

**WHATCOM COUNTY
PLANNING & DEVELOPMENT SERVICES
STAFF REPORT**

I. SUMMARY OF PROPOSAL AND RECOMMENDATION

File # CMP2007-00014

File Name: Fire Protection & Emergency Medical Services in Birch Bay UGA

Applicant: Whatcom County Fire District #21, Chief Tom Fields

Request: The request is to amend the Birch Bay Community Plan to remove Level of Service Standards as listed for North Whatcom Fire and Rescue's (Fire District #21) service area and to amend numerous references to the District's previous name Whatcom County Fire District #13 and all variations thereof. These amendments are proposed to occur in Chapter 15 "Public Health and Safety" and Chapter 17 "Capital Facilities Plan."

Reason for Request: District #21 recently completed and adopted an updated Capital Facilities Plan. The County adopted the plan by reference as part of the Whatcom County Urban Growth Area (UGA) Update process that was completed in December 2009. The capital facilities plan identifies a Level of Service (LOS) standard for fire and emergency medical response that is different than the LOS identified in the Birch Bay Community Plan. This amendment is proposed to correct that inconsistency.

Further, references to District #13 in all forms are no longer valid and should be corrected for consistency purposes.

Recommendation: Staff recommends that the Planning Commission, after holding a public hearing and considering all testimony, vote to approve the proposed amendments with or without modifications, and to forward their recommendation to the Whatcom County Council.

II. BACKGROUND INFORMATION

In 2004, the County adopted the Birch Bay Community Plan which, among other things, compared established standards for response times in the Urban Growth Area (UGA) as Level of Service (LOS) standards. Response times appear on page 17-13 of the community plan. For Birch Bay, the response time for both fire and emergency medical services was listed as 5 minutes. For "other urban areas" fire response time is listed as 5 minutes and emergency medical services is listed at 4-6 minutes.

Page 15-6 in Chapter 15 of the plan — “Public Health and Safety” —identifies the “gold standard for successful emergency medical services” as “four to six minute response times for aid services and 15-20 minutes for ambulance services.” Further it states that Fire District #21 “responds between five to six minutes.”

The proposed amendments were part of a 2007 docketed proposed comprehensive plan amendment from Fire District #21. In this initial application the District requested many changes to both the comprehensive plan and the Birch Bay Community Plan. Many of the requests regarding the Whatcom County Comprehensive Plan were addressed through the UGA update process that started in 2008 and was completed at the end of 2009.

At the completion of that update process, the County adopted the Fire District #21 Capital Facilities Plan (CFP) that the District’s board of fire commissioners adopted previously in Resolution 2009-13. This was one of the primary requests in the original application.

In District’s resolution adopting its CFP (Resolution 2009-13), the District re-affirmed its desire for amendments to the Birch Bay Community Plan under “further action” in the resolution:

“3. To again ask Whatcom County to amend and revise the Birch Bay Community Plan level of service standard for fire and emergency response and to ask Whatcom County to adopt the District’s Standard of Cover as set forth in District Commission Resolution Number 2007-023 (see Exhibit “C” attached hereto) to be included in the Birch Bay Community Plan as the level of service standard within the District.”

Requested Amendments

The District’s initial application suggested new language for the Fire District #13 (#21) sections in Chapter 15 and 17 of the Birch Bay Community Plan. This language was meant to revise paragraphs pertaining to a level of service standard for fire and emergency services, and language regarding proposed expansions and improvements. The District’s initial proposal contains information that was current as of the time of the District’s application but with time, this information has become outdated. District Commission Resolution 2007-023 and subsequent correspondence from the District indicates that the LOS standards listed in the 2004 Birch Bay Community Plan are not attainable and should reflect the District’s capabilities (see Exhibit B).

Upon review, staff has determined that rather than including language which will need to be changed frequently, inserting language directing readers to the District’s capital facilities plan would be the best course of action. Amendments proposed and attached as Exhibit A address these issues by adopting-by-reference the standards established in both the District’s adopted capital facilities plan and Resolution 2007-023.

The LOS standards described in the District’s capital facilities plan show different response times based on population densities. The LOS for urban areas is 8 minutes, 90% of the time. For

suburban areas, it is 10 minutes 90% of the time. And, for rural areas, the response time is 12 minutes 90% of the time. The terms “urban,” “suburban,” and “rural” in District #21’s capital facilities plan are not defined by similar Whatcom County comprehensive plan designation. They are defined by existing population density as follows:

Urban: more than 1,000 people per square mile

Suburban: 501 to 1,000 people per square mile

Rural: fewer than 500 people per square mile

According to their capital facilities plan, the District is meeting the adopted LOS standard 65% of the time for urban areas, 75% of the time for suburban areas, and 83% of the time for rural areas.

In Section 10, page 20, of the District’s Capital Facilities Plan, the District lists a number of non-capital strategies for improving response times to meet the adopted LOS. The District indicates in the plan they are pursuing these strategies while exploring available funding mechanisms to meet their facility and apparatus needs during the planning period. These funding mechanisms include collecting mitigation fees for new development.

The District also requested in its 2007 application that the County add new policies to Goal LU3 of Chapter 8 of the Birch Bay Community Plan. These suggested policies were reviewed by planning and development services staff and revised post-adoption of the District’s capital facilities plan to ensure consistency with the revised policies in the comprehensive plan. Not all of the District’s proposed policies are included in this package of amendments because, upon adoption of the District’s capital facilities plan and associated changes to policy in the comprehensive plan, these policies were unnecessary. The policies requested in the District’s application and reasons for inclusion or exclusion are as follows:

Proposed Policy 1: “LU-3c: Designate long-term planning areas in the Birch Bay Urban Growth Areas only where urban levels of fire protection and emergency medical services are planned for as indicated by a Capital Facilities Plan approved by the applicable provider of such service including the necessary financing plan for the maintenance of such levels.”

Discussion: This item was not included as a proposed amendment because long-term planning areas no longer exist in the Birch Bay Urban Growth Area and designations of this type have been phased out of the county at the conclusion of the 10-year Urban Growth Area update.

Proposed Policy 2: “LU-3d: Designate short-term planning areas in the Birch Bay Urban Growth Areas only where urban levels of fire protection and emergency medical services area available are consistent with a Capital Facilities Plan approved by the applicable provider of such service.” (*note: typos in original document*)

Discussion: This item was included, as policy LU-3c, among the amendments proposed in Exhibit A for planning commission consideration. The policy was modified, changing “short-

term” to “future” planning areas to make the policy more specific to future additions to the UGA.

Proposed Policy 3: “LU-3e: Urban development, including subdivisions, commercial development and/or industrial development should only be permitted and/or approved where urban levels of fire protection and emergency medical services exist at the time of development approval or arrangements have been made for such services to be available within six (6) years as indicated by and consistent with a capital facilities plan approved by the applicable service provider including the necessary financing plan for the maintenance of such service levels.”

Discussion: Goal 4N of the Whatcom County Comprehensive Plan adopts by reference Capital Facilities Plans from special purpose districts. Adopting these plans, including the Fire District #21 plan, achieves results aimed for in this policy. Therefore, the policy is unnecessary and was not included as part of the proposed amendments.

The remaining proposed policy, LU-3c, is attached as Exhibit A in this report.

The applicant also requested the Birch Bay Community Plan’s Vision Statement for Public Health and Safety be amended to read:

“Crime that periodically raises its ugly head in all communities has subsided considerably in the Birch Bay Community as a result of crime prevention education and increased police presence. Further, the Community has matured; neighbors know their neighbors and neighborhood crime watch programs have caught on. Fire service and emergency response must be improved to established standards prior to approval of any urban development. Fire and emergency medical response time has increased considerably due to additional development and failing transportation systems. New revenue sources, such as impact fees or development mitigation fees are necessary to provide for the upgrading of existing facilities and apparatus and increased staffing with full-time fire and emergency medical service personnel. As a result of improved fire services, the fire insurance rates on residential structures may decrease significantly. Fire and police seminars are being conducted throughout the community on a regular basis.”

The suggestions proposed by the applicant to amend the Vision Statement pertaining to public health and safety were given serious consideration by staff, however, it was determined that proposed changes would need to be reviewed by the Birch Bay community as part of a visioning process at a later date.

Finally, the applicants’ original request to amend the Birch Bay Community Plan happened before the renaming of Fire District #21, which was a merger of former fire districts no. 13, no. 3 and Blaine Fire District. The application, however, anticipated this change and requested all references to Fire District #13 be removed and replaced with Fire District #21. The amendments proposed in Exhibit A remove all references to District #13, and variations thereof, and replace them with Fire District #21.

Public Comment

The planning and development services department has received limited public comment on this issue since the last planning commission consideration. A preliminary draft of the proposed amendments was sent to Kathy Berg, as chair of the Birch Bay Steering Committee, and Fire District #21. The amendments were sent out to the Birch Bay email list, as maintained by Kathy Berg, and staff received one call from a local resident asking about the effect of making these changes to the plan. Kathy Berg expressed some concern about making changes to the Birch Bay Community Plan without a meeting with the community to discuss these changes. The Fire District urged the county to adopt these changes to avoid any inconsistency issues.

Public comment specific to this issue received since December 2009 is attached as Exhibit C.

III. ANALYSIS OF THE PROPOSED AMENDMENT

Pursuant to Whatcom County Code 2.160.080(A), in order to approve an initiated amendment to the Whatcom County Comprehensive Plan, the planning commission and the county council shall find all of the following: 1) that the proposed amendment conforms to the requirements of the Growth Management Act; 2) that the proposed amendment is internally consistent with the county-wide planning policies; 3) that the proposed amendment is consistent with interlocal planning agreements. The code also states that staff shall consider “further studies made or accepted by the department of planning and development services indicate changed conditions that show need for the amendment.” And, staff must evaluate the proposed amendments to establish whether the public interest will be served by the amendment. Finally, possible environmental impacts must be assessed by the lead agency designated SEPA official through the State Environmental Policy Act (SEPA) Checklist threshold determination process.

Growth Management Act

Capital facilities planning is an important part of the Growth Management Act (RCW 36.70A), especially when it is associated with an urban growth area. Service providers in an urban growth area must be able to show that they are able to provide an urban level of service to urban growth areas. If they are not able to provide an urban level of service, the provider must show how they will be able to provide urban services through improvements during the 20-year planning period, change the level of service standard, or the County must resize the urban growth area to meet the abilities of the service provider.

The proposed amendment has been evaluated in conformance with Growth Management Act (GMA) as discussed below:

36.70A.070 Comprehensive plans—Mandatory elements. “... The plan shall be an internally consistent document and all elements shall be consistent with the future land use map.”

Discussion: The amendments proposed in exhibit A are proposed to correct an inconsistency that was created upon adoption of Fire District #21's capital facilities plan in the Whatcom County Comprehensive Plan. Level of service standards as described in the District's plan do not match those described in the Birch Bay Community Plan. The Fire District's adopted capital facilities plan was vetted by the community in eight public meetings throughout 2008 and 2009, and represents the District's most recent analysis of their ability to provide service to the Birch Bay urban growth area. The amendments proposed defer to the District's capital facilities plan to rectify the inconsistency issue.

Further, as part of the 2009 urban growth area update, the county adopted policies that require periodic updates to adopted subarea plans:

Policy 2L-2 (a)(1) Consistency Analysis. The County should review subarea plans based on the priority order in subsection "b" for gaps, overlaps, or inconsistencies. Topics include, but are not limited to, plan boundaries, growth forecasts, land uses, capital facilities and services, horizon year, and other appropriate issues.

Policy 2L-2 (a)(4) Subarea Plan Amendment. Only those portions of existing subarea plans in conflict with the Comprehensive Plan are required to be amended. Local issues of concern or changed conditions may be addressed.

Policy 2L-2 (b) Prioritize update of subarea plans. Subarea plans should be updated in the following order.

1) Post-GMA Subarea Plans addressing UGAs. These subarea plans should be amended during Whatcom County's 7-Year Review scheduled for completion in 2011.

County-wide Planning Policies

The proposed amendment has been developed in accordance with the Whatcom County County-wide Planning Policies (CWPPs) as listed and discussed below.

Non-City Urban Growth Areas: "4. The County shall assure that there are plans to provide appropriate levels of urban facilities and services within non-city Urban Growth Areas. These plans should be developed by special purpose districts..."

Discussion: With the adoption of Fire District #21's capital facilities plan by reference in December 2009, the County has allowed the plan to be developed by the "special purpose district" as is requested in this CWPP. Further, the District's plan defines "appropriate levels of urban facilities and services" within their service area and the conditions needed to meet that defined level of service.

Consistency with Interlocal Agreements

Pursuant to the provisions of Whatcom County Code, Chapter 2.160.080(A)(1), the amendment has been evaluated for conformance and consistency with adopted interlocal agreements with affected parties.

Discussion: There are no interlocal agreements impacted by this proposed action.

Further Study

Since the initial application, Fire District #21 has submitted the District's 2008 "Facilities and Capital Needs Assessment" and 2009 Capital Facilities Plan.

Discussion: As required by Whatcom County Code 2.160.080(A)(2), both the needs assessment and capital facilities plan were studied as a part of this amendment process and show a need for amendments to the Birch Bay Community Plan to provide consistency between the newly adopted Fire District #21 Capital Facilities Plan and the Birch Bay Community Plan. Upon completion of the 10-year urban growth area review, planning and development services staff again reviewed the Fire District #21 application for amendments to the Birch Bay Community Plan. The proposed amendments reflect, as appropriate, the amendments requested by Fire District #21.

Public Interest

Planning and Development Services staff has reviewed the amendments to determine if they are in the public interest as required in Whatcom County Code 2.160.080(A)(3). These proposed amendments merely amend the Birch Bay Community Plan to be consistent with the adopted Whatcom County Comprehensive Plan and are therefore in the public's interest.

Environmental Review

Pursuant to the Washington State Environmental Policy Act (SEPA) rules, proposed agency actions must be evaluated to determine whether probable significant adverse environmental impacts are likely to occur as a result of implementation. On March 20, 2009, the SEPA Official issued a threshold Determination of Non-Significance (DNS) in regard to the proposed text amendments, a non-project action. Further, a Final EIS was issued as part of the urban growth area update in 2009 which included evaluation of the District's capital facilities plan.

IV. FINDINGS OF FACT AND REASONS FOR ACTION

1. On December 29, 2006, Whatcom County Planning and Development Services Department received an application from Whatcom County Fire District #13 (now North Whatcom Fire and Rescue or Fire District #21) Chief Tom Fields to amend the Whatcom County Comprehensive Plan.

2. On April 3, 2007, the proposed amendment was initiated by Whatcom County Council Res. 2007-016 and given file number CMP2007-00014 by Planning and Development Services Department.
3. The applicants' original request to amend the Comprehensive Plan and the Birch Bay Community Plan happened before the creation of Fire District No. 21 which was a merger of the former Fire Districts No. 13 and No. 3 and also the City of Blaine Fire District.
4. Requested amendments to the Birch Bay Community Plan incorporate urban levels of service, fire response times, and operational system capacity resulted in a determination by staff that the most expeditious way to incorporate this information into the Birch Bay Community Plan would be to amend the Plan to reference Fire District No. 21's Capital Facilities Plan (attached as Exhibit B).
5. The applicant suggested that new policies be added to Goal LU3 of Chapter 8 of the Birch Bay Community Plan. These suggested policies were reviewed by Planning and Development Services Staff and the policy proposed (attached as Exhibit A) was found to be needed and consistent with the goals and policies of the Whatcom County Comprehensive Plan and the Birch Bay Community Plan.
6. Staff assessment indicated that while suggested amendments submitted by the applicant about public health and safety are very important and were given serious consideration, it was determined that the proposed amendment to the Vision Statement of the Birch Bay Community Plan would be more appropriately amended through a public visioning process at a later date.
7. On January 23, 2009, Whatcom County Planning and Development Services received a capital facilities plan submitted by North Whatcom Fire and Rescue.
8. Notice of the proposed amendment was sent to the Department of Community, Trade and Economic Development (CTED) and other state agencies on February 23, 2009. No comments regarding the proposed amendment have been received from CTED as of March 18, 2009.
9. On March 20, 2009 the Whatcom County State Environmental Policy Act (SEPA) Official issued a SEPA Threshold Determination of Non-Significance in regards to the proposed text amendment, a non-project action. The comment period for this determination ended April 3, 2009. The appeal period for this determination ended April 13, 2009.
10. Notice of the Planning Commission Hearing for the proposed text amendment was published in the Bellingham Herald on March 12, 2009. A Planning Commission Hearing was held on March 26, 2009.
11. Upon conclusion of the Planning Commission Hearing, the commission recommended that "the County Council direct Fire District #21 to further develop and refine its capital facilities plan, especially the concurrency mitigation fee program, and do this in consultation with the Birch Bay Steering Committee and the development community and major land owners in the area."
12. Following the Planning Commission Hearing, Fire District #21 held additional workshops and public meetings to help refine their capital facilities plan. In total the District held "at least 8 public workshops" in the community according to a letter from the District dated September 16, 2009.

13. On September 16, 2009, Whatcom County Planning and Development Services received a transmittal letter, Fire District #21 Commission resolution 2009-13 and the District's adopted Capital Facilities Plan from Fire District #21.
14. The Whatcom County Council and Planning Commission held a joint hearing on the County Executive's proposed amendments to the Whatcom County Comprehensive Plan, as part of the 10-year Urban Growth Area update, on September 17, 2009. These proposed amendments included adopting Fire District #21's capital facilities plan by reference.
15. The Whatcom County Planning Commission recommended a packet of amendments for approval by the County Council on October 22, 2009. These amendments included adoption, by reference, of the Whatcom County Fire District #21 Capital Facilities Plan.
16. A Final Environmental Impact Assessment of the 10-year Urban Growth Area review was issued on October 23, 2009. This assessment included evaluation of adoption-by-reference of Fire District #21's Capital Facilities Plan.
17. On November 24, 2009, the Whatcom County Council adopted Ordinance 2009-071 completing the County's 10-year Urban Growth Area review process. This ordinance adopted, by reference, the Whatcom County Fire District #21 Capital Facilities Plan.
18. Upon completion of the 10-year urban growth area review, staff began working on amendments to the Birch Bay Community Plan for purposes of providing consistency between it and the Whatcom County Comprehensive Plan and completing the changes requested by the applicant, Fire District #21, in its 2006 application.
19. The proposed amendments have been reviewed by Planning and Development Services staff and are found to be compliant with the review criteria as established in Whatcom County Code 2.160.080(A). The proposed amendments conform to the requirements of the Growth Management Act, are internally consistent with the county-wide planning policies, and are consistent with any interlocal planning agreements. The review and completion of the Fire District #21 Needs Assessment and Capital Facilities Plan indicates "changed conditions that show need for the amendment" as specified in WCC 2.160.080(A)(2). Staff analysis has found that the public interest will be served by the proposed amendments.
20. Notice of the proposed amendment was sent to the Department of Commerce on December 14, 2009. They acknowledged receipt of the proposed amendments with a letter dated December 15, 2009.
21. Notice of a public hearing in front of the Planning Commission regarding these amendments was published in the Bellingham Herald on January 3, 2010.
22. January 14, 2010, the Whatcom County Planning Commission held a public hearing on the proposed amendments to the Birch Bay Community Plan.

V. PROPOSED CONCLUSION

Staff has concluded that the proposed amendment is consistent with all applicable state and local law, and that the proposed amendment, if adopted, will be in the best interest of the public.

IV. RECOMMENDATION

Staff recommends that the Planning Commission forward a recommendation of approval to the Whatcom County Council for the proposed amendments included with this document as Exhibit A.

ATTACHMENTS

- Exhibit A: Draft Amendments to the Birch Bay Community Plan.
- Exhibit B: Whatcom County Fire District #21 Capital Facilities Plan
- Exhibit C: Public Comments received as of January 7, 2010