

WHATCOM COUNTY
Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226-9097
360-676-6907, TTY 800-833-6384
360-738-2525 Fax



David Stalheim
Director

J.E. "Sam" Ryan
Assistant Director

M E M O R A N D U M

TO: Whatcom County Planning Commission

FROM: Kate Blystone, Planner *KKB*

DATE: February 4, 2010

SUBJECT: Birch Bay Community Plan - Fire and Emergency Medical Services Amendments Work Session (CMP2008-00006, formerly CMP2007-00014)

On January 28, 2010, the Planning Commission considered CMP2008-00006 (formerly CMP2007-00014), an application submitted by Whatcom County Fire District #21 for amendments to the Birch Bay Community Plan. The amendments proposed during that meeting were crafted to remove an inconsistency between the community plan and the Whatcom County Comprehensive Plan.

Since that meeting, staff has considered public testimony and commissioner discussion. It appeared to staff that the planning commission was inclined to consider amendments that would remove all references to level of service (LOS) standards in the Birch Bay Community Plan rather than the initial proposal by staff that adopted the fire district's capital facilities plan by reference.

The proposal to remove references to LOS in the plan accomplishes the goal of removing inconsistencies between the Birch Bay Community Plan and the Whatcom County Comprehensive Plan. If the Planning Commission is inclined to follow this option, we have provided suggested amendments to the Birch Bay Community Plan attached as Exhibit A. Discussion of issues relating to this proposal is below.

The Issues

State Law: Whatcom County is required to plan under RCW 36.70A — the Growth Management Act (GMA). Within the act there are three requirements to be considered as a part of this discussion.

- First, RCW 36.70A.020(1) states counties should “encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.” RCW 36.70A.030(13) includes “fire protection and suppression” among “public services.”
- Second, RCW 36.70A.070 states that when a comprehensive plan is adopted “the plan shall be an internally consistent document and all elements shall be consistent with the future land use map.”
- Third, RCW 36.70A.110 states urban growth “should be located first in areas...that have adequate existing public facility and service capacities to serve such development, second in areas...that will be served adequately by a combination of both existing public facilities and services and any additional needed public facilities and services...”

Whatcom County Goals and Policies: As part of the urban growth area update, Whatcom County adopted new policies that are relevant to this discussion. Policy 2L-2 establishes a process by which subarea plans are reviewed for consistency. The policy concludes with the following statement:

“In the event there is an inconsistency between a Subarea Plan and the Whatcom County Comprehensive Plan, the Whatcom County Comprehensive Plan shall prevail.”

The effect of this language is that if the county is unable to correct an inconsistency between the comprehensive plan and a subarea plan, the conflict is resolved by deferring to the comprehensive plan.

Policy 4N-4 adopts the Fire District #21 Capital Facilities Plan by reference which is discussed further in the next item.

Adopted District #21 Capital Facilities Plan: Whatcom County adopted the Fire District #21 Capital Facilities Plan (CFP) in 2009 as part of the urban growth area update. This plan is now part of the comprehensive plan in Policy 4N-4. Along with the fire district’s plan, the county adopted the Birch Bay Water and Sewer District Comprehensive Water Plan and Sewer System Plan, and the Birch Bay Stormwater Plan in 2009. Adoption of these plans is supported by the County-wide Planning Policies as follows:

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, water associations and private service providers within each of these Areas, and should be implemented, where appropriate, through interlocal agreements...”

This action was done to demonstrate that the Birch Bay and Blaine Urban Growth Areas had adequate public facilities and services, including fire protection to serve the growth allocated to those respective urban areas.

Level of Service: The Birch Bay Community Plan currently contains a level of service standard for fire and emergency medical response that cannot be met currently or prospectively. According to the community members in attendance at the January 28 meeting, the “gold standard” for emergency medical service at 4-6 minutes and 5 minutes for fire was put into the plan because the fire district said it could provide that level of service. The Fire District has since provided clear documentation (see Needs Assessment dated 2008 and Capital Facilities Plan) that they have not and can not meet that level of service, and a more realistic level of service standard is warranted in the Birch Bay Community Plan.

One of the discussion points brought up at the meeting was how this action may or may not set a precedent for fire protection level of service in other areas. The ordinance adopted on November 24, 2009 included a policy (4H-3) regarding fire protection level of service. This issue is unresolved and is part of the work plan of the county. Adoption of the amendments to the Birch Bay Community Plan does not eliminate the need to resolve the level of service standards that the county will use to make a determination of adequate fire protection in urban areas.

“Whatcom County should define an urban level of service for fire protection by December 1, 2011. The 7-year comprehensive plan review and update process should demonstrate that the urban growth areas are served by urban levels of fire protection facilities and service. If the level of service standard adopted by the County can not be provided over the 20-year planning period, then re-designation of UGAs to rural designations should be considered.” (Policy 4H-3)

Public Participation: The community members in attendance at the January 28 planning commission meeting asked for additional public participation activities focused on the proposed amendments. Staff feels that the proposed amendments are merely correcting an error in the plan regarding level of services standards for fire protection that are not being achieved. Because this is a minor change, additional public review does not seem necessary for the circumstance.

As noted above, additional public participation will need to be undertaken as part of setting urban level of service for fire protection county wide. This review has already begun with the County Fire Marshal and all fire districts in the county. Options will be explored and additional opportunities for the public to review and comment will be provided.

Requested WCC 20.80.212 Concurrency Amendments: The initial suite of amendments as proposed by Kathy Berg included a request for removal of the words “fire protection” from the list of services that require concurrency as follows:

20.80.212 Concurrency.

No subdivision, commercial development or conditional uses shall be approved without a written finding that:

- (1) All providers of water, sewage disposal, schools, and fire protection serving the development have issued a letter that adequate capacity exists or arrangements have been made to provide adequate services for the development.*

The Planning Commission cannot consider additional amendments outside the scope of the public hearing at this time. The Planning Commission is limited to the actions that have docketed (CMP2008-00006), which pertain to amending the Birch Bay Community Plan and any amendments to the Whatcom County Code would be inappropriate.

If the planning commission, wishes that this amendment to WCC 20.80.212 be considered, the commission may request docketing of this item for inclusion in the department's work plan. Such review would likely go in concert with review of the fire protection level of service standards.

Additional Requests by District #21: On January 29, planning and development services received a letter from Fire District #21 supporting the removal of the level of service standard as proposed in Exhibit A attached. They also requested a sentence be stricken from the "Proposed Expansions and Improvements" section on page 15-6:

***Proposed Expansions and Improvements.** Increased population, particularly in the Birch Point area will necessitate the manning the fire station at Semiahmoo on a 24-hour basis. Additional equipment will also need to be brought to the station to maximize its effectiveness. ~~These costs will be born by taxes paid by the growing population.~~ The Birch Bay station now being utilized as a manned fire station must under go substantial remodeling in the future to house firefighters and EMTs.*

The district's contention is that this statement was no longer true upon adoption of the capital facilities plan. Staff is including a modified version of this proposal among the amendments in Exhibit A, recommending removal of the entire section called "Proposed Expansions and Improvements." The paragraph is primarily about Semiahmoo station and additional staff and apparatus required to support a growing population in that area and remodels to the Birch Bay station. The capital facilities plan adopted-by-reference into the comprehensive plan replaces this language and renders it unnecessary.

Conclusion and Recommendation

It is staff's hope that the discussion above provides clarity on issues that appeared unclear during the January 28 meeting. Public comment received through February 5, the planning commission deadline for comment on this issue, is attached as Exhibit B and will be posted to the website no later than February 8.

February 4, 2010

Planning and Development Services staff recommends that the planning commission recommend the amendments as proposed in Exhibit A attached to this memo. These amendments adequately deal with the inconsistency issue created by adoption of the revisions to the Whatcom County Comprehensive Plan.

Attached:

- Exhibit A Proposed Amendments to the Birch Bay Community Plan
(including strike-out version)
- Exhibit B Public Comment