

# **Whatcom County Council Planning and Development Committee**

**COUNTY COURTHOUSE  
311 Grand Avenue, Ste #105  
Bellingham, WA 98225-4038  
(360) 778-5010**



## **Committee Minutes - Draft Minutes**

**Wednesday, November 6, 2024**

**1:25 PM**

**Hybrid Meeting - Council Chambers**

**HYBRID MEETING (PARTICIPATE IN-PERSON, SEE REMOTE JOIN  
INSTRUCTIONS AT [www.whatcomcounty.us/joinvirtualcouncil](http://www.whatcomcounty.us/joinvirtualcouncil), OR CALL  
360.778.5010)**

### **COUNCILMEMBERS**

Todd Donovan  
Ben Elenbaas  
Jon Scanlon

### **CLERK OF THE COUNCIL**

Cathy Halka, AICP, CMC

## **Call To Order**

Committee member Jon Scanlon called the meeting to order at 1:25 p.m. in a hybrid meeting.

## **Roll Call**

**Present:** 2 - Ben Elenbaas, and Jon Scanlon

**Absent:** 1 - Todd Donovan

Also Present: Barry Buchanan, Tyler Byrd, Kaylee Galloway, and Mark Stremler

## **Announcements**

## **Committee Discussion**

1. [AB2024-689](#) Discussion of a draft ordinance amending Whatcom County Code Title 20 (Zoning) to define appropriate industrial uses and conditions for industrial uses in Heavy Impact Industrial (HII) districts within a city's designated Urban Growth Area

Mark Personius, Planning and Development Services Department Director, referred to the staff memo for this date which addresses questions that came up at the last meeting from Councilmembers regarding “transshipment facility” and battery energy storage systems, and a question that came from an email from Toyer Strategic Advisors, representing Heidelberg Materials, regarding nonconforming use.

He answered what protections are in place nor nonconforming uses and how those might impact a business should they want to sell their business, and stated a business is allowed to expand their nonconforming use through a conditional use process, and they can pass it on to someone else, and they would have the same protections.

Galloway spoke about the prohibited uses proposed in WCC 20.68.216 (subsection H) regarding bulk commodity storage facilities and (subsection L) regarding battery energy storage systems (BESS). She stated she is comfortable striking BESS and allowing BESS code to be the guiding code on that, but she is still not sure about the ramifications of subsection H. She stated the word “truck” is still in there and it seems that vessel transshipment would be in a different league than truck shipment.

Personius stated he does not think “vessel transshipment terminals” is going to apply much in this particular zone and he spoke about how it might look in this area. He stated it is the outdoor storage of bulk commodity that they would really be aiming at trying to prohibit. He answered whether the

Planning and Development Services Department has had conversations with Heidelberg, and stated he does not know that they have had specific conversations outside of the Planning Commission hearings.

Scanlon stated he wonders if this could be solved by getting a few people (a councilmember, someone from Planning's team, the people from Heidelberg, and maybe someone from the community) in a room and having a conversation. He would like to get to a point where what the County is doing is not impacting existing business.

Councilmembers discussed who would be willing to be a part of that conversation.

Scanlon stated he tends to agree with Galloway on maybe getting rid of the battery energy storage item.

**This agenda item was DISCUSSED.**

2. [AB2024-694](#) Discussion of proposed amendments to WCC Titles 20 and 22 to enact SSB 5290 regarding local project review

The following people discussed the item with Councilmembers:

- Amy Keenan, Planning and Development Services Department
- Garrett Smith, Planning and Development Services Department
- Satpal Sidhu, County Executive
- Hayli Hruza, Health and Community Services
- George Roche, Prosecuting Attorney's Office

Councilmembers and the speakers discussed whether concerns from the on-site sewage systems (OSS) community have been addressed, that the intent of SSB 5290 (from Planning's perspective) is to have a set of eyes on critical areas up front before design work is done, the underlying problem of land development, that Planning is in no way going to stand in the way of issuing emergency repair permits or stop anything from protecting public health, how this would change Health's process, whether the State law designates which department does this work, that Planning's intent is not to create more "red tape" but to change the timing of when things occur in the process, and how other counties are dealing with the legislation between their different departments.

Galloway spoke about not being ready to adopt the ordinance yet.

The speakers discussed with Councilmembers that the legislation goes into

effect on January 1st and they would not like the whole ordinance to be held up due to just the critical areas issue, the fact that Councilmembers could probably not adopt the ordinance in two phases with one part of it being isolated, getting to the spirit of the legislation and whether the legislative intent was to remove critical areas from the prescribed timelines, that they could meet the required timeframes if they decided to hold the ordinance, whether they should bring in people who work in the OSS field to try to come up with a solution and whether that should also include the Health Department and Planning and Development Services, the fact that the upfront critical area review is not exclusive to the OSS industry but for all permits that will come in through Planning and water and sewer-related permits that come in to the Health Department, and that delaying the ordinance could put Planning in jeopardy of not having done good outreach between now and January 1st to let the community know this change is coming and that the intent is to meet new timelines.

Galloway stated she would like to engage in some stakeholder work before they pass this.

Smith stated they anticipate that over the next several months, as they learn and refine things and hear feedback from the general public, they will likely be back before Council with proposed changes. This is not the end of the story.

Councilmembers and staff discussed moving forward with the public hearing this evening and then having further discussion.

**This agenda item was DISCUSSED.**

### **Items Added by Revision**

There were no agenda items added by revision.

### **Other Business**

There was no other business.

### **Adjournment**

The meeting adjourned at 2:10 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WA

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Cathy Halka, Council Clerk

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Ben Elenbaas, Committee Chair

Meeting Minutes prepared by Kristi Felbinger