



March 24, 2016

Whatcom County Planning Commission:
PDS_Planning_Commission@co.whatcom.wa.us

Re: Critical Areas Ordinance

The County Comprehensive Plan requires the county to “**maintain a working agricultural land base sufficient to support a viable local agricultural industry by considering impacts to farmers and agricultural lands as part of the legislative decision making process.**” (p8-8; Policy 8A-2). A “Working Land Base” would mean one in which farmers can profitably and sustainably farm into future generations.

The Ag Water Board (the combined Watershed Improvement Districts board) calls your attention to the following concerns:

1) 16.16.900 (Page 93 Line 17) The change of definition of Prior Converted Croplands is entirely at odds with the Food Security Act definition used by the Natural Resource Conservation Service (NRCS) in the development of Best Management Practices for incorporation into the Farm Plans. The FSA definition has to be used when accessing federal funds for Conservation Reserve Enhancement Program (CREP) planting, hedgerow planting, manure storage and many other environmental protection projects and is incorporated as a map layer in all that the Whatcom Conservation District (WCD) does with farms. Access to these funds is essential to the continued progress that is being made in protecting water quality in the county. NRCS cost share and Farm Service Agency (FSA) funds are very time sensitive so timing of planning actions is critical. Using the DOE definition will make the process unwieldy and slow and risk losing millions of dollars of cost share at a time when we should be trying to access more in order to fulfill our social obligation to the Lummi's whose shellfish beds we would very much like to see reopened soon.

Recommendation: Use the Prior Converted Croplands definition from the National Food Security Act Manual

2) 16.16.900 (Page 93 Line 24) The National Farm Security Act Manual (NFSAM) definition of Prior converted croplands also incorporates the concept of cultivation: by 1985 the land in question had to be capable of supporting an agricultural commodity, otherwise it becomes a prior converted pasture or farmed wetland which have less standing in terms of agricultural value and federal funding. It also incorporates the concept of abandonment in “land that has lain idle for more than five consecutive years”. The definition of Prior converted croplands currently in the draft requires the farmer to till the field at least once every five years and establish a commodity crop, something that should be determined by the farmer in the field not a County edict, and would be ruinous on berry crops (blueberries are only just getting into full production in their fifth year) vineyards, nut and fruit orchards.

Recommendation: Use the Prior Converted Croplands definition from the National Food Security Act Manual

- 3) 16.16.900 (Page 93 Line 24) Abandonment of farmland is not necessarily a timeline, soil health and economics play a large part here and have little effect on soil type or overall potential productivity of the cropland. 5 years is a standard to which many smaller parcels in the county may fall below on occasion. There needs to be some recourse other than loss of Ag status.

Recommendation: Allow prime ag soils in ag zones to be given a grace period beyond five years at least until the CPAL program is up and running and the message gets out to the farming community.

- 4) The definition of Planning Advisor (Page 92 line 37) is somewhat limited, currently NRCS have no certified technical service providers this side of the Rockies. Perhaps Certified Crop Advisers or some other standing with the American Society of Agronomists or a similar organization, that shows a rounded knowledge of agriculture and environmental issues would be suitable.

Recommendation: Substitute Certified Crop Advisers for Planning Adviser.

- 5) 16.16.800 (page 74, lines 8-18) How do you balance this with Chapter 14.02 (The Right to Farm) and the county's stated aim, that they want to support agriculture. The wording here makes it sound like farmers will only be welcome here as long as the county staff are prepared to put up with them. Most of the farmers in the county are third fourth or fifth generation, this will not give them any sense of a satisfactory future business climate.

Recommendation: Replace lines 12-16 with the following: "Under this program, ongoing agriculture is afforded more flexibility, recognizing farmers ability to be good stewards of the land. Farm plans are used to incorporate the protection of critical areas into a system that still allows growing bountiful crops and livestock. The intent is that by implementing some changes in management over an entire field it will avoid the loss of large acreages to buffering critical areas. Farmers who choose to opt out of this program will remain subject to the wider critical Areas ordinance and its buffer requirements."

- 6) 16.16.820 D1c (Page 75, line 28) The concept of a flash grazed buffer is not unique or difficult to manage or a concept difficult to grasp, it should not therefore require a farm to move from Type 1 to Type 2. WCD's argument for managed grazing in the vegetative filter strips does not preclude this being available to type 1 farms.

Recommendation: Remove this election to type 2 and so allow prescribed grazing of buffers in a type 1 plan.

- 7) 16.16.840 A1bii (Page 76, line 42) In many cases there is no room for Filter strip. If you require all landowners to establish and maintain a filter strip then you need to make sure that they can all use their animals to maintain it, many county landowners do not have the appropriate equipment to mow a large filter strip every two weeks through the summer, but an afternoon letting the cows into it will do the job without a rapid deterioration in water quality.

Recommendation: Allow grazing of the filter area under the NRCS prescribed grazing standard.

8) 16.16.840 A2 (Page 77, line 12) manure removal from paddocks is unnecessary unless there is no crop to absorb and filter the nutrients.

Recommendation: Replace the sentence in lines 12 -14 with the following: “Manure and soiled bedding from barns and manure in heavy use areas without sufficient vegetation to prevent offsite movement should be removed and placed in a storage facility protected from rainfall so that runoff does not carry pollutants and bacteria to critical areas.”

9) 16.16.840 A6 (Page 77 Line 27) There are two problems here, line 14 says that manure should be used as a fertilizer and yet line 27 says it can't be applied without a license. 1). There is no state or federal license for fertilizer application. 2). A filter strip needs to be fertilized during the growing season to be healthy and effective when it needs to do its job in the wet season.

Recommendation: Strike the word “Fertilizer” from line 27.

10) 16.16.840 A6 (Page 77 Line 27) Replace word Pesticide with Insecticide. Pesticide in the modern vocabulary is a general term that tends to include fungicides and herbicides.

Recommendation: Replace

11) 16.16.840 A6 (Page 77 Line 27) There is no infrastructure in the county to supply the needs of the thousands of landowners who own property alongside water. There are many herbicides that are cleared for use in and alongside the water, many of these are available off the shelf at hardware and farm stores. The rule should be to follow the label recommendations which stipulate the conditions under which the pesticides should be applied.

Recommendation: Change this wording to include the careful application of herbicides by property owners according to label requirements.

12) 16.16.840 C (Page 78, line 20) Not many Whatcom county dairies are Concentrated Animal Feeding Operations (CAFO)'s and therefore are not under any jurisdiction of the EPA CAFO rule. All are under the regulation of RCW 90.64 and therefore have Dairy Nutrient Management Plans written to NRCS standards, approved by both NRCS and the Conservation District and are regularly inspected by Washington State Department of Agriculture (WSDA) Nutrient Management Team. The CAFO rule does not apply.

Recommendation: Change line 21 to replace “AFO/CAFOs” with “dairies and/or CAFOs”

13) 16.16.860 D3c (Page 79, Line 45) Cropping changes regularly, rewriting farm plans every year to accommodate cropping or field management changes is not practical nor sensible. Yes, landowners should take into account critical areas when changing land use but should not be forced to write a new plan if the change is only for a year or two. For instance, Berry fields are often taken out of production, corn grown on the field by a local dairy for a year or two then returned to berries after a break. In situations like this the field should remain in the type 2.

Recommendation: Allow type 2 plans to incorporate some flexibility for short term management in conjunction with a type 3 farm.

Farmers hope that this program is a success in protecting critical areas and respecting landowner rights. We are, however, acutely aware of the way that regulatory programs like this can heavy handedly

undermine those rights. We have a growing number of complaints from farmers being called to account for clearing blackberries and other noxious weeds or performing other standard farming practices under the guise of critical area violations. This should not continue.

Recommendation: Police this regulation with a deep understanding of Agricultural practices and economics. Engage with the Whatcom Conservation District and the Ag Water Board to help understand Best Management Practices.

Thank You,

A handwritten signature in blue ink, appearing to read "Scott Bedlington". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Scott Bedlington
AWB Chairman