TITLE OF DOCUMENT:
Ord. Amending Comp Plan Chapter 2 - Removing Custer UGA and designating rural

SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE: (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)
AMENDING THE OFFICIAL WHATCOM COUNTY COMPREHENSIVE PLAN, CHAPTER 2 – LAND USE, TO REMOVE THE CUSTER PROVISIONAL URBAN GROWTH AREA DESIGNATION FROM THE PLAN TEXT AND MAPS AND DESIGNATE THE AREA RURAL

COMMITTEE ACTION:
11/23/2004: Introduced
12/7/2004: Forwarded to concurrency
1/11/2005: Amended version introduced - See AB2004-396B

Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County’s website at: www.co.whatcom.wa.us/council.
ORDINANCE NO. 2005–020
AMENDING THE OFFICIAL WHATCOM COUNTY COMPREHENSIVE PLAN, CHAPTER 2 – LAND USE, TO REMOVE THE CUSTER PROVISIONAL URBAN GROWTH AREA DESIGNATION FROM THE PLAN TEXT AND MAPS AND DESIGNATE THE AREA RURAL

WHEREAS, the Growth Management Act requires counties and cities to review and, if needed, revise comprehensive plans to ensure continued compliance with the GMA (RCW 36.70A.130); and

WHEREAS, it is also appropriate to review the comprehensive plan in light of new information and changed County priorities; and

WHEREAS, pursuant to RCW 36.70.390, legal notice was published in the Bellingham Herald on August 28, 2004; and

WHEREAS, the Planning Commission held a public hearing on proposed amendments to the Custer UGA on Thursday, September 9, 2004 and a work session on October 14; and

WHEREAS, the Planning Commission has evaluated the proposed amendments and considered all testimony.

WHEREAS, the County Council has considered the Planning Commission’s Findings of Fact & Reasons for Action, Conclusions, and Recommendations; and

WHEREAS, after conducting an additional public hearing, the County Council has determined that a modified proposal would better serve the public interest;

WHEREAS, the County Council has adopted the following Findings and Conclusions:

FINDINGS AND CONCLUSIONS


2. Notice was mailed to all property owners within 300 feet of the Provisional UGA on August 31, 2004.


4. A determination under the State Environmental Policy Act (SEPA) was issued on September 30, 2004.

5. Pursuant to RCW 36.70A.040, Whatcom County adopted the Whatcom County Comprehensive Plan on May 20, 1997, designating the Custer area as a Provisional Urban Growth Area, subject to review and reconsideration five years after adoption if a master plan for the site is not completed.
6. It has been over seven years since the adoption of the County Comprehensive Plan and an adequate master plan for the site has not been completed.

7. A Rural Comprehensive Plan designation would offer greater protection to the rural character and environmental features of the Custer area.

8. An analysis of industrial land supply concludes that there is an adequate supply of industrial land in Whatcom County without the Custer Provisional UGA.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

Section 1. The Official Whatcom County Comprehensive Plan be amended as shown in Exhibit A.

Section 2. Adjudication of invalidity of any of the sections, clauses, or provisions of the Comprehensive Plan shall not affect or impair the validity of the plan as a whole or any part thereof other than the part so declared to be invalid.

ADOPTED this 25 day of January, 2005

[signature]
Dana Brown-Davis
Clerk of the Council

APPROVED as to form

[signature]
Karen Frakes, Civil Deputy Prosecutor

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

[signature]
Laurie Caskey-Schreiber, Council Chair

( ) Approved    ( ) Denied

[signature]
Pete Kremen, Executive

Date: 1/8/05
EXHIBIT A

WHATCOM COUNTY COMPREHENSIVE PLAN, Chapter 2 – Land Use
(from pages 2-60 to 2-62 of the Whatcom County Comprehensive Plan)

Major Industrial Urban Growth Area / Port Industrial

Custer – Provisional Urban Growth Area

The proposal to consider designating an area to the north of the small town of Custer for industrial use is presented in response to a need for industrial land near Interstate 5, primarily for transportation related uses and, more specifically, intermodal freight movement by truck and rail. Such a facility would make a contribution to the regional and state transportation system. The final size of the designation should allow for associated and supportive industrial, commercial, or intermodal uses to be built around and as part of an intermodal transportation facility.

The Custer site is an important and appropriate area for industry due to its proximity to the confluence of the Burlington Northern Santa Fe railroad mainline, the Interstate 5 freeway, all-weather roads, its location near the Canadian Border, and its contribution to the County’s goal of providing family wage jobs. Future development of the proposed Whatcom County Cross-County Transportation Corridor to combine rail and road transport will add even more to the importance of the Custer property as an industrial/transportation terminal.

The final boundaries and scope of the Custer industrial designation would best be completed through a master planning process under the County’s zoning ordinance. This process would specifically address size, limitations on use due to local factors, adequacy of buffers, minimizing or mitigating transportation conflicts, and assuring adequate public facilities, including water, fire, sewer and hazardous materials response.

Specific interim considerations include limitations against residential, retail and commercial uses not related to its use as an intermodal transportation facility to assure that the general site area does not develop incompatible uses which would otherwise be allowed within existing urban areas. For this reason, development regulations will provide that there be no subdivision, parcelization or development approval for the properties involved until the master plan is approved, necessary facilities, including traffic, water sewer and others are in place or planned and funded.

Custer was identified in prior plans as an area potentially suitable for light industrial zoning associated with rail, highway and port related activities. During the planning process subsequent work has identified that as an inter-modal facility, Custer can serve a unique and important function in Whatcom County.

The site is unique in that it is located at the crossroads of rail and highway facilities, the gateway to Cherry Point and potential future cross county connections to Sumas and Canada. It is also unique in that it is a contiguous block of underdeveloped property large enough for both rail and truck, storage, loading, repacking, transfer, assembly, and other activities commonly found in and associated with an inter-modal facility. Such a contiguous site does not exist within the UGA of Blaine, Bellingham, or Ferndale and the activity contemplated would be compatible with day to day urban activities.

The site is important as a facility which can coordinate with and consolidate “large parcel” transit activity, to serve all the cities and Cherry Point with consolidated rail and highway transportation services.
The site is provisional as an Urban Growth Area and therefore no development can occur other than that allowed by the underlying R-10 zoning until a master plan is approved which:

A. Identifies the appropriate facilities and criteria necessary to preserve the usefulness of the site for primary inter-modal activates, (e.g., rail switching, loading, repacking and storage, truck and container loading, repacking, and storage), as well as associated activities which must be accessory to the primary inter-modal activities (e.g., manufacturing, repair, sales, administration, and personal and professional services). Accessory uses must be identified and planned in conjunction with primary uses. A 40 acre minimum planning block shall be established for primary uses and associated accessory uses.

B. Identifies (1) rights-of-way for rail and truck; (2) necessary utilities, public or private, to meet with water, fire flow, and waste discharge (both sewage and solid waste) needs and requirements and (3) a phasing plan which identifies for each planning block or phase. Essential public and private facilities and utilities which must be in place prior to development; public and private facilities, utilities and mitigation which will be developed with the phase, and public or private facilities, utilities and mitigation which will be developed later, but for which the early phase is making a capital contribution.

C. Identifies and maps potentially affected critical areas, including streams, wetlands, and aquifer recharge areas, and assures that adequate buffers, protection and contingency plans are in place to protect the critical areas (a) during construction, (b) during operation, (c) in the event of upset (includes adequate fire and hazardous materials plans and response capability).

The master plan shall be processed as a rezone for the Provisional Urban Growth Area, consistent with the comprehensive plan. Once adopted, the master plan shall serve as parcel specific zoning for each of the 40 acre planning blocks and shall identify the essential covenants, conditions and assurances to protect the essential character of the site for inter-modal transportation and accessory uses consistent with this comprehensive plan.

Goal 2CC: Recognize the need for industrial land near I-5 for a major inter-modal facility.

Policy 2CC-1: Identify 440 acres north of Custer as a major rail/highway inter-modal facility through an Industrial Plan: "Provisional UGA" Designation.

Policy 2CC-2: Limit land development within the Custer Provisional Urban Growth Area to current zoning until a master plan has been identified and approved through the master planning and rezone process.

Policy 2CC-3: Assure prompt resolution of the issues of size and unique characteristics of such an inter-modal center within a reasonable time by reviewing the provisional designation of inter-modal yard within five years. If no master plan for the overall site is presented and processed within the next five years,
examine whether the Comprehensive Plan designation is viable or whether it should be returned to Rural.

Policy: 2CC-4: Preclude other urban or light industrial uses from within the Custer Provisional Urban Growth Area until the master plan is approved to avoid urban sprawl outside UGAs.