

CLERK OF THE COUNCIL
Dana Brown-Davis, C.M.C.

COUNTY COURTHOUSE
311 Grand Avenue, Suite #105
Bellingham, WA 98225-4038



COUNCILMEMBERS
Barbara E. Brenner
Sam Crawford
Kathy Kershner
Bill Knutzen
Ken Mann
L. Ward Nelson
Carl Weimer

WHATCOM COUNTY COUNCIL

THIRD AGENDA REVISION FOR APRIL 27, 2010

(DISTRIBUTED AT 10:15 A.M. ON APRIL 27, 2010)

PLEASE NOTE THE FOLLOWING MEETING SCHEDULE AND AGENDA CHANGES:

A. THE FOLLOWING MEETING HAS BEEN CANCELLED:

~~4:00 P.M. - COUNCIL PUBLIC WORKS AND SAFETY COMMITTEE~~

B. THE FOLLOWING MEETING HAS BEEN ADDED TO OUR SCHEDULE:

1:00 P.M. - SPECIAL COMMITTEE OF THE WHOLE

1. UPDATE ON URBAN GROWTH AREA ISSUES AND DISCUSSION OF THE COUNCIL PLANNING AND POLICY ANALYST'S ROLE IN PREPARING ORDINANCES (AB2010-054)

C. THE FOLLOWING ITEM HAS BEEN DELETED FROM PLANNING AND DEVELOPMENT COMMITTEE:

~~3. UPDATE ON URBAN GROWTH AREA ISSUES (AB2010-054)~~

D. PLEASE NOTE THE LOCATION CHANGE FOR THE FOLLOWING MEETING:

4:00 P.M. SPECIAL COUNCIL COMMITTEE OF THE WHOLE
~~COUNCIL COMMITTEE ROOM~~ COUNTY EXECUTIVE'S OFFICE
CONFERENCE ROOM, 311 GRAND AVENUE

E. PLEASE ADD THE FOLLOWING TO COUNCIL, INTRODUCTION:

3. ORDINANCE AMENDING WHATCOM COUNTY CODE, TITLE 20, TO REDUCE DEVELOPMENT POTENTIAL IN ZONING DISTRICTS WITHIN THE LAKE WHATCOM WATERSHED (AB2010-185)
(DOCUMENT ATTACHED)

SPONSORED BY: _____
PROPOSED BY: _____
INTRODUCTION DATE: _____

ORDINANCE # _____

**AMENDING WHATCOM COUNTY CODE TITLE 20 TO REDUCE DEVELOPMENT
POTENTIAL IN ZONING DISTRICTS WITHIN THE LAKE WHATCOM WATERSHED**

WHEREAS, Washington State Department of Ecology has listed Lake Whatcom as an impaired water body and placed Lake Whatcom on the federal Clean Water Act 303(d) list because of low oxygen levels; and

WHEREAS, lower oxygen levels and more rapid decline in oxygen in Lake Whatcom are related to increased rates of sediment and phosphorus loading into the lake; and

WHEREAS, increased availability of phosphorus has limited the nitrogen availability in the lake, making the lake more susceptible to blue-green algae blooms; and

WHEREAS, longer durations of very low oxygen levels increase the rate of methylization of mercury and other anaerobic compounds; and

WHEREAS, increased productivity in the upper waters of the lake lead to increased disinfection byproducts in treated drinking water such as total trihalomethanes (TTHMs); and

WHEREAS, the 303(d) listing requires the establishment of a Total Maximum Daily Load (TMDL) that designates loading capacity of the lake such that there will be no measurable change in oxygen levels from natural lake conditions; and

WHEREAS, a TMDL requires meeting Water Quality Standards and, for lakes, the dissolved oxygen criterion requires no decline from natural conditions;

WHEREAS, meeting the TMDL goals and improving oxygen levels in Lake Whatcom will require variety of comprehensive planning, pollution prevention, pollution reduction and technical approaches; and

WHEREAS, continued development within the Lake Whatcom watershed will likely increase the size of the load reductions and will increase the costs that will ultimately be necessary to meet the TMDL goals; and

WHEREAS, Lake Whatcom County Code 20.71 establishes the Lake Whatcom Watershed as a Water Resource Protection Overlay District; and

WHEREAS, Lake Whatcom is the drinking water source for approximately half the residents of Whatcom County; and

WHEREAS, the preservation and protection of drinking water is a high priority for Whatcom County; and

WHEREAS, the Whatcom County Comprehensive Plan, adopted on May 20, 1997, establishes the Lake Whatcom watershed as a Special Study Area; and

WHEREAS, Lake Whatcom is a valuable recreation lake for swimming, boating and fishing, and enhances the property values in the area as long as the lake water quality remains high; and

WHEREAS, the Whatcom County Council has enacted a moratorium on the acceptance of new applications for land divisions resulting in the creation of lots smaller than five (5) acres, and has renewed that moratorium a number of times to allow the TMDL study and additional planning efforts to be completed before enacting any changes in zoning rules; and

WHEREAS, while the moratorium has been pending, the County completed its 10 year review of its Urban Growth Areas as required by the Growth Management Act, and limited the density of lots in the UR zone within the Lake Whatcom watershed to one dwelling unit per five acres, significantly reducing the remaining number of parcels subject to the interim moratorium; and

WHEREAS, while the moratorium has been in effect, the County has undertaken a review of the rural element of the Comprehensive Plan and associated zoning, parts of which relate to areas within the Lake Whatcom Watershed where additional lots could be created in the absence of the moratorium; and

WHEREAS, on October 8, 2009 the Planning Commission adopted findings and conclusions in support of its recommendation to the Council relating to the rural element update process; and

WHEREAS, the Planning Commission's recommended action on the rural element update included making reductions in development potential in the Lake Whatcom watershed; and

WHEREAS, the October 8, 2009 Planning Commission findings numbered 24-58 detail the available opportunities for public participation in the rural element review process, all of which were applicable to the parcels affected by this action; and

WHEREAS, the Whatcom County SEPA Official issued a Determination of Non-significance for the Rural Element Update on May 1, 2009; and

WHEREAS, the Council wishes to resolve the uncertainty created by multiple renewals of the interim moratorium on the acceptance of applications for land divisions resulting in lots smaller than five acres, and

WHEREAS, the TMDL study and planning efforts have provided the Council with enough information on which to make a judgment that areas within the watershed should be rezoned to prevent the creation of additional developable lots smaller than five acres

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that Title 20, Whatcom County Code, is amended as shown in Exhibit A.

ADOPTED this _____ day of _____, 2010.

ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Clerk of the Council

Sam Crawford, Council Chair

APPROVED AS TO FORM:

Civil Deputy Prosecutor

Pete Kremen, Executive

Approved Denied

Date: _____

Exhibit A

20.32.253 Maximum density and minimum lot size.

District	Gross Density	Minimum Lot Size		Min. Reserve Area (Cluster Subdivisions)
		Conventional	Cluster	
RR-1, RR-2, RR-3: without public water	1 dwelling unit/5 acres	5 acres	N/A	N/A
With Public water, and stormwater detention and collection facilities:				
RR-1	1 dwelling unit/ 1 acre	36,000 sq.ft.	15,000 sq.ft.	30%
RR-2	2 dwelling units/1 acre	18,000 sq.ft.	15,000 sq.ft.	10%
RR-3	3 dwelling units/1 acre	12,000 sq.ft.	8,000 sq.ft.	25%
Within the Lake Whatcom Watershed (see WCC 20.04.075)				
RR-1,RR-2, RR-3	<u>1 dwelling unit/5 acres</u>	<u>5 acres</u>	<u>N/A</u>	<u>N/A</u>

20.36.253 Maximum density and minimum lot size.

District	Gross Density	Minimum Lot Size		Min. Reserve Area (Cluster Subdivisions Outside of Urban Growth Areas)	Min. Reserve Area (Cluster Subdivisions in Urban Growth Areas)
		Conventional	Cluster		
<u>R-2A within the Lake Whatcom Watershed (see WCC 20.04.075)</u>	<u>1 dwelling unit/5 acres</u>	<u>5 acres</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
R-2A without public water	1 dwelling unit/5 acres	5 acres	1 acre	20%	80%
R-2A with public water	1 dwelling unit/2 acres	2 acres	12,500 sq. ft.	65%	80%
R-5A without public water	1 dwelling unit/5 acres	5 acres	1 acre	55%	80%

R-5A subject to Agricultural Protection Overlay (Chapter 20.38 WCC)	1 dwelling unit/5 acres	Not applicable	15,000 sq. ft.	75%	Not applicable
R-5A with public water	1 dwelling unit/5 acres	5 acres	12,500 sq. ft.	75%	80%
R-10A without public water	1 dwelling unit/10 acres	10 acres	1 acre	70%	80%
R-10A subject to Agricultural Protection Overlay (Chapter 20.38 WCC)	1 dwelling unit/10 acres	Not applicable	15,000 sq. ft.	75%	Not applicable
R-10A with public water	1 dwelling unit/10 acres	10 acres	12,500 sq. ft.	80%	80%
Public facilities approved under WCC 20.36.151	Not applicable	No minimum	No minimum	Not applicable	Not applicable