



Whatcom Chapter

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Bellingham City Council Members
210 Lottie Street
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Subject: Proposed exemptions to the Critical Areas Ordinance are too broad

Futurewise Whatcom opposes amendment at this time of the Bellingham Critical Areas Ordinance (CAO) to exempt essential public facilities (EPFs). We believe it is vital to protect these areas, which include wetlands, areas that recharge aquifers, frequently flooded areas, geologically hazardous areas, and fish and wildlife habitat. The proposed exemptions are overly broad, threatening both the intent of the CAO and the public's confidence in the City's regulatory process.

Futurewise Whatcom is the local chapter of the statewide smart-growth group Futurewise. Our primary goal is to protect the rural areas of Whatcom County from sprawling development. To accomplish that goal, we must create compact, healthy and attractive cities within which growth will occur.

“The protection of critical areas is essential to preserving our natural environment and protecting the public's health and safety. Protecting critical areas helps reduce exposure to risks, such as landslides and flooding, and maintains the natural elements of our landscape. Critical areas provide a variety of benefits: clear drinking water, enhanced water quality, wildlife habitat, and managed flood risks, to name a few. Protection of critical areas is necessary to preserve these benefits and to reduce the hazards associated with some critical areas”¹

We are concerned that some elements of the agenda items discussed on March 17, 2008 (AB17849, 17850, 17851 and 17852) may not be necessary and may impede the city's ability to apply its land-use regulations in an effective, even-handed manner. The proposed changes might dilute the benefits of environmental regulations generally. If this proposal is approved without broad public awareness and consensus, future efforts at building neighborhood support for development inside the city limits may be imperiled. Some of the language in these proposals is vague; therefore it is unclear whether exempted public facilities could also include public contributions to private development, and thereby link these exemptions to private projects.

¹ Washington State Department of Community, Trade and Economic Development, *Critical Areas Handbook*, page 1, November 2003.

Futurewise Whatcom Steering Committee
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The key reasons Futurewise Whatcom opposes this proposed ordinance include:

- Because these critical areas are essential to the health of our natural environment and the health, welfare and quality-of-life of our citizens, we should strictly enforce the CAO for all projects, both private and public. Exemptions should be limited. The Bellingham CAO is, as noted above, vital for our community's health. It is not an expendable luxury that can be tossed aside to avoid the costs of maintaining high environmental standards.
- The City's proposed exemption for its EPFs sends a terrible message to the private sector: "do as I say, not as I do." It could become difficult to strictly enforce the CAO on private projects if the city too readily exempts its own projects from these requirements. Even worse, the City's proposed failure to meet its own standards could weaken the legitimacy of the city's environmental agenda and rules in general.
- The proposed definition of EPFs is far too broad; it covers virtually all capital projects that might be built during the next several years. State law identifies EPFs as those that are essential for the health, welfare, and safety of the community and its citizens. The present proposal greatly expands the definition of EPFs to include "local roads," "sewer and stormwater distribution and treatment facilities," and "other [unspecified] city governmental facilities." With the proposed changes, these common facilities would be considered so vital that they merit weaker standards of environmental protection. If the city believes certain projects are (1) absolutely vital, (2) could not be built under current regulations, and (3) will include sufficient mitigation, it should seek project-specific exemptions. It should not seek the kind of all-encompassing exemption that this proposed ordinance offers.
- The existing CAO already allows for exemptions. The only reason for the proposed ordinance is to allow the city's capital projects to avoid the strict mitigation requirements of the current ordinance. The proposed mitigation requirements are vague and use terms that are poorly or not defined. The proposal also does not state who will enforce these proposed (weaker) standards and how.

For these reasons, we urge you to delay action on this proposal until it is more narrowly tailored to address specific problems with specific EPFs and can be more fully reviewed by the public.

Thank you for considering these comments from Futurewise Whatcom.

Eric Hirst
Chapter Chair