

May 30, 2013

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RE: Rural Element

Executive Louws and Council:

Council Chair Kershner publicly stated that “special interests” are forcing GMA compliance on Whatcom County, and these “special interests don’t have the best interests of all people in Whatcom in mind.”<sup>1</sup>

It is disappointing, to say the least, to have the Chair of the Whatcom County Council express such views.

Despite this negative attitude expressed by the Chair, Whatcom County can make significant progress if it follows much of the advice that Whatcom County PDS has provided. The differences between us on substantive issues is narrowing. I wish to take a moment to ask for some adjustments to the draft ordinance.

#### **Policy 2GG-3(A)**

The proposal from staff is good, but two changes are encouraged:

1. Change “the average size of parcels” to “the average size of ***legal lots of record***.” Parcel is not defined in the zoning code, but “lot of record” is. There are numerous illegal parcels in Whatcom County, and density should not be calculated based on illegal parcel densities.
2. You should ***establish a setback buffer*** of 100 feet if an area is rezoned from R-10 to R-5 and is adjacent to ***agricultural resource lands***.<sup>2</sup> Please remember that the setback from agricultural land is only five feet in the side and rear yards, and doubling the density adjacent to resource lands will create development that is incompatible with continued use of agricultural, a GMA obligation.

#### **Reserve Area and Reserve Tract**

Throughout the code amendments, the ordinance says that there will be an “easement on the subdivision plat...” Easements are typically granted to a person or entity, granting certain rights such as vehicular or utility access. A more common term for this type of restriction would be a “***restrictive covenant***”.

In order to implement this provision, it is essential that there is an enforcement mechanism. Granting an easement or a covenant can only be enforced if it is clear who has the right to enforce that restriction.

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<sup>1</sup> Comments made at Whatcom County Democrats endorsement meeting May 23, 2013.

<sup>2</sup> In comparison, the Zoning Code requires a 100 foot setback from the Commercial Forest Zone for rural development.

Since the restriction is granted in perpetuity, and is a restriction of the plan and development regulations, it is appropriate that the rights to enforce that restriction be granted to the public.

1. Please revise various sections of the zoning amendments to read “**restrictive covenant granted to Whatcom County** on the subdivision plat...”

**Minimum Reserve Area Cluster, Rural District**

The Planning Commission, once again, inserted new changes into a compliance process that could result in further noncompliance by Whatcom County. After being directed to protect open space, why would the Planning Commission reduce open space requirements in rural areas?

1. Please **reject** all amendments proposed by the Planning commission to the **table in WCC 20.36.253**. These amendments included:
  - a. Reduction is minimum reserve area clusters in R-2A with public water, R-5A, and R-10 A.
  - b. Elimination of all reserve area requirements in urban growth areas. Not only is this a bad policy, as it would cause problems with potential transition into urban areas, but Whatcom County probably did not notify the cities of these amendments, either.

Thank you for consideration of my comments.

David Stalheim