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4 WHATCOM COUNTY COUNCIL  
5 **Planning and Development Committee**  
6

7 January 26, 2010  
8  
9

10 **CALL TO ORDER**

11  
12 Committee Member Bill Knutzen called the meeting to order at 3:00 p.m. in the  
13 Council Chambers, 311 Grand Avenue, Bellingham, Washington.  
14  
15

16  
17 **ROLL CALL**

18  
19 **Present:** Ken Mann, Bill Knutzen and Barbara Brenner  
20 **Absent:** None  
21 **Also Present:** Carl Weimer, Kathy Kershner, and Sam Crawford  
22  
23  
24

25 **SPECIAL ORDER OF BUSINESS**

26  
27 **1. ELECTION OF COMMITTEE CHAIR (AB2010-021)**

28  
29 Brenner nominated Bill Knutzen.

30  
31 The motion carried by the following vote:

32 **Ayes:** Mann, Knutzen and Brenner (3)

33 **Nays:** None (0)  
34  
35  
36

37 **OTHER BUSINESS**

38  
39 Crawford stated he sent an email to councilmembers and County staff (*on file*) on  
40 December 31, 2009 about a number of issues carrying over from last year regarding the  
41 urban growth areas (UGA). His concern is that the urban growth area (UGA) discussion and  
42 ordinance lacked a rationale for some UGA's. He would like to revisit those things. His  
43 December 31 email contained suggestions about what UGA topics they should discuss. He  
44 asked Director Stalheim to talk about how UGA's can be revisited if a majority of the Council  
45 wishes.  
46

47 David Stalheim, Planning and Development Services Director, stated a  
48 Comprehensive Plan can be amended in a number of ways. He explained three  
49 Comprehensive Plan amendment processes, including annual amendments, planned  
50 updates, or appeal requirements. The zoning code can be amended anytime, through a  
51 docketing process. The urban growth areas are a Comprehensive Plan amendment.  
52 Councilmember Crawford applied to put Yew Street on the docket. They received an  
53 application from Caitac for an amendment. They received two applications in the Blaine

1 area for the Harbor Shores property and for a property on Shintaffer Road. Councilmember  
2 Crawford also submitted Ferndale Vista Malloy and West Blaine/Trillium UGA requests. Both  
3 of those require Comprehensive Plan amendments, but a zoning amendment was  
4 submitted. Those were not filed in the sequence required by the Code. Those are the  
5 different options for revisiting the urban growth areas.

6  
7 Crawford stated it sounds like they currently have docket proposals for Yew Street,  
8 Caitac, Harbor Shores, and Shintaffer. In addition, he expressed an interest in reviewing  
9 Vista Malloy in Ferndale and West Blaine. They also have zoning items regarding drive-  
10 through windows and rural; a change from one unit per ten acres (R10A) to rural, one unit  
11 per five acres (R5A) zones around Birch Bay; removal of the provisional requirements in the  
12 general commercial (GC) area of Birch Bay, and; other things that fall under zoning. In the  
13 month of February, all of those things will be on the table, including the Vista Malloy and  
14 West Blaine areas. It's still up to the Council to determine what will be on the docket. That  
15 assumes they work in coordination with the administration regarding staff time and  
16 resources. Therefore, he understands that all these items will come back to the table in the  
17 month of February, plus anything the councilmembers themselves want to bring up. The  
18 Council and administration will decide together what will move forward, based on available  
19 resources. Stalheim stated that is the next step in the process. Staff has already begun  
20 the process of looking at all the applications and all the old, unfinished docket items. Other  
21 things have been brought to his attention through other mechanisms. In the month of  
22 February, he will present a work program for the next two years. The Council will be given  
23 an opportunity to prioritize that list.

24  
25 Crawford asked if there is no going back on the November 24, 2009 ordinance by the  
26 Council for the existing UGA's. He asked if it is what is in place now, there is no opportunity  
27 for going back to reopen that aspect of the discussion, and now they have to talk in terms  
28 of new docket items. Stalheim stated the exception to that is they can do things to resolve  
29 appeals.

30  
31 Karen Frakes, Prosecuting Attorney's Office, stated they will receive appeals that will  
32 cover all these issues. They can be considered outside the docket process.

33  
34 Discussion included the length of the docket process; required environmental review  
35 for each subject; whether the County can deal with each appeal separately; resolving an  
36 appeal without continuing the appeal process, and; getting an extension from the Hearings  
37 Board.

38  
39 Rebecca Craven, Council Policy Analyst, stated the original ordinance adopted in  
40 November will stand and won't be held in the case of an extension.

41  
42 Crawford stated he hopes they give due reconsideration to the UGA items when they  
43 come forward again, in whatever form.

#### 44 45 46 47 **COMMITTEE DISCUSSION**

#### 48 49 **1. RURAL ELEMENT UPDATE, DISCUSSION OF STATUS AND FUTURE PROCESS** 50 **(AB2010-072)**

51  
52 Gary Davis, Planning and Development Services Department, submitted and read  
53 from a presentation (*on file*).

1  
2 The following people answered questions:

- 3 • David Stalheim, Planning and Development Services Department Director
- 4 • Karen Frakes, Prosecutor's Office
- 5 • Rebecca Craven, Council Policy Analyst

6  
7 Discussion included whether the County has lost much grant funding due to  
8 sanctions; whether the public notice postcards included information about a potential loss of  
9 property value; how the Supreme Court decision may affect the staff and Planning  
10 Commission recommendations; whether a 2006 appeal went to Superior Court; whether the  
11 only reason the County was noncompliant was because one of the city's UGA was grossly  
12 too big, and because certain boundaries weren't exact; County policies not being consistent  
13 with State law; a mailing list for notification; how to proceed with this item; potentially  
14 receiving a scheduling order from the Hearings Order, and; the original reason for the  
15 limited areas of more intense rural development (LAMIRD) issue.

16  
17 Brenner stated schedule Planning Committee work sessions, and see where that  
18 takes them.

19  
20 Mann stated have one work session to have the Planning Commission  
21 recommendation explained to them, then have a public hearing, and then go into work  
22 sessions. They need a good background before a public hearing.

23  
24 Weimer stated he agrees with Councilmember Mann. Have a work session on the  
25 information binder that's been provided, then have a public hearing, and then this  
26 committee can work out the issues.

27  
28 Stalheim stated he suggests that they walk through the maps and answer questions  
29 during a first work session, and then look at the ordinances in a second work session with  
30 the committee.

31  
32 ***The committee concurred.***

33  
34  
35  
36 **COMMITTEE DISCUSSION AND RECOMMENDATIONS TO COUNCIL**

37  
38 **1. ORDINANCE REPEALING WHATCOM COUNTY CODE 2.125, UTILITIES**  
39 **PLANNING AND ADVISORY COMMITTEE (AB2010-045)**

40  
41 David Stalheim, Planning and Development Services Director, gave a staff report.

42  
43 ***Brenner moved*** to recommend approval to the full Council.

44  
45 The motion carried by the following vote:

46 **Ayes:** Mann, Knutzen and Brenner (3)

47 **Nays:** None (0)

48  
49 **4. ORDINANCE CLARIFYING THE APPLICABILITY OF AGRICULTURAL**  
50 **PROTECTION OVERLAY (APO) BY INCLUDING THE AREA OF ADJOINING**  
51 **ROAD RIGHTS-OF-WAY IN THE CALCULATIONS OF PARCEL ACREAGE FOR**  
52 **APO ZONE (AB2010-049)**

1 Tyler Schroeder, Planning and Development Services Department, gave a staff  
2 report. Create consistency between the agricultural protection overlay (APO) and the  
3 definition of lot size and clustering requirements.

4  
5 Discussion included whether this parcel is a misapplication of the overlay; the  
6 presence of forestland on land designated APO; what happens if they don't change this  
7 code, and; whether lakes are included in the parcel acreage calculation.

8  
9 Brenner stated she would like to hear from the agricultural community before voting  
10 on this. There are many more than 100,000 acres if they include small, niche farms.

11  
12 Weimer stated he supports the staff report. This isn't just for one forested parcel.  
13 They're trying to set policy for all the other lots that may fall under this. When talking  
14 about APO, they are talking about 20 acres either way. Make this consistent to protect  
15 potential agricultural land in the future.

16  
17 **Mann moved** to recommend approval to the full Council.

18  
19 The motion failed by the following vote:

20 **Ayes:** Mann (1)

21 **Nays:** None (0)

22 **Abstain:** Knutzen and Brenner (2)

23  
24 Mann stated he wanted to hold this item in committee.

25  
26 **Brenner moved** to hold in committee.

27  
28 The motion carried by the following vote:

29 **Ayes:** Mann, Knutzen and Brenner (3)

30 **Nays:** None (0)

31  
32 Brenner asked if this has been vetted through the agricultural community. She  
33 would like to talk to the agricultural committee.

34  
35 Crawford stated invite Mr. Vaca to discuss how this applies to his property.

36  
37 Mann stated this applies to the entire county.

38  
39 **2. ORDINANCE AMENDING THE WHATCOM COUNTY CODE, TITLE 20, TO**  
40 **CLARIFY AND REVISE THE DEFINITION AND STANDARDS OF HOME**  
41 **OCCUPATIONS (AB2010-047)**

42  
43 Wain Harrison, Planning and Development Services Department, gave a staff report  
44 on this item and item three, and read from his memo on Council packet page 298. Further  
45 amend the Code to allow more than one occupation on site, as long as it doesn't exceed the  
46 intent of size and scale and minimizes impact to the neighborhood. He referenced his  
47 memo dated January 22, 2010 to the Council, which includes a substitute Exhibit A.

48  
49 Brenner stated get stakeholder input from people who have home occupations.

50  
51 The following person answered questions:

- 52 • Michelle Stiles, Planning and Development Services Department

1 Discussion included notifying people who have permitted home occupations; whether  
2 this proposal is more restrictive; the effect of subjective code language being inconsistency  
3 in how the code is applied versus the effect of a specific, inflexible code, and;  
4 grandfathering those with existing home occupations.  
5

6 Crawford stated insert a sentence that says something like, "Any business that  
7 operated prior to the date of adoption of this ordinance, and that complied with the previous  
8 code, will be allowed."  
9

10 Knutzen stated they would work from the substitute Exhibit A submitted in the  
11 January 22, 2010 memo from Mr. Harrison.  
12

13 **Brenner** asked what happens to businesses legally operating now. She also wants  
14 to get into the very specifics. A home occupation should not be required to have an extra  
15 space for an employee, if the space has already been screened. She **moved** to remove the  
16 requirement for one parking space for a nonresident employee, Council packet page 306,  
17 line 15, item 20.84.150(7), "(7)...in this title. At least one additional space shall be provided  
18 for each nonresident on-site employee.  
19

20 *(Clerk's Note: The committee did not vote on this item.)*  
21

22 Crawford stated that language in the packet has been changed, per the substitute  
23 ordinance.  
24

25 Knutzen asked for a definition of item number six. It seems like that opens up  
26 possible complaints from neighbors.  
27

28 Crawford stated he supports item 20.84.150(6). Neighbors should be able to  
29 complain if a ton of additional traffic is generated.  
30

31 **Brenner moved** to hold these items in committee, and asked that councilmembers  
32 receive additional information no later than the Friday before the meeting.  
33

34 The motion carried by the following vote:

35 **Ayes:** Mann, Knutzen and Brenner (3)

36 **Nays:** None (0)  
37

38 Stalheim stated the next meeting includes a two-hour conversation on (LAMIRDs).  
39 Councilmembers should come prepared with amendments to these ordinances.  
40

41 **3. ORDINANCE CLARIFYING AND REVISING THE DEFINITION AND STANDARDS**  
42 **OF ACCESSORY APARTMENTS AND SECOND COOKING FACILITIES WITHIN**  
43 **WHATCOM COUNTY'S ZONING CODE, TITLE 20 (AB2010-048)**  
44

45 *(Clerk's Note: See item two for the staff report on this item. This item was held in*  
46 *committee.)*  
47

48  
49 **OTHER BUSINESS**  
50

51 There was no other business.  
52  
53

1 **ADJOURN**

2

3 The meeting adjourned at 5:04 p.m.

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7

Bill Niven, Minutes Transcription

Please contact the Council Office to obtain an  
official, signed copy:  
360-676-6690 or [council@co.whatcom.wa.us](mailto:council@co.whatcom.wa.us)

16 Dana Brown-Davis, Council Clerk

Bill Knutzen, Committee Chair

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