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Whatcom Chapter

March 17, 2008

Whatcom County Hearing Examiner
311 Grand Avenue
Bellingham, WA 98225

Re: Lake Whatcom Treatment Center Water System

Dear County Hearing Examiner:

Futurewise Whatcom is the Whatcom County chapter of the state-wide non-profit Futurewise. Futurewise Whatcom approves the extension of improved water-supply systems where necessary and beneficial to the broader community, so long as such improvements cannot be used to facilitate development that is contrary to the Growth Management Act's basic thrust: urbanization should be contained to prevent sprawl.

Specifically, we approve of service to the Lake Whatcom Treatment Center, and oppose the extension of the water-improvement system to the uphill development of the Vineyard Development Group because, however apparently superficially benign, it will inevitably tend to increase development pressures in an area where that should be avoided.

The Lake Whatcom Water and Sewer District ("District") plans to supply potable water to the Lake Whatcom Treatment Center ("Treatment Center") at Agate Bay, in the Lake Whatcom watershed, via an 8" water pipe. The Vineyard Development Group, LLC ("Vineyard") conducted a feasibility study in the fall of 2005 to determine whether the line to the Treatment Center could be extended to its proposed up-hill housing development; on November 23, 2005, the District adopted a resolution to extend "water and sewer service to the 684 acres of Vineyard Development property." A conditional use permit, 06-0031, issued in the summer of 2007 authorized the extension of services by the District to the Treatment Center; the City of Bellingham has opposed the District's plan to extend water to the Vineyard Development (letter to County Council, 9/25/07).

Futurewise Whatcom recognizes two policies in state and local legislation and rules that are generally relevant here; the policies are related but distinct. First, utility extensions in rural areas should not have attributes of urban-level service. Second, utility extensions should not promote increased development in the Lake Whatcom watershed.

- The state Growth Management Act, RCW 36.70A.110(4):

In general, it is not appropriate that urban governmental services be extended to or expanded in rural areas except in those limited circumstances shown to be

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necessary to protect basic public health and safety and the environment and when such services are financially supportable at rural densities and do not permit urban development.

- The County Comprehensive Plan, Appendix B.2:

The county shall discourage urban level development outside Urban Growth Areas and outside of areas currently characterized by a development threshold greater than a rural development density.

- The Whatcom County Coordinated Water System Plan Update (February 2000), Section 5.1, “Rural and Urban Levels of Service”:

Outside of UGAs, cities and other public and private utilities may extend water only at rural levels of service. If rural levels of service are extended, availability of pipeline capacity to meet local supply needs shall not be used to justify development counter to County-wide land development patterns. . .

- The “1992 Adopted Goals and Policies, Joint Resolution 92-73 [County, City, District] Goal 13” (adopted, incidentally, when this correspondent served on the Whatcom County Council):

Minimize potential for increased development in the watershed.

As a result of the appeal of the Hearing Examiner’s CUP, the County Council added these words to the Permit: “The improvements authorized by this permit shall not be used in the future to improperly extend urban services to the rural areas contrary to the provisions of the Growth Management Act.” Obviously, this language has not precluded the developer and the District from continuing to push for the project.

Regarding urban-level services, the proponents no doubt make—must make—the argument that extension of the water lines to the large-acre uphill tracts is not providing an “urban service”; the District itself makes this argument in its Resolution No. 705, p 1. But dress it up as one may, an 8” water main is an urban-level of service (and it seems excessive to service the Treatment Center: the Y-Squalicum Water Association serves 70 families with four- and six-inch pipes).

Regarding the potential for increased development, the developer’s consultant certainly hints that the project would have that very effect. The consultant observes that it would be less costly for the District if latecomers could be hooked up to the improved line: “At this conceptual stage, the population of potential latecomers to the Vineyard improvements is anticipated to be small due to low-density zoning and limited benefit to other vacant properties not owned by Vineyard” (Feasibility Study, p. 2). A glance at the map (in Exhibit 3 of the City Attorney’s “Declaration,” December 11, 2007), however, gives cause for concern: there are a number of undeveloped parcels along Academy Street and many more in the general area (south and west of the power lines) at least as accessible to the proposed Treatment Center main as is the up-hill

Vineyard development. The pressure by their owners for hook-up rights will no doubt be very great if the Vineyard main waterline project is completed.

It also appears, interestingly, that the developer hopes public funding will make the project more feasible: “From [the Treatment Center’s] perspective, the feasibility of acquisition project [i.e., the District “acquiring the Residential Treatment Center’s Group A water system and consolidating it with the District’s”] is dependent upon receiving grant funds from the Washington State Water System Acquisition and Rehabilitation Program. The grant funds will defray a portion of the connection fees and construction costs for the Treatment Center and makes being acquired a more attractive option for them as compared to running their own small Group A system.” (Consultant Feasibility Study, p. 3). That is, the State’s program—taxpayer dollars—will (again, it appears) subsidize a water project that can hardly have any effect other than to increase development pressures in the rural Lake Whatcom Watershed, precisely what the state’s GMA, Bellingham and Whatcom County are trying to avoid. This seems doubly inappropriate.

The proposal here for pumping stations, reservoirs, mains and pipes--the whole thing--is obviously an urban-type water service, and its purpose is obvious: to facilitate development in an area where the public policy is to "minimize potential for increased development."

In short, the proposed expansion of the District’s water service with sufficient capacity for the Treatment Center is a good idea. The extension of any excess capacity, encouraging additional development in the watershed and further extension to the uphill development is not a good idea. It is inconsistent with state law and local policy affecting Lake Whatcom. Any Conditional Use Permit for the improvement for the Treatment Center should clearly prohibit any extraneous hook-ups.

Futurewise Whatcom is concerned, in general, that the occasionally necessary and desirable expansion of urban-type utilities in rural areas, in special circumstances, not become a thin edge of the wedge, opening the way for more intense development.

On behalf of Futurewise Whatcom,

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