

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

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



## **Committee Minutes - Final**

**Tuesday, July 11, 2023  
2:30 PM  
Hybrid Meeting**

**HYBRID MEETING - ADJOURNS BY 3 P.M. (PARTICIPATE IN-PERSON, SEE  
REMOTE JOIN INSTRUCTIONS AT [www.whatcomcounty.us/joinvirtualcouncil](http://www.whatcomcounty.us/joinvirtualcouncil), OR  
CALL 360.778.5010)**

### **COUNCILMEMBERS**

Tyler Byrd  
Ben Elenbaas  
Kaylee Galloway

### **CLERK OF THE COUNCIL**

Dana Brown-Davis, C.M.C.

## **Call To Order**

Committee Chair Ben Elenbaas called the meeting to order at 2:42 p.m. in a hybrid meeting.

## **Roll Call**

**Present:** 3 - Tyler Byrd, Ben Elenbaas, and Kaylee Galloway

Also Present: Barry Buchanan, Todd Donovan, and Carol Frazey

## **Announcements**

## **Committee Discussion**

1. [AB2023-387](#) Ordinance adopting amendments to Whatcom County Code Title 20 (Zoning) to regulate short-term/vacation rentals

Donovan briefed the Councilmembers on this version of the ordinance (“Ordinance - Donovan for 6.6.2023 Introduction” and “Exhibit A - Donovan for 6.6.2023 Introduction”) and stated his goal was to get this re-introduced with the Attachment A and the statement about having Planning work on a registration system. Since then, Councilmember Galloway has been working on an alternative version of Attachment A (“Attachment A - Galloway for 7.11.2023”).

Elenbaas clarified whether this version of Donovan’s is what the Planning and Development Services Department was presenting to them prior (see AB2023-309) and Donovan said that was correct.

Cliff Strong, Planning and Development Services Department, clarified that the edits made by Councilmember Galloway were to *Attachment A* and not *Exhibit A*, and the ordinance would only adopt Exhibit A. He stated the attachment was provided to the Council just for information that we would be bringing back to you once we develop the registration system if that is what the Council wants. The performance standards do not need to be ironed out right now.

Galloway stated that Attachment A is referenced in Section 2 of the ordinance as something that we would be providing policy guidance to the Administration to work on along with other activities such as a registration system, public outreach, and fee structure. Her understanding is that this ordinance is codifying Exhibit A which is going to help them with the Shoreline Management Program, and then it is giving policy direction in Section 2 for Planning to continue this work. Her suggestions in

Attachment A are not time-sensitive for the purpose of getting this ordinance passed, but as we are working on Section 2 in collaboration with Planning, these are policy discussions we may want to have now so that Planning can get a sense of where we are at as they are working on the implementation of the Section 2 of the ordinance.

Councilmembers discussed the versions.

Elenbaas asked why vacation rental units are listed as a conditional use in Rural Forestry (Whatcom County Code [WCC] 20.42.150) when it is not conditional anywhere else except for the watershed, why it would not also be conditional in the Agriculture District (AG), and what the zoning is at The Glen on the way up to Mount Baker.

Galloway asked what Elenbaas thought about bumping the AG zone to a conditional use and he said he would say no.

Strong answered whether Exhibit A is conclusive and all-encompassing of all of the districts, and stated it is encompassing of wherever single-family dwellings are allowed. He answered whether vacation rentals are addressed in the Point Roberts Subarea Plan.

*Elenbaas moved* that they amend Exhibit A to change WCC chapter 20.42 Rural Forestry (RF) District from conditional use to accessory use (to be more consistent with all the other zones).

Councilmembers and Strong discussed whether that was a scrivener's error.

The motion carried by the following vote:

**Aye:** 3 - Byrd, Elenbaas, and Galloway

**Nay:** 0

Strong answered questions about Exhibit A and Attachment A, how many FTEs it would take to implement Attachment A, whether site visits for repeat offenders would take additional staff time, and whether we have enough of an issue or get enough complaints to merit all the code changes and changes to the system.

Byrd stated he reached out to Strong, the Sheriff's department and people who are having issues with neighbors out on North Shore. If we passed all of this, it would not make a measurable impact on the situations that people are needing help with. Some people, like the ones on North Shore, would be

grandfathered in to the existing code so it would not solve that problem. He asked what enforcement would look like and he does not believe there is anything in the code to do that. The Sheriff proposed an alternative idea that if someone is renting a unit and is causing noise complaints, the Sheriff can go out and give them a noise complaint ticket. In addition, they could add a new rule that would assign a ticket amount or fee to the property owner. So, a ticket could be given to renters, and a warning would be issued the first time to the property owner. The next time, the property owner would also get a ticket, and moving forward, the ticket would progressively get more expensive. If they do not pay it, the County has the ability to put a lien on the property. Then there are no grandfathering rules and it uses the existing infrastructure we have in place so we would not have to hire anyone like Granicus. It would be going after people who are not appropriately managing their unit. He would like to test that out before they continue this path of registration and he would like to work on it in this committee.

Frazeley asked whether there is any conflict of interest on the Council and whether anyone on the Council has a short-term rental but no one answered.

Dana Brown-Davis, Clerk of the Council, stated the ordinance would require re-introduction with the change that was just made.

Mark Personius, Planning and Development Services Department Director, answered how much these regulations would add burden-wise to his staff and stated he does not have a good answer to that yet.

Elenbaas spoke about thinking about short-term rentals in the context of how long-term rentals are dealt with. He asked whether they would have the ability to pull someone's long-term rental business if they can do it for short-term ones.

Karen Frakes, Prosecuting Attorney's Office, answered what burden it would put on the County if we were to give ourselves the ability to take away someone's license to operate. She stated it is really hard to answer that question and she does not want to give an off-the-cuff answer.

Galloway stated she does not want to necessarily revoke someone's ability to rent their unit or take away someone's right to business, it is more trying to create those systems of "carrots and sticks."

Personius answered whether the Lake Whatcom Watershed overlay conditional uses would be predefined or case by case. He stated the vendor

would know what platforms the existing ones are on and that would be part of the outreach strategy under Section 2. The conditional use requirement would apply to new vacation rentals that would come into play or apply for permits after the effective date of an ordinance. Those existing short-term rentals in the watershed are essentially grandfathered in, but they would not be exempt from the registration program. He answered whether the supplementary requirements in WCC 20.80 would be functioning as a conditional use.

Elenbaas requested that, as they are developing Attachment A, they are collaborative. He likes the direction that Councilmember Galloway's amendments were going but he thinks they need to have it in committee again.

Donovan stated he thinks they have plenty of time to discuss Byrd's ideas and the things they are talking about today, but he hopes they can advance this ordinance so they can at least put just the minimum of the Lake Whatcom Watershed conditional use part forward.

The Clerk of the Council stated if Strong can make the change to the version they just amended, the Council could introduce that tonight and have a hearing on that ordinance (with Exhibit A) on July 25th.

Elenbaas spoke about having further discussion about Attachment A. He stated part of the problem is that we have a noise ordinance that does not have any teeth. If we had one that had some teeth we might not have some of the issues. So, are we creating a whole new section of code or should we be focusing on making a noise ordinance that would use the existing structure? He would tend to listen more to someone showing up at night wearing a badge than Planning and Development sending a letter.

**This agenda item was DISCUSSED AND MOTION(S) APPROVED.**

### **Items Added by Revision**

There were no agenda items added by revision.

### **Other Business**

There was no other business.

### **Adjournment**

The meeting adjourned at 3:26 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WA

**Ben Elenbaas-via email 7/18/2023**

\_\_\_\_\_  
Dana Brown-Davis, Council Clerk

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Ben Elenbaas, Committee Chair

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Kristi Felbinger, Minutes Transcription

SIGNED COPY ON FILE