

WHATCOM COUNTY

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Mark Personius
Director

Memorandum

August 31, 2020

TO: The Whatcom County Planning Commission
FROM: Matt Aamot, Senior Planner
THROUGH: Mark Personius, Director
RE: Countywide Planning Policies (File # PLN2020-00007)

The Washington State Legislature approved Engrossed Second Substitute Senate Bill or ESSSB 5254 relating to the Growth Management Act's "Review and Evaluation" (buildable lands) program requirements in 2017. The review and evaluation program has several main components, which are summarized below:

- Determining whether a county and its cities are achieving urban densities within urban growth areas by comparing growth and development assumptions contained in the county and city comprehensive plans with actual growth and development that has occurred;
- Determining whether there is sufficient land that is suitable for development in the future; and
- Identifying reasonable measures, if necessary, to reduce the differences between growth assumptions contained in comprehensive plans and actual development patterns (RCW 36.70A.215).

The Growth Management Act, originally enacted in 1990-91, required the County to adopt countywide planning policies in cooperation with the cities (RCW 36.70A.040 and RCW 36.70A.210). Countywide planning policies establish a framework for developing city and county comprehensive plans and ensuring these plans are consistent. The County Council originally adopted countywide planning policies in 1993 and amended these policies in 1997 and 2005.

The 2017 State legislation (ESSSB 5254) imposes new requirements that Whatcom County must address, in close coordination with the cities, over the next several years (see RCW 36.70A.215). One of these requirements is to amend the countywide planning policies to establish the Review and Evaluation Program. Another requirement is to adopt dispute resolution procedures.

The City/County Planner Group has developed proposed Countywide Planning Policies relating to the Review and Evaluation Program and Dispute Resolution Procedures. The County Executive has initiated these Countywide Planning Policies for review pursuant to an interlocal agreement between the County and Cities (Contract No. 202007014). These policies will govern how the County and Cities will implement and maintain the Review and Evaluation Program. The policies also set forth procedures for resolving any disputes relating to the Countywide Planning Policies that should arise between the jurisdictions.

Thank you for your review and consideration of the proposed Countywide Planning Policies. We look forward to discussing them with you.

**WHATCOM COUNTY
PLANNING & DEVELOPMENT SERVICES**

Countywide Planning Policies

PROPOSED FINDINGS OF FACT AND REASONS FOR ACTION

Background Information

1. The proposal is to adopt Countywide Planning Policies (incorporated into Appendix C of the Whatcom County Comprehensive Plan) relating to:
 - a. Review and Evaluation Program (also known as “Buildable Lands”).
 - b. Dispute Resolution Procedures.
2. Notice of the subject amendments was submitted to the Washington State Department of Commerce on April 20, 2020.
3. WAC 197-11-800 categorically exempts procedural actions from State Environmental Policy Act (SEPA) review. The SEPA Official determined that the subject proposal is exempt as a procedural action on April 21, 2020.
4. The subject Countywide Planning Policies were posted on the County website on April 20, 2020.
5. Notice of the Planning Commission hearing was published in the Bellingham Herald on August 28, 2020.
6. Notice of the Planning Commission hearing was posted on the County website as of August 28, 2020.
7. Notice of the Planning Commission hearing was sent to citizens, media, cities, and other groups on the County’s e-mail list.
8. The Planning Commission held a public hearing on the subject amendments on September 10, 2020.

9. The Growth Management Act (GMA), originally approved by the State Legislature in 1990-91, required the County to adopt countywide planning policies in cooperation with the Cities (RCW 36.70A.040 and RCW 36.70A.210).
10. The GMA states countywide planning policies are used “. . . solely for establishing a countywide framework from which county and city comprehensive plans are developed and adopted pursuant to this chapter. This framework shall ensure that city and county comprehensive plans are consistent . . .” (RCW 36.70A.210(1)).
11. The County Council adopted the original countywide planning policies in April 1993 (Resolution 93-024).
12. The County Council amended the countywide planning policies in March 1997 (Resolution 97-011).
13. The County Council amended the countywide planning policies in January 2005 (Ordinance 2005-022).
14. The Washington State Legislature approved Engrossed Second Substitute Senate Bill 5254 relating to the Growth Management Act’s “Review and Evaluation” program requirements in 2017. This legislation imposes new requirements that Whatcom County must address, in close coordination with the cities, over the next several years.
15. The GMA now requires Whatcom County to “. . . adopt, in consultation with its cities, countywide planning policies to establish a review and evaluation program. . . (RCW 36.70A.215(1)).
16. The GMA also requires methods for resolving disputes among jurisdictions relating to these countywide planning policies (RCW 36.70A.215(2)(c)).
17. The City/County Planner Group formulated the subject countywide planning policies to address the GMA-mandated Review and Evaluation Program requirements.
18. The City/County Planner Group recommended that the Dispute Resolution Procedures should apply to any countywide planning issue rather than only matters relating to the Review and Evaluation Program. Therefore, the Dispute Resolution Procedures are separate and distinct from the Review and Evaluation Program policies.
19. The County Executive initiated these Countywide Planning Policies for review pursuant to an interlocal agreement between the County and Cities (Whatcom County Contract No. 202007014).

20. GMA Planning Goal 11, relating to citizen participation and coordination, is to "Encourage the involvement of citizens in the planning process and ensure coordination between communities and jurisdictions to reconcile conflicts" (RCW 36.70A.020(11)).
21. The subject Countywide Planning Policies include the concepts of coordination and cooperative relationships between the County and Cities consistent with the GMA.

PROPOSED CONCLUSION

The subject Countywide Planning Policies are consistent with the GMA and are in the public interest.

RECOMMENDATION

Based upon the above findings and conclusions, staff recommends:

1. Approval of Exhibit A, Countywide Planning Policy amendments.

Exhibit A

Q. Review and Evaluation Program

1. The County and cities will cooperate to implement and maintain a program that meets the review and evaluation requirements of RCW 36.70A.215, unless the Growth Management Act no longer contains these requirements or sufficient funds are not appropriated by the state.
2. The purposes of this program are to:
 - a. Compare actual (achieved) development densities with planned development densities and determine whether the County and cities are achieving planned urban densities within urban growth areas and have sufficient suitable land to accommodate planned population and employment growth through the remainder of the 20-year planning period.
 - b. Identify and adopt reasonable measures, if necessary, to reduce the differences between actual development patterns and growth and development assumptions contained in the County comprehensive plan and/or city comprehensive plans.
3. The County, in conjunction with the cities, will develop and maintain a Review and Evaluation Program Methodology, taking into consideration the State Department of Commerce *Review & Evaluation Program Buildable Lands Guidelines*.
4. The County, in conjunction with the cities, will prepare, adopt, and publish a Buildable Lands Report in accordance with the timeframes set forth in the Growth Management Act.
5. The County and cities will follow the Review and Evaluation Program Methodology for the collection, monitoring, and analysis of development activity data, and comparing actual growth and development patterns with growth and development assumptions. As part of this process, the cities and County will collect data annually. The cities will provide collected data to the County upon request.

6. When the Buildable Lands Report identifies inconsistencies between actual development patterns and growth and development assumptions and targets contained in the County comprehensive plan and/or city comprehensive plans, the County and cities will discuss whether reasonable measures, other than adjusting urban growth areas, are necessary and appropriate to address such inconsistencies. Each jurisdiction will individually determine whether reasonable measures are required under the Growth Management Act for their jurisdiction.
7. The County and cities will cooperate, and make every effort at the staff level, to resolve disputes regarding inconsistencies in collection and analysis of data.
8. Nothing in this policy will be construed as altering the land use power of any Whatcom County jurisdiction under established law.

R. Dispute Resolution Procedures

1. The County and cities will work cooperatively to implement the countywide planning policies. The County and cities will work together to attempt to resolve any disputes regarding implementation of the countywide planning policies.
2. In the event of an impasse, the jurisdictions involved may mutually agree to use mediation for a minimum of 90 days. After the 90 day period, any party may elect to utilize binding arbitration. In the event that arbitration is needed, a three member arbitration panel will be selected by mutual agreement. The decision of the arbitration panel on the issue will be final.
3. If mediation, arbitration, or both are used, each jurisdiction will be responsible for its own legal costs, but the jurisdictions involved will split the costs of a mediator or arbitrators evenly.
4. Nothing in this policy will be construed as altering the land use power of any Whatcom County jurisdiction under established law.