



September 8th, 2011

Ms. Michelle Luke, Chair
Whatcom County Planning Commission
c/o Ms. Becky Boxx, Coordinator
Whatcom County Planning & Development Services
5280 Northwest Drive
Bellingham, WA 98226

Dear Chair Luke and Planning Commissioners:

Subject: Comments on the proposed Caitac USA Comprehensive Plan Amendment and Rezones applications PLN2010-0025 and PLN2010-00024

Sent via email: PDS_Planning_Commission@co.whatcom.wa.us

Thank you for the opportunity to comment on the proposed Caitac USA Comprehensive Plan Amendment and Rezones. Futurewise is a statewide citizens' group with a chapter in Whatcom County and members in Whatcom County and throughout Washington State. Our mission at Futurewise is to promote healthy communities while protecting working farms, working forests, and shorelines for this and future generations.

We urge the Planning Commission to deny the comprehensive plan amendment and rezones because they are violate the Growth Management Act and are inconsistent with the Whatcom County Comprehensive Plan. These problems are explained in more detail below.

The proposed comprehensive plan amendment of nine acres from Rural to Rural Tourism and the rezone from Rural one dwelling unit per 10 acres (R-10A) to Tourist Commercial (TC) violates the Growth Management Act and the Whatcom County Comprehensive Plan. Application: PLN2010-0025.

Comprehensive plan amendments must comply with the Growth Management Act.¹ The comprehensive plan must be internally consistent, so the comprehensive plan amendment must also comply with the policy for the designation of LAMIRDs.² Development regulations, including the zoning map, must be “consistent with and implement the comprehensive plan ...”³

The Growth Management Act, RCW 36.70A.070(5)(d)(ii), only allows recreation or tourist uses in the rural area if the following requirements are met:

¹RCW 36.70A.290(2).

² RCW 36.70A.070.

³ RCW 36.70A.040(3)(c).

(ii) The intensification of development on lots containing, or new development of, small-scale recreational or tourist uses, including commercial facilities to serve those recreational or tourist uses, that rely on a rural location and setting, but that do not include new residential development. A small-scale recreation or tourist use is not required to be principally designed to serve the existing and projected rural population. Public services and public facilities shall be limited to those necessary to serve the recreation or tourist use and shall be provided in a manner that does not permit low-density sprawl;

The Whatcom County Comprehensive Plan, in Policy 2HH-2, contains similar provisions.⁴ However whether this policy fully complies with the Growth Management Act is currently under appeal.

The comprehensive plan amendment and rezone violates the Growth Management Act and Policy 2HH-2 for at least three reasons. First, both RCW 36.70A.070(5)(d)(ii) and Policy 2HH-2 prohibit new residential development. But this proposal includes a large cluster subdivision of 114 new residential lots. This new residential development is on the same site as the Rural Tourism comprehensive plan amendment and rezone. This new residential development violates RCW 36.70A.070(5)(d)(ii) and Policy 2HH-2.

Second, this 114 lot cluster subdivision, hotel, and commercial development do not “rely on a rural location and setting” as RCW 36.70A.070(5)(d)(ii) and Policy 2HH-2 require. The offered justifications of proximity to a golf course, a separation from urban areas, and views of Mt. Baker do not meet this standard. First, as the Staff Report notes, golf courses are located both in the urban and rural areas of Whatcom County.⁵ Second, the site is not separate from the urban growth area, it abuts it.⁶ Third, views of Mt. Baker area also available both in the urban growth areas and rural areas. So again, it cannot be said that the proposal relies on a rural location and setting.

Third, this proposal, covering 561 acres, is really a “new large-scale resort development” in the rural area.⁷ Whatcom County Comprehensive Plan Policy 2B-2 provides that:

Policy 2B-2: New large-scale resort development in rural areas outside of UGAs and outside established resort areas, should only be permitted as Master Planned Resorts and only when substantially in compliance with these policies and with RCW 36.70A.360.⁸

⁴ *Whatcom County Comprehensive Plan* Chapter Two - Land Use pp. 2-66 – 2-67 (June 2011). Accessed on Sept. 6, 2011 at: http://www.co.whatcom.wa.us/pds/planning/comp_plan/pdf/20110101-chapter-2.pdf

⁵ Whatcom County Planning & Development Services, *Staff Report Caitac USA Rezone and Comprehensive Plan Amendment File # PLN 2010-00024 and 00025* p. 6 of 10 (August 30, 2011).

⁶ *Id.* p. 2 of 10.

⁷ See for example the map *Larrabee Springs 114 Lots with Max 16 Lots per Clusters and TC Area*. Accessed on Sept. 6, 2011 at: <http://www.whatcomcounty.us/pds/plan/long/pdf/20110830-caitac-memodoc30sitemapclusterstc.pdf>

⁸ *Whatcom County Comprehensive Plan* Chapter Two - Land Use p. 2-6 (June 2011).

So to authorize this development, the county would have to review it under the county's Master Planned Resort policies and RCW 36.70A.360. This the county has not done.

As we have seen, the proposed comprehensive plan amendment from Rural to Rural Tourism and the rezone from Rural one dwelling unit per 10 acres (R-10A) to Tourist Commercial (TC) violates the Growth Management Act and Policies 2HH-2 and 2B-2. So we urge the Planning Commission to recommend denial of the application.

**The proposed rezone of about 552 acres from Rural one dwelling unit per 10 acres (R-10A) to Rural one dwelling unit per 5 acres (R-5A) is inconsistent with the Whatcom County Comprehensive Plan.
Application: PLN2010-00024**

Development regulations, including the zoning map, must be "consistent with and implement the comprehensive plan ..." ⁹ Comprehensive Plan Policy Policy 2GG-4 provides that "[u]ses and densities within the Rural designation should reflect established rural character. Rezones within the Rural designation should be consistent with the established rural character and densities in the general area of the proposed rezone."¹⁰

The rezone is not consistent with the areas established rural character and the densities in the general area. The available aerial photographs, such as the USDA Soil Map 2010 and the *Larrabee Springs 114 Lots with Max 16 Lots per Clusters and TC Area*, show the area has having low densities, lower than one dwelling unit per five acres. The Staff Report also notes that the parcels to east are two to ten acres in size.¹¹ So the proposed amendment is inconsistent with the Whatcom County Comprehensive Plan.

Further, the Whatcom County comprehensive plan provides the following:

Policy 2GG-8: Development within Rural designations should be consistent with rural character as described in this chapter.¹²

The *Whatcom County Comprehensive Plan*, on page 2-59, uses the Growth Management Act definition of rural character. The enclosed November 22, 2010 letter from Futurewise to the Whatcom County Council documents why densities of one dwelling unit per five acres violate the definition of rural character. The documents referred to in the November 22 letter will be provided under separate cover.

⁹ RCW 36.70A.040(3)(c).

¹⁰ *Whatcom County Comprehensive Plan* Chapter Two - Land Use p. 2-64 (June 2011).

¹¹ Whatcom County Planning & Development Services, *Staff Report Caitac USA Rezone and Comprehensive Plan Amendment File # PLN 2010-00024 and 00025* p. 6 of 10 (August 30, 2011).

¹² *Whatcom County Comprehensive Plan* Chapter Two - Land Use p. 2-64 (June 2011).

So we see that this rezone does not comply with the Whatcom County Comprehensive Plan because it is not consistent with the existing rural character and densities. So we urge the Whatcom County Planning Commission to recommend denial of the application.

The proposed comprehensive plan amendments and rezones must protect surface and ground waters. Applications: PLN2010-0025 and PLN2010-00024.

¶ 52 The GMA includes requirements that counties consider and address water resource issues in land use planning. See, e.g., RCW 36.70A.020(10) (GMA goal to protect the environment, including “water quality [] and the availability of water”), .070(1) (requiring that land use elements “shall provide for protection of the quality and quantity of groundwater used for public water supplies”), (5)(c)(iv) (requiring that rural elements include measures “[p]rotecting ... surface water and groundwater resources”).¹³

The surface water bodies in this area and the ground water resources in continuity with them are closed to the appropriation of water either year round or part of the year.¹⁴ This prevents new exempt wells. The Washington State Department of Ecology has called into question whether this proposal has adequate water supplies.¹⁵ Consistent with the GMA requirements to protect surface and ground water supplies, the proposed comprehensive plan amendment and both rezones should not be approved until this important question is resolved.

Thank you for considering our comments. If you require additional information please contact Cathy Lehman, Whatcom County Chapter Director, at telephone (360) 224-8877 and e-mail Cathy@futurewise.org or Tim Trohimovich at telephone 206-343-0681 and tim@futurewise.org

Sincerely,

Cathy Lehman
Whatcom County Chapter Director

Tim Trohimovich, AICP
Co-Director of Planning & Law

Enclosure

¹³ *Kittitas County v. Eastern Washington Growth Management Hearings Bd.*, ___ Wn.2d ___, 256 P.3d 1193, 1208 (2011).

¹⁴ Washington State Department of Ecology letter to the Whatcom County Planning & Development Services Re: LA File No. SEPA 2010-00088 p. 2 (June 15, 2011). Accessed on Sept. 6, 2011 at: <http://www.whatcomcounty.us/pds/plan/long/pdf/20110615-caitac-doe.pdf>

¹⁵ *Id.* pp. 1 – 2.