

John C. Belcher
Jack O. Swanson
Chester T. Lackey
Terrance G. Lewis
Douglas K. Robertson

Belcher | Swanson

LAW FIRM, PLLC

Jeffery J. Solomon
Bradley D. Swanson
Scot S. Swanson
Peter R. Dworkin
Mark A. Lackey

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SEP 17 2009

LONG RANGE
PLANNING DIVISION

September 17, 2009

Whatcom County Council
Whatcom County Planning Commission
5280 Northwest Drive
Bellingham, WA 98226

Re: UGAs

Dear Council Members and Commission Members:

This letter is submitted as part of your consideration of the proposed changes to the Urban Growth Areas (“UGAs”) in Whatcom County’s Comprehensive Plan, which is scheduled for consideration at the public hearing on September 17th, 2009. Our comments are specific to the proposed Birch Bay UGA. We represent Gold Star Resorts, Inc., a Washington corporation (“Gold Star”), which owns significant property in the Birch Bay area.

2004 Plan. After several years of collaboration, residents of Birch Bay presented to Whatcom County government and obtained approval of the existing sub-area plan (the “2004 Plan”). An important element of the Plan was the relocation of non-recreational activities away from the beach at Birch Bay and on to the highlands behind Birch Bay. This was to be achieved by the establishment of commercial/multi-family residential nodes established to the east.

Kremen Proposal. Hats off to Pete Kremen, County Executive, for all his work in moving forward a proposal for the County’s UGAs needed to comply with the Growth Management Act. We request that the Kremen proposal for Birch Bay, with its most recent revisions, be approved by the Planning Commission and Council. This proposal includes the designation of a significant commercial/multi-family node surrounding the intersection of Alderson Road and Blaine Road. As Executive Kremen points out, this node is particularly important “to serve the needs of the Birch Bay community in the southern portion of the Urban Growth Area.”

Provisional Zoning. One of the features of the Birch Bay plan adopted in 2004 was Ordinance 2004-049. This ordinance left the original (pre-2004 Plan) zoning in place with the promise that after certain conditions were met, the zoning would change to mirror the zones provided for in the 2004 Plan. In other words, the 2004 Plan had one vision and one set of proposed land uses, while the retained existing zoning had another vision and another set of land uses. More specifically, the existing zoning provided for a mix of residential uses only, while the uses contemplated by the 2004 Plan included a much larger variety of activities allowed in the General Commercial and Urban Residential mixed zones, which were specifically identified to encourage the creation of a town center at this location.

The provisional zoning required that as many as 28 individual property owners collaborate to do comprehensive planning for the lands within the provisional area. While efforts were made, this requirement alone proved impossible to achieve.

More importantly, the effect of the provisional zoning was to drive property owners desiring to develop their property away from the community mandate expressed in the 2004 Plan. Instead, the provisional zoning conditions pushed property owners into uses allowed by the pre-existing zoning.

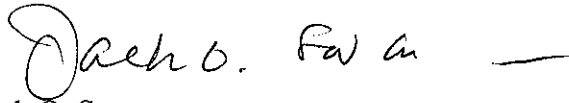
For example, Gold Star has a conditional use permit (under the pre-existing zoning) authorizing construction of a gas station/convenience store/nursery facility at the northeast corner of Alderson and Blaine Road which it has declined to build to this point. The decision not to go forward was based, in large part, on the belief that the town center deserved something much more than this modest development, and the hope that the provisional zoning would be removed so that more appropriate uses could move forward. Furthermore, these activities need a population base around them to be successful. The land is there. The desire is there. We believe the market is there. Sadly, the uncertainty about the provisional zoning makes the risk of moving forward simply too great.

Summary. We summarize as follows:

1. Kindly adopt the Executive's revised proposal for the Birch Bay UGA.
2. Repeal the provisional zoning simultaneously with the adoption of Executive Kremen's recommendation so that the community's vision can be attained. Over the 5 years it has been in place, compliance with it has proved to be impossible. More importantly, the ultimate effect of the provisional zoning is to drive property owners to develop their properties in a manner inconsistent with the 2004 Plan to the detriment of the entire community.

Thank you for your consideration.

Sincerely yours,

A handwritten signature in cursive script that reads "Jack O. Swanson" followed by a horizontal line.

Jack O. Swanson

cc: Gold Star Resorts, Inc.
cc: Pete Kremen, County Executive
cc: David Stalheim, Planning Director