streams in the area. They also feed into the  
46 Drayton Harbor area, which is a shellfish area.  
47

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1 Fleetwood asked where the UGA is to the east. Goodwin stated the only UGA  
2 is the 160 acre small piece. If docketed, analysis would show that not all of it  
3 would be removed. A rather large parcel was annexed in the mid-1990's. That's  
4 where most of the growth would go.  
5

6 Brenner asked if Blaine would meet its population projection if this proposal  
7 went through. Goodwin stated a newspaper quoted a City planner who said they  
8 probably could. The City manager was also quoted as saying there are other  
9 reasons to keep those areas in the UGA. The City is doing it's own analysis.  
10

11 Brenner asked if the Council can postpone its decision until the City is done  
12 with its comprehensive plan. Goodwin stated it can. The City would finish in  
13 October and the County could look at it next year.  
14

15 Fleetwood stated the logic was to consider the Bellingham change in concert  
16 with the City of Bellingham's review. He asked if that same logic can be used for  
17 Blaine. Goodwin stated the County recommendation would happen in September,  
18 before the City has a chance to finish its comprehensive plan. It makes some sense  
19 to do it simultaneously, but the County's schedule is ahead of the City's schedule.  
20

21 Fleetwood asked the likelihood the area would be built out in one area.  
22 Goodwin stated the majority is designated as a long-term planning area. The  
23 Drayton Harbor area could not have water, sewer, or be platted. For the area to  
24 the west, the County could designate it as a long-term planning area until the City's  
25 planning is done.  
26

27 Fleetwood asked if there would be any lost opportunity if the County waits  
28 until next year. Goodwin stated there would not be lost opportunity. The Loomis  
29 Trail area is already platted.  
30

31 McShane stated the area to the west is currently not a long-term planning  
32 area. Goodwin stated the point of Semiahmoo is not a long-term planning area.  
33 The area south of Drayton Harbor is all a long-term planning area other than  
34 Sunday Harbor.  
35

36 McShane asked if the Birch Bay Water and Sewer District serves the area to  
37 the west. Goodwin stated there is water along Semiahmoo Drive, but no sewer.  
38

39 Geoff Menzies, Applicant, submitted information (*on file*) 988 W. Laurel Road,  
40 Ferndale, and read his statement.  
41

42 Brenner stated she likes considering this, but they must try to work with the  
43 City. She has a problem with going forward before the City decides what it wants  
44 to do with its comprehensive plan. If the County waits, nothing more would  
45 develop. She asked if that would make a difference. Menzies stated that as long  
46 as areas are designated in the UGA, there is an assumption that an area can  
47 develop. Terry Galvin told him that the City of Blaine has enough area within the

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1 existing city limit to handle Blaine's 20-year growth. In addition, there is a history  
2 of concerns with urbanization in the harbor. There is a lot of evidence for the  
3 effects of urbanization and loss of forestry on shellfish beds. He is concerned about  
4 there being more speculative investment over the course of a year. People will  
5 have inflated ideas about that investment. It will be that much more difficult to  
6 remove the UGA. Anyone can bring forward a Comprehensive Plan amendment.  
7 Anyone familiar with shellfish growing believes the entire UGA is a recipe for  
8 disaster. It's time for discussion on the size of the UGA, which is the same size as  
9 the existing city limits.

10  
11 Brenner stated it sounds like nothing will change in that area regarding  
12 densities before the Council makes some decisions. It's important that the County  
13 work with the City. The City is considering pulling some of the areas out of the  
14 urban growth area anyway. Menzies stated the zoning is at four units per acre,  
15 pending sewer. People who buy property expect that services will be there. That is  
16 a big difference in potential return, to a density of one unit per five acres. There  
17 could be more parcelization into five-acre pieces and more development within this  
18 area, which isn't compatible. It's more difficult to convert five-acre pieces to urban  
19 density than ten-acre pieces.

20  
21 Menzies continued to read his testimony about Blaine's density.

22  
23 *(Clerk's Note: End of tape one, side A.)*  
24

25 Menzies continued to state that it makes no sense to have a UGA of this  
26 size. The question is whether the City is in compliance with updating it's  
27 comprehensive plan, and if that's an issue for the Council to consider. Government  
28 must take the long-term view on growth and impacts to things that can't be  
29 recovered.

30  
31 Lincoln Rutter, 8373 Semiahmoo Drive, stated they must look at the history  
32 of the current situation rather than the UGA problem in Blaine. In 1996, the  
33 County's UGA's were drawn before the Growth Management Hearings Board. The  
34 judge in 1996 was appalled at the County's failure to apply growth management  
35 principles. The County is supposed to project 20 years and no more. For Blaine,  
36 the entire 20-year projected population fits in the existing city limits. The entire  
37 UGA is superfluous. In addition, critical areas should never have been included in  
38 the UGA, which is a problem. People believe the original zoning applied to them.  
39 It's a disservice to allow the mistaken impression to continue. The appeal that  
40 overturned the 1996 decision was due to technicalities. Apply the principles of the  
41 growth management act now. It's appropriate for the Council to take up this issue  
42 now. The Loomis Trail area will continue to expand. There is an inordinate amount  
43 of growth. There are 850 units for single family residential homes in the various  
44 stages of approval in Blaine. In Birch Bay, there are over 1,000 units.

45  
46 A speculative bubble in a real estate market is caused when the cost of  
47 borrowing funds is less than real estate appreciation annually. Eight percent of all

1 houses in America in the last quarter were built by speculators. In Blaine, 850  
2 homes are already being platted. The build out already approved for Semiahmoo is  
3 something like 2,400 units. They've only built about 560 units. There are 1,900  
4 units already available in Semiahmoo. The UGA is draconian in size and contrary to  
5 the law. The Council must fix the expectations in the minds of the people who live  
6 in an area that is rural. The land speaks for itself. If they live in a rural area, it  
7 doesn't matter that property owners have other expectations. The City of Blaine, if  
8 left to its own device, will not fix this problem. The City hasn't done any of its work  
9 on time.

10  
11 Brenner asked if Mr. Rutter is saying there will be more land platted if the  
12 Council doesn't do this now. Rutter stated that is what he is saying. There are 650  
13 acres that are cleared and ready for development. If they wait another year, there  
14 will be much more development. On Semiahmoo spit, 55 luxury condos are to be  
15 built with unit prices over \$1 million. That is in addition to the 72 duplexes that are  
16 supposed to be built, also with unit prices over \$1 million. That represents 120  
17 multimillionaires that would mysteriously appear. That's an irrational expectation,  
18 brought about by speculation because the cost of borrowing money is less than  
19 appreciation. It's easy to fantasize about 120 millionaires showing up in Blaine.

20  
21 Brenner asked the zoning at Semiahmoo. Goodwin stated the zoning is UR-4  
22 if there is sewer. There isn't sewer, so the density is held at one house per five  
23 acres (R5A). It is a short term planning area. If they can figure out how to get  
24 sewer, they can develop at UR-4. Getting sewer is the challenge. The 850 units  
25 Mr. Rutter referred to is in the city limits, and it's a long-term plan. Those units  
26 aren't proposed to be built this year. Only in the county, there is building at Loomis  
27 Trail Golf Course. That's already platted.

28  
29 Wayne Schwandt, Trillium Corporation, stated that in the short-term urban  
30 growth area, the amount of cleared land is about 230 acres. The number Mr.  
31 Rutter used included all the area in the short-term UGA. There are 600 acres in  
32 that area, but only half of it is now in the county under the R5A zone.

33  
34 In a long-term UGA, Trillium owns some property. Trillium is not necessarily  
35 opposed to the area staying in the long term UGA. There are issues there. The  
36 property is about half wetland. Sewer needs to be addressed. The best long-term  
37 solution for sewerage will be an agreement between the City of Blaine and the Birch  
38 Bay Water and Sewer District. They're not ready to do that yet. It's an appropriate  
39 area for long-term consideration.

40  
41 To the west of Semiahmoo is the spit. Trillium has development plans for  
42 that property. In the past, Trillium submitted the Cannery Hill planned unit  
43 development (PUD). Some of it was in the UGA. A portion is in the city limits.  
44 That project included a second golf course at Semiahmoo. They are reviewing that  
45 project now, and it doesn't include a golf course. It would be a PUD. That is an  
46 appropriate place for a PUD for Blaine and northwest Whatcom County. Water is  
47 available. The issue of sewer needs to be resolved. There will have to be technical

1 and financial analysis. Leave the land as it is now. Allow the City to continue its  
2 analysis. At this stage, don't draw conclusions out of numbers. There will be a lot  
3 of information that will come out. Now is not the time to make this major decision.  
4

5 The original master plan for Semiahmoo isn't what has happened in the past  
6 25 years because market conditions have changed. If there is a difficulty with  
7 Semiahmoo from a GMA perspective, it's that it's not dense enough. The types of  
8 development coming out now, which are the higher-end units, address a market  
9 opportunity that hasn't existing in the past. The 55 units are significantly fewer  
10 than the original master plan for that site. The area for those condos is called Villas  
11 at the Inn. It's the area between the Beach Walker condominiums and the resort.  
12

13 Trillium has a process in place that it has relied on to prepare its plans for  
14 the future. There is an appropriate review going on with the City of Blaine that  
15 Trillium will be a part of. To get in front of that process now doesn't make sense,  
16 especially if one of the goals is the environmental health of Drayton Harbor. That  
17 particular area doesn't drain to Drayton Harbor. The area to the east does drain to  
18 Drayton Harbor. It is the right type of planning area to consider potential impacts  
19 to Drayton Harbor.  
20

21 McShane asked if there is no moratorium associated with a clearing, based  
22 on a timber harvest done without meeting current critical areas under the County  
23 rules. Schwandt stated there is not. The questions about the timber harvest  
24 practices were answered. The permits were reinstated and the work was done.  
25 Portions of that cleared area are in conservation. They can't be converted back for  
26 some period into the future. There is a six-year constraint.  
27

28 Jan Hanson, 1167 Harrison, Blaine, stated she was on the Blaine City Council  
29 when the UGA limits were set. They probably didn't know what they were doing.  
30 They weren't fully aware of the long-term import of the lines they drew. It makes  
31 sense to revise the UGA.  
32

33 She asked what is to keep landowners in the Drayton Harbor area from  
34 getting together to develop. There is urgency for approving this item. Put it on the  
35 docket.  
36

37 Rutter stated the record will show that the short-term and long-term  
38 terminology is not part of the growth management terminology. It resulted in  
39 Whatcom County's case when they decided it would be difficult to reinstate the  
40 property delineations. They allowed the County to come up with short-term and  
41 long-term areas. That delineation doesn't work. In Birch Bay, long-term land has  
42 been flipped into instant PUD's all over the place. People who approved the PUD's  
43 didn't understand the long-term planning areas. The staff at the Planning and  
44 Development Services Department routinely issues building permits in long-term  
45 areas.  
46

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1 Brenner asked if that is correct. Goodwin stated that is not correct. The  
2 short-term planning areas are short-term. The long-term planning areas are long-  
3 term. A subdivision plat cannot be approved in a long-term planning area without a  
4 County Council ordinance converting the area to a short-term planning area. The  
5 area Mr. Rutter just talked about came to the County Council, which passed an  
6 ordinance changing the area from long-term to short-term. Staff doesn't have that  
7 ability to change. Staff, the Hearing Examiner, and the County Council all approved  
8 it because the area met all the criteria for a short-term planning area. It was  
9 adjacent to urban development, had water and sewer, and was in-filled up to the  
10 edge. The purpose was not to keep those areas long-term forever, but until the  
11 deficiency causing them to be long-term area has been addressed. In Birch Bay,  
12 there was an issue of water availability in 1997 that has since been resolved.  
13

14 McShane asked if the short-term and long-term planning area designations  
15 are a zoning or Comprehensive Plan designation. Goodwin stated they are set up in  
16 the zoning ordinance. They are amended as a zoning process. They are an  
17 appendix to the Comprehensive Plan. It is not subject to the annual docketing  
18 process.  
19

20 McShane stated it seems that the designations are meaningless. Goodwin  
21 stated they are not. There are specific criteria in the Comprehensive Plan for  
22 converting an area from long-term to short-term.  
23

24 McShane asked if an area that does not have sewer should be designated  
25 long-term. Goodwin stated the two are tied together. If sewer is available up to  
26 the property line, there is urban development to the property line, the land supply  
27 analysis has been done, and there is a need for it, then the property can be  
28 converted to a short-term planning area. Sewer cannot be extended into a long-  
29 term planning area. The area would have to be converted to a short-term planning  
30 area, which requires County Council approval.  
31

32 ***Fleetwood moved*** to recommend docketing to the full Council. He is  
33 inclined to look at something that reduces the UGA somehow. Blaine is in the midst  
34 of a process. If the Council docket this item next year, there won't be harm other  
35 than harm to the expectations of speculators. If there isn't going to be harm in the  
36 next year, and because staff is overburdened, he will vote against the motion.  
37

38 Brenner asked if the Council still has to approve property in the short-term  
39 planning area that is zoned UR-4 and has sewer. Goodwin stated the Council  
40 approves a subdivision. It does not approve sewer extensions. Property within the  
41 Birch Bay Water and Sewer District's boundary, zoned UR-4, and is short-term, the  
42 district can extend the sewer.  
43

44 McShane stated he's worried about a resource protection issue for the whole  
45 area. He's sensitive to the City, which wants time to look at this. There are  
46 important critical issues. He's not worried about the Drayton Harbor long-term  
47 area. Nothing is going to happen in there. He's confident that wetland regulations

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1 will protect the critical areas. Someday, there will be some sort of land  
2 development on the land to the west. It won't stay rural. He's concerned about  
3 the water drainage issues out there. He learned a lot from the Geo-Engineers  
4 reports for those land clearing areas. It's a significant issue. Staff has a workload  
5 he must consider, also. Wait for Blaine to go through its process. Take a good  
6 hard look at it next year.

7  
8 Brenner asked if the Council can change the proposal. She wants to change  
9 the short-term areas to long-term, and not have to worry about sewer. Goodwin  
10 stated the Council can do that as a zoning amendment on the zoning docket in  
11 June. It's not a Comprehensive Plan item. If the Council docket this, the outcome  
12 could be that the request is premature, and staff can recommend that switch. They  
13 would still need to go through all the staff work to consider this docket item. The  
14 answer is no, not by this process.

15  
16 Brenner stated that if it doesn't make any difference, and there is a window  
17 of opportunity, she will agree with waiting. She asked when would be the soonest  
18 that the Council would get to it if she supports the request. Goodwin stated the  
19 normal procedure is for it to come to the Council on or about November. With the  
20 docket this year, they may have to consider it along with the urban fringe or critical  
21 areas ordinance. It could be a full year before they consider it, and they won't get  
22 the 2005 docket done until mid-2006. If the Council docket all of these proposals,  
23 they might not be done for a long time. If the Council doesn't docket it, it will come  
24 before the Council again this time next year. At that time, it could draw it out  
25 another year. Normally it takes about a year from the time the Council docket the  
26 item to the time the Council approves it.

27  
28 Brenner stated she wants to make sure this gets done the same time the City  
29 of Blaine does its analysis. She will support the amendment.

30  
31 McShane stated there are a lot of things to consider. How he considers these  
32 final growth boundaries will make a big difference once he looks at the critical areas  
33 ordinance. He has some timing issues that are a problem. This is something that  
34 should be looked at next year, and it should be a high priority once the City of  
35 Blaine is done and the critical areas ordinance is done.

36  
37 Fleetwood stated he agreed with Councilmember McShane.

38  
39 Brenner asked when the Council will adopt the critical areas ordinance.  
40 Goodwin stated they hope the Council will adopt it by June. It could be stretched  
41 out through the summer.

42  
43 Brenner asked if the Council will adopt the critical areas ordinance before it  
44 looks at this amendment. Goodwin stated she hoped so.

45  
46 ***Motion failed 1-2 with Brenner in favor.***

47

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1 DOCKET # 2005-C: Lynden UGA Reduction

2  
3 Fleetwood read the description of this item on Council packet page 110.

4  
5 Matt Aamot, Senior Planner, explained the location on the maps. The five  
6 acres are designated in the urban growth area, but only a small portion is zoned  
7 urban residential, medium density. The rest is zoned agriculture right now.

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

10  
11 Fleetwood asked if the applicant is the present owner of the property who  
12 currently uses the property for agricultural purposes. Aamot stated he is. The  
13 applicant hopes to segregate the home site.

14  
15 Fleetwood asked if the City of Lynden is aware of the request. Aamot stated  
16 it is. He sent the City notice, but it has not commented.

17  
18 McShane asked if the Agricultural Preservation Committee commented.  
19 Aamot stated he doesn't believe they had a problem with it.

20  
21 The area is in an aquifer recharge area. There is a habitat conservation area  
22 along the creek, which is the reason for the 100-foot buffer. There is a variety of  
23 fish species, including coho, chum, chinook, cutthroat, and steelhead in the creek.  
24 The majority is within the 100-year floodplain. The staff doesn't have a problem  
25 with the Council initiating this item.

26  
27 Lesa Starkenburg-Kroontje, 115 Front Street, Lynden, stated she represents  
28 the applicant, Gerb DeBoer. The property is one legal lot. Most of it is actively  
29 used for farming. Mr. DeBoer is interested in selling the property. A farmer who is  
30 looking for a field does not want to pay for the value of a nice home that may be on  
31 the property. Mr. DeBoer's home is along the side of the current parcel. In 2001,  
32 the Council adopted an ordinance allowing a farmer to divide off a residence and up  
33 to three acres with a restriction on the balance of the property saying there can be  
34 no more homes placed on the property. Mr. DeBoer is interested in pursuing that  
35 option. However, there is a problem with the zoning. Part of the property is zoned  
36 urban residential mixed use, six units per acre (URM-6). Mr. DeBoer has to leave  
37 at least five acres because it is not served by public water and sewer. However,  
38 under the agricultural zone, he can only leave a maximum of three acres. There is  
39 no way to reconcile the two. To keep the portion of the property in agriculture,  
40 they must either annex into the city or do a rezone to agriculture.

41  
42 One would have to run a sewer around Fishtrap Creek to serve the property.  
43 The property to the east is already developed. The incentive to develop this  
44 property as part of the urban growth area is not there. This area is best used for  
45 agriculture. There are development constraints. The area is inundated with water  
46 from Fishtrap Creek and the Nooksack River.

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1 Consider a zoning change to the zoning text to charge a lesser fee to  
2 someone who is rezoning to agriculture for a particular purpose. She asked for a  
3 fee waiver for this application. The public interest is served by this application.  
4 The density would be reduced by one home.

5  
6 ***Fleetwood moved*** to recommend approval to the full Council.

7  
8 ***Motion carried unanimously.***

9  
10 DOCKET # 2005-D: Nooksack UGA Modifications

11  
12 Aamot explained the location on the map and aerial photo. The confluence of  
13 Sumas River and Breckinridge Creek is on the area proposed to be deleted. There  
14 are agricultural land uses in the area as well as residential uses and the City of  
15 Nooksack.

16  
17 The area to add is agricultural now. The river meanders through the site.  
18 Removing the portion would create a donut hole in the urban growth area. The site  
19 to add to the urban growth area is designated agriculture right now. It is overlain  
20 with agricultural protection overlay soils. The majority of the site to be removed  
21 has agricultural protection overlay soils.

22  
23 The site to be removed has seismic hazard areas, a pipeline, and some  
24 floodplain. It is partially within a wellhead protection area for a short-plat to the  
25 north. The site to add also has seismic hazard areas and is mostly in the floodplain.  
26 It is not within a wellhead protection area. The zoning code provides for automatic  
27 docketing if a City applies for the amendment.

28  
29 Roland Harper, Sehome Planning, stated he represents the City of Nooksack.  
30 The City talked about the donut hole issue. About a half dozen property owners  
31 control the land in all of the urban growth area. There are limited powers that  
32 control the land supply. More than one property owner in this area between the  
33 two creeks are not interested in developing. They are actively using the land for  
34 agriculture. Another property owner has approached the City because he is  
35 interested in developing the property. The City came up with the idea to do a  
36 trade. There are five acres owned by the school district to the west of the city,  
37 which are for future ball fields. Take that out of the equation, and 26 will be added  
38 and 24 will be taken away.

39  
40 The idea to work with the donut hole was to expand the area that Nooksack  
41 would consider removing from its UGA all the way to South Pass Road. An  
42 expanded area includes a raspberry farm owned by the Pike family. It would add  
43 over 40 acres to the over-20 acres they are already removing. That is not in the  
44 proposal, but the City Council is in favor of it. He asked if, in the course of the  
45 process, they can revise the area to be removed from the UGA and consider  
46 additional replacement areas.

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1 Goodwin stated that is possible. They consider what is docketed and other  
2 alternatives that are more logical. If it makes sense, they will bring it forward.  
3 Docketing is automatic.  
4

5 Brenner stated a concern is that there will still be the city and urban growth  
6 area on three sides, which won't lend itself to agricultural use. She's not convinced  
7 about this proposal, but she will let it go.  
8

9 **Fleetwood moved** to docket the whole area, including the proposed  
10 expanded areas.  
11

12 **Motion carried unanimously.**  
13

14 DOCKET # 2005-E: Columbia Valley/Kendall UGA Modifications  
15

16 McShane stated he must recuse himself from the discussion.  
17

18 *(Clerk's Note: Councilmember McShane left the room.)*  
19

20 Goodwin read the description and explained the location of the proposal on  
21 the map. The Comprehensive Plan says they must preclude additional commercial  
22 zoning until the small town commercial district is fully developed and a land supply  
23 study shows a need for additional commercial land. The proposal is to strike that  
24 sentence and allow commercial in Columbia Valley, rather than at the highway.  
25

26 Geo-hazard areas and steep slopes are on either side of the area, which itself  
27 is flat. Almost the entire area has agricultural protection overlay soils, although it is  
28 mostly subdivided with houses and there is not a lot of farming out there. There  
29 are not significant wetlands in the area. They are to the west. It is all in an aquifer  
30 recharge area. Almost the entire site is in a groundwater wellhead protection area.  
31 The proposal is to put 25 acres of general commercial in the middle of the property.  
32 The Mount Baker Highway is at the south of the site. Now, Kendall has small town  
33 commercial zoning. The school, gas station, and fire station are there. There is not  
34 a lot of commercial development. There are several vacant parcels. The question  
35 is whether they want the commercial area at the highway or at this location, where  
36 people live. The study mentioned in the Comprehensive Plan has not happened.  
37 The applicant says it makes more sense to have an integrated project with  
38 commercial within the residential subdivision instead of having the residents get in  
39 their car and drive two miles to the highway. Urban residential zoning allows a  
40 small neighborhood store, but not a larger commercial facility.  
41

42 Fleetwood asked if the area must incorporate. Goodwin stated it doesn't  
43 have to. It is not a provisional UGA. Columbia Valley was made into a UGA around  
44 2000. Policies in the Comprehensive Plan encourage incorporation when financially  
45 feasible. At this point, the Columbia Valley is low income with no tax base. It  
46 would not be feasible for some time.  
47

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1 Don Kehrer, 748 Marine Drive, stated he represents the applicant. The idea  
2 is to develop a planned unit development with residential homes and some  
3 commercial development. The area badly needs community services. There has  
4 been some limitations. There are concerns about congestion on the highway if  
5 there is a grocery store. There are access issues with the State. The small town  
6 commercial area now is at the south end of the UGA. It's not a central location for  
7 businesses serving the community. It's on a busy highway at an intersection. It  
8 doesn't make a lot of sense for that area to develop as a town center. The area in  
9 the proposal is on a straight stretch of an arterial with no intersections. It is  
10 centrally located around the residential areas. It is intended to serve the people of  
11 the community. The small town commercial area now is good, but it's more for the  
12 motoring public. The community needs an area away from the highway  
13 intersection. Twenty-five acres will provide sufficient land for a grocery store and  
14 other services. There has been some interest on the part of the school district to  
15 move the school up there. The fire district and community association are  
16 interested in that location also. This is an idea of shifting the commercial center of  
17 the UGA. This is a better location. They can explore that more fully before the land  
18 is committed to other uses. It's time to look at the overall planning for the UGA.

19  
20 Rob Staveland, Aiki Homes, stated he is the developer. He will put in a  
21 proposal for a planned unit development (PUD) in the next few months. They've  
22 done a traffic study already as if there were going to be a grocery store. The study  
23 showed minimal impacts on the highway. The State Department of Transportation  
24 (DOT) is amenable to this site. The DOT is hesitant about commercial development  
25 along the highway because there are already numerous accesses dangerously  
26 placed. A grocery store would have to use an existing driveway, not a highway, for  
27 access.

28  
29 The site in question is within walking distance of the entire Columbia Valley  
30 area. The existing small town commercial area is limited to a maximum of 30,000  
31 square feet. He hopes to put in a larger store. The area needs local jobs. He  
32 hopes to have offices in his commercial area, to develop a cohesive tax base for the  
33 area.

34  
35 Fleetwood asked the acreage. Staveland stated the request is for 25 acres.  
36 He indicated the location on the map.

37  
38 ***Brenner moved*** to recommend that the full Council docket the item.

39  
40 Goodwin stated look at this item this year rather than next year. They are  
41 already dealing with planning issues including the North Fork Community Center  
42 and possibly accelerating the East County Subarea Plan. They will need to know  
43 the development pattern of the area before working on the community center.

44  
45 ***Motion carried unanimously.***

46  
47 DOCKET # 2005-G: Toad Lake Area Rezone

1  
2           *(Clerk's Note: Councilmember McShane rejoined the meeting.)*  
3

4           Goodwin stated this is Councilmember McShane's proposal. She read the  
5 description and indicated the location on the map. The area now is primarily  
6 forested. There are aquifer recharge areas and wildlife habitat conservation areas.  
7 There are not a lot of wetlands in the area. There are not many physical  
8 constraints or steep slopes. There are no seismic hazard areas. There are a few  
9 landslide hazard areas. There are few wetland areas and no wellhead protection  
10 areas.

11  
12           It is at the crest of a hill with good views. The area is within the water  
13 district and water is available to the properties. This is a logical area from which to  
14 designate transferable development rights. Services are available. Half the area is  
15 in the Bellingham five-year review area.

16  
17           Fleetwood asked why it was designated as an enclave to begin with.  
18 Goodwin stated the existing zoning and parcel size dictated the designation.  
19

20           Fleetwood stated it looks completely undeveloped. Goodwin stated there are  
21 mostly five-acre lots and it is fairly undeveloped. There are not many houses there.  
22 It does not meet criteria of a limited area of more intense rural development  
23 (LAMIRD). The LAMIRD language was not adopted in 1997, and the area was  
24 suburban zoning. At that time, the County Council did not want to downzone  
25 properties. The area does have water and sewer lines. Based on those utilities, it  
26 may meet the criteria.  
27

28           Fleetwood asked if the Growth Management Hearings Board uses LAMIRD  
29 criteria when looking at enclaves. Goodwin stated it does now, but not in 1997.  
30

31           Fleetwood asked if it is conceivable that this enclave would be reviewed by  
32 the Hearings Board, using LAMIRD criteria. Goodwin stated that is the rumor.  
33 There is a legal issue about whether or not the County has to look at it, since it was  
34 upheld by the court at one point. If the County does have to look at the area, it will  
35 find the area does not meet the LAMIRD criteria.  
36

37           Paul Isaacson, 204 Shallow Shores Road, stated he owns most of this  
38 property. It clearly meets the requirements of the LAMIRD. A question is how one  
39 can meet the definition of a LAMIRD if the one owns most of the area. He owns  
40 most of this land. He developed the area up from Hillsdale into five acre tracts  
41 without requesting an urban density, which would have been inappropriate since it  
42 is in the Lake Whatcom watershed.  
43

44           The committee just approved docketing property for commercial  
45 development near the Mount Baker Highway that is in a scenic area where there is  
46 no demand for business. However, he is on the border of town. That makes no  
47 rational sense.

1  
2           *(Clerk's Note: End of tape two, side A.)*  
3

4           Isaacson stated the previous proposal is 30 miles out into a scenic area. He  
5 just sold that land, which is a resource land that he harvested for timber. On Toad  
6 Lake Road, there is public water. There are little to no critical areas on his  
7 property, but there are UGA's in Birch Bay and Blaine, Lake Whatcom, Lake  
8 Samish, and in shellfish areas. He doesn't have any critical areas to speak of on  
9 this property. This area is not in the Lake Whatcom watershed. He's planned for  
10 development with the Planning Department for ten years. He has been planning  
11 good development and paid the fees for it. The roads have been installed. There  
12 are five acres of development to the south. This is ridiculous. If this is a legal  
13 issue and it needs to be downzoned, he should be subject to receiving transfers of  
14 development rights (TDR's) at the very least. The level of expectation on this  
15 property is overwhelming. This parcel is the best in the county for development.  
16 There is not one parcel of that size or magnitude that could have as well-planned a  
17 development with proper roads in an uncritical area, served by public services. A  
18 LAMIRD doesn't apply because he owns everything. He owns 600 acres surrounded  
19 by development. It's not true that this is a mostly undeveloped area. This area is  
20 held as a proper block that can be developed with quality.

21  
22           Brenner stated the Council should work with Mr. Isaacson and the City of  
23 Bellingham to put this area in the Bellingham UGA. There are no sensitive areas.  
24 It's a good place for development. It should not be downzoned. If they are going  
25 to docket the item, docket for inclusion in the UGA.

26  
27           Goodwin stated the portion of the property in the five-year review area is  
28 already docketed for review as a possible UGA.

29  
30           Isaacson stated the City asked him if he wanted to be in the UGA. He  
31 specifically asked to not be in the UGA. He has a tree farm there. He doesn't want  
32 to be subject to Bellingham's rules and their inability to run a timber harvest. The  
33 City agreed. He doesn't want to be in the UGA because he doesn't want to do the  
34 plat today, but that doesn't mean he should be downzoned, either.

35  
36           Brenner stated that if the area will eventually be a part of the city, that's not  
37 good zoning. She would like to see it be a lot denser zoning. If zoned and  
38 developed at rural residential, two houses per acre (RR2), it would be impossible to  
39 develop a denser development.

40  
41           Isaacson stated there is no reason to look at this proposal, and lots of  
42 reasons to leave it alone.

43  
44           Fleetwood asked what single-ownership has to do with a LAMIRD, according  
45 to the Growth Management Act. Isaacson stated they need to look at the bordering  
46 development. If he didn't own the property, most of it would be developed by now.  
47 Being held in one ownership prohibits anything.

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1  
2 Fleetwood stated the area is a rural designation, does not have a rural  
3 density presently. A LAMIRD is defined by the outer logical, built boundary.  
4

5 McShane stated this property fits. The LAMIRD is too large and expansive.  
6 The purpose of LAMIRD is to preserve rural character. It also applies to  
7 maintaining areas at rural levels of density so, when the time is necessary, a UGA  
8 can expand into it. He agreed that this area could be appropriate for urban levels  
9 of development at some point in the future. However, this LAMIRD is too large.  
10 It's clear there is expectation that one could develop without a lot of effort because  
11 there is sewer and water. He's not fond of the LAMIRD issue. It's not critical for  
12 resource protection. Unless there is a moratorium to prevent this from being  
13 developed, which he is not interested in, the County should prevent this from being  
14 split up in the meantime. Development rights could go with this land and  
15 transferred elsewhere, as part of this application.  
16

17 Brenner stated they went through court with this, and it was upheld. She  
18 has no incentive to downzone this property at all. It may eventually be part of the  
19 city. It won't be heavily developed in the meantime. The property met the criteria  
20 when it went to court. Make sure the owners gets the full appraised value if the  
21 County takes it.  
22

23 Fleetwood stated there are good arguments on both sides. It appears to be  
24 a density in the rural area that is not a rural density. However, he agrees this isn't  
25 a place where they're trying to preserve certain important amenities. It's an area  
26 that happens to be right next to the city. It will be reviewed for future urban  
27 density. He will oppose docketing this area at this time. He is interested in  
28 knowing the City's position. There are limited resources this year. They can't  
29 docket everything.  
30

31 McShane stated this area, under its current zoning, is zoned for a very large  
32 suburban level of development. It meets every definition of why the Growth  
33 Management Act was triggered and why the LAMIRD criteria was crafted. This is  
34 sprawl at its greatest. They are half-acre and two-acre lots built out immediately  
35 next to the city.  
36

37 ***Fleetwood moved*** to recommend to the full Council that this item be  
38 docketed.  
39

40 ***Motion failed 1-2 with McShane in favor.***

41  
42 DOCKET # 2005-H: Chuckanut Area Rezone  
43

44 Fleetwood stated this item would be taken up in two weeks.  
45

46 **OTHER BUSINESS**  
47

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1           There was no other business.

2

3    **ADJOURN**

4

5           The meeting adjourned at 5:30 p.m.

6

7

8    \_\_\_\_\_  
Jill Nixon, Minutes Transcription

9

10 ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

11

12

13

14    \_\_\_\_\_  
Dana Brown-Davis, Council Clerk

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