

**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, April 23, 2024**

**3:05 PM**

**Hybrid Meeting**

**HYBRID MEETING - ADJOURNS BY 4:30 P.M., MAY BEGIN EARLY  
(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**

Dana Brown-Davis, C.M.C.

## **Call To Order**

Committee member Todd Donovan called the meeting to order at 3:07 p.m. in a hybrid meeting.

## **Roll Call**

**Present:** 3 - Todd Donovan, Ben Elenbaas, and Jon Scanlon

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

## **Announcements**

## **Committee Discussion and Recommendation to Council**

1. [AB2024-233](#) Resolution approving revised Business Rules of the Whatcom County Hearing Examiner  
  
Rajeev Majumdar, Hearing Examiner, briefed the Councilmembers and spoke about why they are revising the business rules. He answered what amendments are being put forward and spoke about the nature of the changes. He stated there will be some follow up work to it as well. He answered where the Hearing Examiner position derives its subpoena powers and stated he would have to defer them to the Prosecutor's Office to answer that. He answered whether this is going to change the experience of the average person going through the process and stated it is actually going to conform the rules to the current experience. He answered when the last time was that this was done and how often they should reassess it going forward, and stated it was last done in 1986. He answered how he feels about safety during his meetings and stated he does not have any more concern than any other judicial or public official. He answered why this is a resolution as opposed to an ordinance and stated the ordinance (Ord 2018-032 Exhibit B) says the Hearing Examiner can promulgate the rules subject to the approval of the Whatcom County Council.

**Scanlon moved that the Resolution be RECOMMENDED FOR APPROVAL. The motion carried by the following vote:**

**Aye:** 3 - Donovan, Elenbaas, and Scanlon

**Nay:** 0

2. [AB2024-262](#) Discussion of and request for motion on recommendation for 2023 Open Space Current Use Assessment applications under Whatcom County's property tax exemption program

Priscilla Drewry, Public Works Department, read from a presentation (on file) about the 2023 application to reclassify as Open Space Farm and

Agricultural Conservation Land (OSFCL) from Open Space Farm and Agricultural Land. She stated that Planning and Development Services Department and the Planning Commission did not recommend approval of this application based on the assigned Public Benefit Rating (PBR) System score of less than 45. She answered why there was just one application this year and what it was about this one that knocked it down below the required 45 points. She stated four applications were submitted but three were withdrawn because of the requirement for public access. Part of the reason the Planning Commission did not recommend approval was because it is located on a private road shared by three other properties and would be accessed by the public if approved. The geology of the area was also a factor. She answered why the property did not receive extra points for being in the Drayton Harbor watershed, and stated it scored really well overall in the area of natural resources preservation and conservation, but did not score as well in the geology of the area. She answered why there is a public access component in an OSFCL classification.

Elenbaas stated he recommends they revisit the income requirements for Open Space Farm and Agricultural Land which is administered by the Assessor's Office and he gave examples why.

Drewry answered whether these applications just come to Council once a year and stated that is correct. She clarified, that this reclassification would result in an increase in property taxes for the property owner as opposed to a decrease and that the land has not been actively farmed. She answered whether there is trail access by the power lines from Birch Bay Lynden Road and stated she did not see any known trails. She answered a question about a concern from a member of the Planning Commission that the land could be developed for housing and stated it is a very wetland-ed area so it would be challenging.

*Elenbaas moved* to recommend approval of this application into the classification the applicant is requesting.

Councilmembers and Drewry discussed whether there is anything the Council is missing or should be sensitive about, whether they really want public access there if it is a sensitive area, the fact that the Council can waive the public access requirement if they wish, what areas would be affected by public access and whether the other properties on the private road were contacted about it, whether the applicant is still interested in the reclassification after it was not recommended by staff and the Planning Commission, and who would maintain infrastructure from the road if trails

were to be put in place.

Donovan stated it would be nice if there was a list of properties under these classifications that are required to have public access so people could actually find them.

Steve Roberge, Planning and Development Services Department, answered whether staff could reach out to the applicant to recommend they address the Council at Open Session and stated they are happy to attempt to reach out to them. They could also bring this back if Council wants to push it to their next meeting.

The motion carried by the following vote:

**Aye:** 3 - Donovan, Elenbaas, and Scanlon

**Nay:** 0

Drewry answered whether they have new resolution ready and stated she wrote one up just in case.

*Clerk's note:* This will go to Council as a whole new resolution tonight (see **AB2024-286** under items added by revision).

Roberge stated they are working on a list of public access properties and hope to have it on their website soon.

**This agenda item was FORWARDED TO COUNCIL WITH RECOMMENDED MOTION(S).**

Motion approved to recommend approval of this application into the classification the applicant is requesting.

### **Items Added by Revision**

There were no agenda items added by revision.

### **Other Business**

There was no other business.

### **Adjournment**

The meeting adjourned at 4:01 p.m.

ATTEST:

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WA

**Ben Elenbaas-via email 5/3/2024**

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

\_\_\_\_\_  
Ben Elenbaas, Committee Chair

\_\_\_\_\_  
Kristi Felbinger, Minutes Transcription

SIGNED COPY ON FILE