

RECORD OF PROCEEDINGS OF THE  
WHATCOM COUNTY PLANNING COMMISSION

1

December 11, 2008

Regular Meeting

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1 **Call To Order:** The meeting was called to order, by Whatcom County Planning  
2 Commission Chairperson, Ken Mann, in the Northwest Annex Conference Room at 6:35  
3 p.m.

4  
5 **Roll Call:**

6 Present: Ken Mann, John Belisle, Geoff Menzies, Ron Roosma, Rabel Burdge, David  
7 Hunter, Jean Melious.

8 Absent: John Lesow, John Steensma.

9  
10 **Staff Present:** David Stalheim, Gary Davis, Michelle Stiles and Becky Boxx.

11  
12 **Public Hearing:** File #CMP2008-00004: Adoption of School Capital Facilities Plans in  
13 order for schools to become eligible to receive impact fees.

14  
15 David Stalheim presented the staff report.

16  
17 We are proposing to adopt plans from the Bellingham, Lynden and Ferndale school  
18 districts, by reference. This is also an amendment to Title 20, regarding school impact  
19 fees. These clarify the relationship between the Comprehensive Plan level of service  
20 standards and impact fees. Mt. Baker submitted a plan but did not have any plans for new  
21 facilities so it was not included in this amendment. Chapter 4 of the Comprehensive Plan  
22 was previously devoted to County capital facilities. We assume this will be the first of  
23 other adoption of capital facilities plans. There may be also water, sewer, fire protection,  
24 stormwater, parks and recreation facilities. In January we will be looking to have one or  
25 two fire districts be included in this chapter. The plans are adopted for the life of the plan  
26 which is six years, so they would need to be readopted every six years or if they have a  
27 change to the plan.

28  
29 In the impact fee ordinance we have a definition of low income housing which is the  
30 definition we worked on in the transportation impact fee chapter. Our goal is to have one  
31 definition.

32  
33 Mann: Under what circumstances would we not adopt, by reference, another jurisdiction's  
34 capital facilities plan?

35  
36 Stalheim: Only if it didn't really meet the underlying requirements of the GMA. We have  
37 reviewed these plans and are comfortable with them.

38  
39 Mann: Regarding the low income housing definition, what is meant by *qualified purchaser*  
40 *or tenant*?

41  
42 Davis: *Qualified* would mean qualified to participate in a low income housing program that  
43 is referenced later on in the definition.

44  
45 Mann: Is there a difference between gross monthly income and gross household income?

46  
47 Davis: There really isn't.

48 Menzies: Can the other school districts come in when it's suitable for them?

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- 1  
2 Stalheim: Yes. They would have to go through the annual review process.  
3  
4 Menzies: Do you know why the other school districts didn't submit their plans?  
5  
6 Stalheim: They are aware of the process and chose not to go through it at this time. I  
7 can't say why.  
8  
9 Burdge: Is this restricted to public schools only?  
10  
11 Stalheim: Yes.  
12  
13 Burdge: Are these facilities linked to levels of service based on population growth?  
14  
15 Stalheim: We are leaving it up to each district to determine how to define level of service.  
16 The school districts are going to do it based on student enrollment growth which isn't  
17 always related to population growth. We do need to make sure they aren't looking at a  
18 different population growth than ours.  
19  
20 The hearing was opened to the public.  
21  
22 John Krieg, Lynden School Board: Having read through the materials I am very pleased  
23 with what I see. It seems it is what the Lynden School District had in mind. Let me give  
24 you a little insight on how our school district created our capital facilities plan. We have an  
25 enrollment goal of 18 student class sizes in grades k-5. For grades 6-12 our class size  
26 goal is 23 students. Because of the growth in the school district, the last decade or so, we  
27 are well above those figures. One of the ways we hope to reduce class size is to build  
28 more classroom space. Impact fees are an important part of that financing package.  
29  
30 Hunter: I am curious why the district chose not to add to the high school, which is where  
31 the highest deficiency is.  
32  
33 Krieg: Our concern is being able to pass a bond which will be the majority of funding.  
34 Right now our middle school is 70-80 years old, which is different from the high school, so  
35 the middle school is our main concern right now. Also we have land purchased in which to  
36 locate a new middle school. We feel it would be easier to pass a bond with this situation.  
37  
38 Burdge: Your population numbers are a little lower than the State numbers. Why is that?  
39  
40 Krieg: There are two ways of calculating enrollment. One is by head count and the other is  
41 by how many full time students you have. We have a number of students who go to  
42 Running Start at Whatcom Community College or Bellingham Tech.  
43  
44 Burdge: Has there been any change in the composition of your students?  
45  
46 Krieg: Not that I am aware of. In the future there may be smaller class room sizes needed  
47 for our special ed students. This has nothing to do with figuring our impact fees.

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1 Burdge: I notice from 1999 to 2005 there was a 40 percent increase in your Hispanic  
2 population opposed to an overall student increase of only 8 percent. There may be some  
3 special needs there.

4  
5 Krieg: That doesn't impact how the general funds are assigned.

6  
7 Bob Wiesen, Whatcom County: The concern is always what number is picked as the  
8 impact fee.

9  
10 The hearing was closed to the public.

11  
12 **Work Session**

13  
14 Burdge: A couple of years ago we were approached to encourage development in the City  
15 of Bellingham because a speaker alleged that enrollment was becoming very high outside  
16 the City so we looked at the growth rate for all of the school districts. The overall increase  
17 has not been that great, it's been 2 percent between 1999 and 2005 and is now leveling  
18 off. The ethnic composition is dramatically changing. In Ferndale the enrollment is actually  
19 decreasing.

20  
21 Hunter: It's hard to understand why we would be setting impact fees, especially for  
22 Ferndale, when school enrollment is going down.

23  
24 Stalheim: Each school is required to forecast what their future population will be. I'm not  
25 sure that the County wants to get in the business of questioning the school district's  
26 forecasts. The schools will be responsible for any funds collected.

27  
28 Hunter: That makes sense. Unless we want to get involved in their forecasts and then  
29 make decisions based on that we need to rely on the district projections.

30  
31 Belisle: I think it's the taxpayer's jobs to make sure the forecasts are accurate. It's not  
32 our job. All we are doing is giving them the vehicle to charge fees.

33  
34 Menzies: How do we know that the impact fees are being used properly?

35  
36 Stalheim: The interlocal agreement will specify how the school district will spend the  
37 money and track the spending.

38  
39 Belisle: What happens if no kids show up? Do they have to give it back?

40  
41 Stalheim: They have six years to spend it.

42  
43 Menzies: The thing that struck me was the impact fee amount in each of the different  
44 districts. Why such a variation?

45  
46 Stalheim: There would have to be a relationship with the size of the capital facilities plan  
47 and the population growth that ties back to a level of service. Each district has a choice of

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1 how much they want to have for an impact fee versus other funding sources. There is no  
2 formula in the law that states it has to be done a certain way.

3 **Burdge moved to approve the staff report as presented. Belisle seconded.**

4  
5 **Mann made a friendly amendment** to Exhibit B, 20.97.221 Low Income housing to  
6 read:

7 "Low-income housing" means housing for which the monthly expenditure by a qualified  
8 "low income household", purchaser or tenant, including mortgage or rent payment,  
9 insurance, taxes, and utilities (water and sewer) does not exceed thirty-eight percent of  
10 gross monthly household income at the time of purchase or lease, and where the amount  
11 of mortgage or rent does not exceed thirty percent of gross monthly household income,  
12 with documented assurance that the housing provided is restricted under a government or  
13 nonprofit housing program or agency, and that this will continue over time. A low income  
14 household means a single person, family, or unrelated persons living together whose  
15 income, at their initial occupancy of the premises, is less than eighty percent of the  
16 median family income, adjusted for household size, for Whatcom County, as defined by  
17 the U.S. Department of Housing and Urban Development at the time of application. A  
18 monthly expenditure higher than the standard above may be allowed for homes or  
19 projects that have received state, federal, and/or other affordable housing program  
20 funding.

21  
22 Roosma: Say someone built low income housing and two years later it's not used for that  
23 any more and they never paid any fees, how do you deal with that?

24  
25 Stalheim: It has to be a program provided by the government or non-profit housing  
26 program. This gives us long term assurance.

27  
28 **Burdge and Belisle accepted the amendment.**

29  
30 **Roll Call Vote: Ayes – Belisle, Burdge, Hunter, Mann, Menzies, Melious; Nays –**  
31 **Roosma; Abstain – 0; Absent – Steensma, Lesow. The Motion Carried.**

32  
33 **Director's Dialog**

34  
35 Stalheim: Thank you for your hard work this year. There is a lot of work to do next year.

36  
37 I would like to introduce Sean Wilson, our new Planning Commission member, who is  
38 taking the place of Commissioner Roosma. The Council re-appointed Commissioners  
39 Belisle and Lesow.

40  
41 At the last Council meeting they took action on the wildlife facilities in the Agricultural  
42 Zone, which they passed. They took out the condition that it be on publically owned land.  
43 They passed the changes to the docketing procedures. The issue on the front loaded  
44 garages was tabled until January 2009. They held a public hearing on the land division  
45 ordinance then sent it back to committee to be looked at again in January 2009.  
46 At our next meeting, in January, we will have the annual business meeting at 6:00  
47 followed by the hearing on the Foothills Plan. You really need to focus in on the UGA for  
48 Columbia Valley. We are still working on the final EIS.

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1  
2 Linda Peterson will be leaving as part of the budget cuts. Her last day will be the end of  
3 December.

4  
5 I would like to introduce one of our new staff members, Michelle Stiles.

6  
7 **Open Session for Public Comment**

8  
9 Bob Wiesen, Whatcom County: An issue I missed when Lummi Island was being discussed  
10 was the issue of the water table and arsenic. That is really an impact on a potential  
11 homeowner. They will have to spend a lot of money to find out they can't build. If there is  
12 arsenic found in the well you drill then you can't use it, even though you can treat it.

13  
14 **Commissioner Comments**

15  
16 Hunter: I am sorry to be seeing Commissioner Roosma leave. We agreed on almost  
17 nothing. Though we often disagreed I never felt I got anything but a thoughtful,  
18 interested and civil disagreement which often caused me to rethink my view.

19  
20 Menzies: Commissioner Roosma has been the happy minority on this group, which isn't an  
21 easy thing to do.

22  
23 Belisle: He has been a constructive minority which is rare to have someone that helps the  
24 other members realize where you are coming from and that you are well grounded.

25  
26 Roosma: In my business I am often the first person the public talks to after they have  
27 been through the permit process so I get an earful.

28  
29 **Approval of Minutes**

30  
31 **November 13, 2008. Menzies move to approve the minutes as written. Melious**  
32 **seconded. The Motion Carried.**

33  
34 **Work Session**

35  
36 Review of revisions to the Lummi Island Subarea Plan.

37  
38 Stalheim: We need five votes so we can move this on to the Council.

39  
40 **Roll Call Vote on the motion to approve the Lummi Island Subarea Plan as**  
41 **amended at the public hearing and work session on October 23, 2008.**

42  
43 **Ayes – Belisle, Burdge, Mann, Menzies, Melious; Nays – 0; Abstain – Hunter,**  
44 **Roosma; Absent: Steensma, Lesow. The Motion Carried.**

45 **Work Session**

46  
47 Rural Element Review.

48

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1 Davis: This involves amendments to the Comprehensive Plan that deals with rural  
2 elements of the County as well as changing several zoning classifications in the rural  
3 areas. This is needed to comply with the Growth Management Hearings Board (GMHB)  
4 decision regarding Futurewise versus Whatcom County. We have two problems that need  
5 to be addressed. One is zoning in the rural areas that does not fit with the State's idea of  
6 rural densities and uses. The other is that we have land use designations, in our  
7 Comprehensive Plan, that do not adequately set up boundaries for limited areas of more  
8 intense rural development (LAMIRD). Besides these amendments we will also update  
9 overall land use policies. We have tentatively set April 2009 for you to address these  
10 amendments. We estimate a total of about 20,000 acres affected by this. In those areas  
11 we will need to do one of two things. We will either need to include the lands within a  
12 LAMIRD boundary or change the zoning to reflect rural.

13

14 Burdge: How will this affect Lummi Island?

15

16 Davis: The amendments you recently made to Lummi Island will take care of this issue.  
17 Minimum lot size will be changed from three to five acres.

18

19 Davis: RCW 36.70A.070(5)(d) deals with issues of LAMIRD's. It enables counties to draw  
20 a line around areas that were more intensively developed as of the date the Growth  
21 Management Act took effect, which was July 1, 1990. It sets some parameters for setting  
22 those boundaries. Those boundaries can include properties that were more intensively  
23 developed as of that date. It could also include parcels that were not developed as of that  
24 date, provided they fit within a logical outer boundary. That logical outer boundary can be  
25 set by four criteria: The need to preserve the character of existing natural neighborhoods  
26 and communities; following physical boundaries such as bodies of water, streets or  
27 highways, land forms or contours; the prevention of abnormally irregular boundaries; the  
28 ability to provide public facilities and public services in a manner that does not permit low-  
29 density sprawl. Based on these criteria we have done an initial draft that we wish to have  
30 in place. The general guidelines would be: The LAMIRD's would generally be located in  
31 areas that were developed before July 1, 1990 as small towns, crossroads activity centers,  
32 or residential or recreational subdivisions; are not designated by the Comprehensive Plan  
33 as Urban Growth Areas (UGA's), Resource Lands or Rural; are not adjacent to a UGA  
34 except where the affected city opposes extending the UGA boundary to include the area.  
35 In our case this could affect the Toad Lake area. The basis for that is a GMHB case from  
36 Jefferson County. When we do our study to propose initial boundaries we will be using  
37 aerial photos from 1991 to see what areas were developed at that time. LAMIRD  
38 boundaries should include: Parcels that were intensively developed on July 1, 1990;  
39 parcels that on July 1, 1990 were not intensively developed, but one or more of the  
40 following conditions exist: Including the parcel helps preserve the character of an existing  
41 natural neighborhood; including the parcel allows the logical outer boundary to follow a  
42 physical boundary such as bodies of water, streets and highways and land forms and  
43 contours; including the parcel, or part of a parcel, prevents the logical outer boundary  
44 from being abnormally irregular; including the parcel is consistent with efficient provision  
45 of public facilities and services.

46

47 Melious: Is there any thought of upzoning some areas of the LAMIRD's?

48

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1 Davis: That could be problematic. There are some court cases that address the issue of  
2 further intensifying the density beyond what was in place in 1990.

3

4 Mann: Who is going to be checking our work?

5

6 Stalheim: We need to show our work and use uniform criteria. The GMHB will be  
7 reviewing our work.

8

9 Mann: Is the entire length of the Guide Meridian going to be a LAMIRD?

10

11 Davis: No. In some of that area the zoning is okay but the Transportation Corridor  
12 designation is an issue. We will have to study it and see what meets the criteria.

13

14 Belisle: Are there counties in the State that limit building on non-conforming lots?

15

16 Stalheim: I'm not sure. There would be a takings issue with that. If it's a legal lot you  
17 have to allow some reasonable use.

18

19 Menzies: It's seems that one thing that is missing from this is critical areas. It seems like  
20 that would be a factor when considering where you want development.

21

22 Belisle: You could say the same for resource lands too.

23

24 Hunter: We ought to consider that when this happens that we aren't in the position of  
25 creating a higher level of development than already exists.

26

27 Stalheim: The hearings board does state that when you draw the boundary you shouldn't  
28 end up creating way more development than what currently exists. We might need to  
29 tweak some of the underlying zoning so it doesn't allow a lot of infill. Right now we are  
30 really focusing on identifying the boundaries. Unless we see something that may be a  
31 huge compliance issue we will probably focus on infill during the next phase.

32

33 Burdge: Will everyone that owns property in these areas be notified?

34

35 Stalheim: Legally we are not required to, but we will give notice, not to all of the people in  
36 the study areas, but within the areas that we identify as having a potential change. We do  
37 want to get people engaged early in the process.

38

39 Stalheim: While we have a goal of completing this process by June 2009 this case does  
40 not have a GMHB deadline so we can adjust the timeline if needed.

41

42 Davis: We hope to go out to the public in February and come back with some  
43 recommendations in April. We have done an initial public participation process. We are  
44 asking people what their idea of rural character is so that can guide our work as we go  
45 forward.

46

47 Stiles: We have been working with the consulting firm, Makers, on this issue. We have  
48 broken down the process into two phases. We are just now wrapping up phase I. We

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1 started in mid September to inform the public of what we are doing and to get as much  
2 feed back as possible.

3  
4 We are now starting phase II by taking all of the information we have gathered from  
5 phase I, drafting a vision for the Comprehensive Plan, doing the draft zoning changes, and  
6 drafting the LAMIRD boundaries. We tried to structure phase I around two main questions.  
7 We wanted to find out from people what is rural and what is rural character? We held  
8 several targeted stakeholder meetings, did phone interviews, held three public meetings,  
9 set up a website and distributed a questionnaire.

10  
11 We held three visioning workshops on November 12 and 13. They were held at the Mt.  
12 Baker High School, Meridian High School and the Bellingham Public Library. The main  
13 objectives for the meetings were to educate the public about the process, to get feed back  
14 and to start the discussion on the LAMIRD areas.

15  
16 Belisle: Were these meetings successful?

17  
18 Stiles: They weren't well attended. We advertised well but got only about 12 people at  
19 each of the meetings. We did a mapping exercise which was successful. Everything  
20 regarding the meetings we posted on the website afterwards.

21  
22 We posted a questionnaire on the website from November 12 through December 8. We  
23 received 240 responses to 10 different questions. One of the questions was how people  
24 felt about the level of development in the rural areas in the last 10 years. Over 50 percent  
25 stated there has been too much development. The next question was what do people  
26 value in the rural areas? People favored the natural environmental features, clear air,  
27 clean water, and forested lands.

28  
29 Belisle: Did you give them things to choose from or did they write them in?

30  
31 Stiles: We gave them seven choices and they could also pick others.

32  
33 Belisle: Why did you include small-scale agriculture?

34  
35 Stiles: We felt that was something of value.

36  
37 Davis: Keep in mind the rural lands excludes urban areas and resource lands, including  
38 agricultural.

39  
40 Belisle: Do you think the people knew that?

41 Davis: It was at the top of survey but I don't know if they made the distinction.

42  
43 Stiles: We next asked people what they felt the threats were to rural values. People said  
44 that more residential development was a threat as well as heavier traffic, environmental  
45 degradation and commercial development.

46 We then asked what features are most threatened. The response was the natural  
47 environmental features, clean air, clean water, agricultural, forest lands and privacy.

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1 We asked what lot size they consider to be rural. Most people agreed it is five acres or  
2 greater.

3  
4 We then got more specific and asked them a LAMIRD question. What should be allowed in  
5 these LAMIRD areas? People said there should public services, such as libraries,  
6 community centers and small stores.

7  
8 Burdge: Do you think the people really understand what a LAMIRD is?

9  
10 Stalheim: Do you guys understand what a LAMIRD is?

11  
12 Mann: Who decided on the questions?

13  
14 Stiles: It was a group effort of the staff and the consultant.

15  
16 **Other Business**

17  
18 Mann: At the next meeting we will select a new chairperson. I have been doing it for two  
19 years but would not like to do it again next year.

20  
21 Mann: Regarding the business rules there has been some discussion about taking public  
22 testimony when we have a work session. We need to consider that.

23  
24 Menzies: Regarding the UGA review that we are doing, there was talk at our last meeting  
25 about some alternatives, one of which is the no action alternative. I am a little concerned  
26 about the process and the time frame for developing those other alternatives. How are we  
27 going to determine what those alternatives are that we evaluated in the EIS?

28  
29 Stalheim: Staff has discussed that with the consultants. You will be looking at this issue in  
30 February. We have debated how to structure this process. We are limited to how much we  
31 can study but we also want to make sure that the alternatives are within the range of  
32 possibilities that we want and within the range of what we can do by June. I think we will  
33 try to package some ideas. One of the other things we are concerned about is that we  
34 may want to do a joint session between you, the Council and maybe the GMCC. I am  
35 really worried about doing alternatives that involve the cities as well. I don't want the  
36 County to be the only one involved in the discussion. One thing we are debating is  
37 population based alternatives or a land use based alternatives. I think a lot of interest is  
38 centered around shifting the growth from Bellingham to other areas and what that  
39 development pattern would look like rather than what the numbers are.  
40 The meeting was adjourned at 9:05 p.m.

41  
42 Minutes prepared by B. Boxx.

43  
44  
45 WHATCOM COUNTY PLANNING COMMISSION ATTEST:

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Ken Mann, Chair

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David Stalheim, Secretary