

2. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING ORDINANCE, TITLE 20, TO INCLUDE THE LAKE SAMISH WATERSHED UNDER CHAPTER 20.71 – WATER RESOURCE PROTECTION OVERLAY DISTRICT, DESIGNATING THE LAKE SAMISH WATERSHED AS A WATER RESOURCE SPECIAL MANAGEMENT AREA UNDER SECTION 20.80.730, AND AMENDING SECTION 20.80.634 – STORMWATER SPECIAL DISTRICTS (AB2001-115)

Sylvia Goodwin, Planning Division Manager, gave a staff report and stated the Planning Commission considered Lake Samish as a water resource protection overlay area. The County Council appointed a committee of citizens. She acknowledged the members of the Citizens' Advisory Committee. The committee, with four members absent and five members present, voted unanimously to recommend approval of the ordinance. During the Planning Commission hearing, most public testimony was concerned about additional regulations. There was a lot of public support for the ordinance. The Planning Commission voted unanimously to adopt Lake Samish as an overlay, similar to Lake Whatcom, but with a few differences.

The major difference was in the percent of impervious surface allowed. The Lake Whatcom ordinance has a sliding scale depending on the zoning. For the Rural Residential around Lake Whatcom, which is also most of the lakefront property on Lake Samish, only 20 percent of the lot could be impervious. In the Rural area in Lake Whatcom, only 10 percent of the lot could be impervious. The committee was very concerned about those percentages for Lake Samish because the lots are smaller. The lots are fairly steep. One needs a paved driveway for many of those steep lots. There is also more bedrock in Lake Samish that prevented the water from infiltrating. The committee recommended that the Council require 70% pervious surface for the entire watershed recommended, a 3,000 square foot exemption for those lots smaller than 10,000 square feet, so every lot would have a 3,000 square foot footprint, no matter the size. That would give enough room for a two-story house and a good driveway, with a parking area.

When the Planning and Development Committee looked at the ordinance, the committee thought it would be easier to administer if it was the same as Lake Whatcom. To deal with that, they added the 3,000 square foot footprint to the Lake Whatcom ordinance, which is consistent with what the Citizens' Advisory Committee recommended. They recommended that the percent stay at 80 percent and 90 percent, the same as Lake Whatcom, to have one water resource protection overlay zone that would apply to both districts. The committee also recommended changes to the mobile home park section of the ordinance. There are several mobile home parks that are already over the threshold for impervious surface. If someone pulls out an existing mobile home and replaces it with a large mobile home, the owner would have to retrofit the entire mobile home park and couldn't increase the impervious surface. The advisory committee recommended language that the Planning and Development committee retained and added to the ordinance.

The other issue was the stormwater special district. The original ordinance recommended that Lake Samish be included as a stormwater special district. The Planning Commission was concerned about including it now since there are not standards for the best management practices that apply. The committee did not want to sign up for something where the standards are not known. The committee recommended language that it not be a stormwater special district until standards are written. That language is on Council packet page 338 of the packet. The Planning and Development Committee recommended that that language be slightly revised. On Council packet page 335, section 20.71.302(4), strike the first sentence. Deleting that sentence would make the regulation the same as on Lake Whatcom. On Council packet page 338, section 20.80.634(2)(c), insert words "... overall countywide stormwater standards for the stormwater special districts are updated and revised. ~~Lake Samish is not recommended to be a Stormwater Special District at this time.~~" As soon as the stormwater special standards are adopted, Lake Samish would be a stormwater special district under this ordinance. The Citizens' Advisory Committee wanted to see what the standards are before it got added as a stormwater special district.

Other than that, she's heard that the citizens are concerned because they worked hard on this, and the Council didn't listen to them. However, most of the decisions that the Citizens' Advisory Committee recommended are in this ordinance. It is just those two items regarding the impervious percentage and the stormwater standards. All of the other advisory committee recommendations are in this ordinance, and the staff

recommends adoption of the ordinance.

Imhof stated the new handout is the ordinance as amended by the Planning Committee.

Nelson stated the substitute ordinance will be the ordinance that they will work from.

Nelson opened the public hearing and the following people spoke:

Bruce Phillips, 2171 Shallow Shore Lane, Lake Samish Watershed Committee member, stated he disagreed with Planning staff, and the changes are not minor. He urged the Council to approve the plan proposed by the citizen committee and endorsed by the Planning Commission. There is minimal benefit to Whatcom County by applying regulations that were not designed for this lake. There are differences between Lake Whatcom and Lake Samish. Lake Whatcom is a drinking water source for many people in the county. Lake Samish is the drinking water source only for those people who live around the lake. Lake Whatcom is heavily populated on the north and west sides. Lake Samish is lightly populated. Zoning in the residential areas is minimal past the lakeshore itself. Ninety percent of the watershed is zoned Forestry. Lake Samish is not going to have the population problems that Lake Whatcom has. Lake Samish residents are responsible for most of their own services. Many of them are on wells or have multi-acre lots, and have tools, pump houses, sheds, and other impervious surfaces. People in the urban areas don't need that. Extra allowances for impervious surfaces are essential in the Lake Samish area. This was a perfect example of citizen involvement.

Dawson questioned whether the advisory committee discussed whether it would be agreeable to being subject to the formation of a water district. Phillips stated it is not in the recommendations.

Barbara Vaughn, 921 Autumn Lane, stated she has lived at Lake Samish for 12 years. She supported all of the beneficial users, including the swimmers and boaters, fish and wildlife, and residents. She recommended that the Lake become an overlay district. The impervious surfaces are a concern. There are many small lots around the lake. The consequences of pesticide and herbicide use are detrimental if there are a large number of people who move in. Impervious surfaces are just going to add to the problem. Whatcom County committed to the watershed action plan, and promised to allow a district to protect Lake Samish water. This has not happened, so it is essential that the overlay district be a part of that process. She was a member of the advisory committee. There were changes made to the recommendations that she did not agree with at the committee's last meeting, which she did not attend.

Goodwin stated that this committee went to the Natural Resources Committee, not the Planning and Development Committee, as she stated earlier.

Steven Harper, 121 Bear Creek Lane, stated that he approved the Planning Commission's version that supports the water resource protection overlay district for Lake Samish. However, it is important to add provisions regarding impervious surface that were changed by the Council's committee. He urged the Council to adopt recommendation of the Planning Commission and the advisory committee. Change the pervious surface requirement to 90 percent for Rural zoning and 80 percent for Rural Residential zoning. The mobile home parks should not be exempt from the provisions, but should be treated similarly to Whatcom County. There should be consideration for designating Lake Samish a stormwater special district. If the advisory committee members knew they were voting that night, the absent members would have been there. The Council would have had a very different recommendation come forward. The Planning Commission would have most likely gone with that recommendation.

The Lake Samish watershed is extremely susceptible to contamination, more so than Lake Whatcom. Almost all of the development around Lake Samish is adjacent to the lake. Most of the households adjacent to the lake obtain their drinking water directly from Lake Samish. They need the water quality to remain high. Most of the remaining developable land is immediately adjacent to the developed land, extremely steep, zoned Rural Residential, two units per acre (RR2) and Rural, one unit per two acres (R2A) zoning, contains rocky soil, and will be susceptible to runoff once the forest cover is removed. This area receives more rainfall than most areas of

Whatcom County because it is behind Blanchard. This increases the risk of excessive runoff. There is also a connection to Friday Creek and Samish River, making it critical salmon habitat.

Bruce Harris, 135 Summerland Road, Lake Samish Citizens Committee member, stated he supported more stringent impervious percentages generated by the Natural Resources Committee. There were a number of issues that the advisory committee dealt with during its meetings. The impervious percentages divided the committee. If anyone was not in attendance at a particular meeting, it would alter the vote on an item one way or the other. The committee members were not informed until they arrived that the last meeting would be their last meeting. Many things happened at that unannounced last meeting, without an agenda. This was one issue they'd debated and voted during two previous meetings. There was no unanimous vote to go into the record on how the committee felt on this issue.

The Council should consider the more stringent impervious surface standard because of the small streams that enter the lake, the terrain and geology around the lake, the complexity of the wetlands, and concerns that there are water quality and quantity problems.

David Beattie, 1365 Roy Road, Lake Samish Citizens Committee, stated the committee adopted a motion to recommend that 3,000 square feet of impervious surfaces shall be allowed for lots smaller than 10,000 square feet. At the final meeting of the committee, which he was not able to attend, that motion was rescinded to allow 30 percent of impervious surfaces. He opposed that vote. They should have had another meeting with all members present to revisit that issue. When one deals with impervious surface, they are dealing with lakeshore. Best available science shows that ten percent of impervious surface or greater in the immediate vicinity of a water body, water quality goes down significantly. Lake Samish is important for domestic water use and because it is a fish producing lake. State money has gone toward restoration efforts to improve salmon habitat in the Lake Samish watershed. He asked the Council to endorse the recommendation of the Natural Resources Committee, not the recommendation from the citizen committee.

Dawson questioned whether an acceptable compromise would be that the second recommendation would only come forward if there was the formation of a water district. Beattie stated there is already a water district at Lake Samish. The majority of the residents in the lakeshore area use water from the lake under water right permits from the state Department of Ecology. Some years ago, a lake management district was formed to improve water flows in Friday Creek because it was going dry in the summer.

Dale French, stated that there are about 9,000 acres total in the Lake Samish drainage basin. If he allowed 3,000 square feet per home of impervious surface, the total impervious surfaces for the existing 700 homes in the drainage basin would total about 46 acres as it exists now. That is about .5 percent of the total acreage, not including County roads or the interstate. All totaled, about 1.25 to 1.5 percent of the basin is covered in impervious surfaces. A little bit more of impervious surfaces won't hurt. He wanted more study done on the lake regarding water quality. There has been no long range study to say whether or not the water quality is improving. It is unwarranted to develop an ordinance at this point to fix a problem that hasn't been identified.

Robert Smith, 618 W. Lake Samish, stated he is a retired physician, and has lived there for 34 years. He presented a petition signed by 118 citizens in the Lake Samish area who oppose the action the Council is considering. He found three people who were in favor of the 80 percent restriction. Everyone else signed the petition. Approximately 95 percent of the residents are opposed to the proposed action. He read the petition into the record. There needs to be more study. The County Council has not even received input from the County Engineering Division.

Bill Vanderboom, 1800 Samish Lane, stated he's lived at his property for 16 years. People talk about the differences between Lake Whatcom and Lake Samish. However, at one time, Lake Whatcom was once surrounded by forestland. Big Lake and Lake Sammamish were also once surrounded by forestland. These things change. They must protect the watershed now. He was in favor of the 10 percent proposal.

Doug White, 780 Autumn Lane, Lake Samish Citizens Committee member, stated he's lived there for 27

years. The year he moved there, the folks around the lake voted to create a Local Improvement District (LID) and install the sewer around the lake to protect the lake from the septic tanks. The attitude in the community to protect the water has been long-standing. They have some very proud people who have been there a long time. He thanked the Council for allowing the committee to discuss the issues.

(Clerk's Note: End of tape one, side B.)

White continued to state that the last meeting was a tough night. There was a lot of debate, and everyone there was happy. There were five people present who all voted for the 30 percent requirement. The Planning Commission approved the recommendation. The public present at the meeting also approved. There were well over 100 people from the lake at the meeting.

Regarding the mobile home parks, the language does include all the lots the County approved. Some of the parks are in a process of change from one unit to another. There are some bigger units. Those units will come back on to the site, but there will not be any more units than what the County approved. He owns one park that has 63 units, which have been approved by the County. It is a non-conforming use because it went in before zoning. After zoning occurred, they were told they should ask the County for an approved non-conforming use. He has an affidavit from the County for an approved non-conforming use for the 63 spaces. Eventually, those spaces will be used for this purpose, if they are not now.

Nelson asked why there was a vote for reconsideration on the impervious surface issue. White stated that often there were people absent at the meetings. If one came to a meeting to find out that something was discussed at a previous meeting, that person was allowed to bring the issue up and discuss it.

Diane Simplot, 921 Autumn Lane, stated she recommended supporting the proposal from the advisory committee. She lives in the mobile home park in an older mobile home. Everyone gets along well with the people who live across the street. Eventually, she wants to upgrade to a newer home. The new models are not the size of the older homes. If the residents are not allowed to have a bigger mobile home, then they will have to stay with the smaller, older homes. They will become a blight on the community. People should be allowed to improve the look of the community without also hurting the environment.

Sherman Smith, 921 Autumn Lane, stated many of the mobile homes are old and need to be replaced. One cannot replace a 10-foot by 21-foot mobile home with anything that is on the market today. One has to upgrade to a larger unit. Most mobile home park lots are not much bigger than the mobile home that is sitting on them. It is not fair to not allow them to improve their lifestyle by getting a slightly larger mobile home. They are not asking to blacktop the entire park. Everyone enjoys living at Lake Samish. He wanted to keep the lake like it is, but he should have an opportunity to improve his lifestyle without hurting the environment.

Ed Roe, 1806 Samish Lane, stated he encouraged the Council to approve the ordinance.

Steve LeCocq, 673 N. Lake Samish Drive, stated that the Council should not climb the ladder of policy and rules too quickly. Typically, they look at how to improve things by adding rules and regulations. Don't over-regulate. It is important to take care of the watersheds. Everything is in a watershed. The community has continued to come forward and volunteer its efforts on community issues and watershed issues. They are talking about a ten percent difference in the entire watershed. It would be very significant if they were talking about 80 percent or 70 percent of 9,000 acres. However, they are only talking about ten percent of the watershed. Ninety percent of the watershed will remain in a forestry use. That small percentage of property can make a big difference to the property owners who are trying to add on to their homes.

Paul Isaacson, 204 Shallow Shore Lane, stated he was a member of both the Lake Whatcom and Lake Samish Citizen Advisory committees. The last vote was five to zero. There are nine committee members. Three of the four people came forward and said they would have had a different opinion. If everyone had been present, and all four absent members voted, the issue would still have been approved. One member, Becky Wilson, was a proponent that originally wanted this proposal. Another member, Barbara Vaughn, just testified to the Council

that she didn't understand why the proposal was brought back up. However, she wrote a letter stating she could not attend the regular meeting, but that she felt the issue should be revisited. A third member, Bruce Harris, left the room before the final vote, citing that he did not want to take part in the final vote. There are some sore losers in this case. There are also winners. They came to a mutual understanding with the community members that were there, for the betterment of the entire community. Tonight, there is a meeting at the fire hall regarding community development. This is a group of very diverse people. The best interest of the citizens has been represented. The Natural Resources Committee should change that recommendation.

Brenner asked who is having the meeting tonight. Isaacson stated the meeting is conducted by people who are opposed to any development in Lake Samish. It was a selective invitation. People are trying to subvert the proper public process.

Jackie White, 778 N. Lake Samish Drive, stated she lived on Lake Samish when she was born. She is 79 years old. Her family has lived there since 1904. Someday, this lake is going to die because there is tremendous runoff going into the lake. She was concerned about runoff from impervious surfaces. She refuses to have a concrete driveway. She was concerned about the homes built in the future. The people who live on the edge of the lake do not have steep banks. However, it is very steep across the road in many areas. There will be more runoff.

Richard Gilda, Jensen Road, stated these people put together a community effort to make something that would work. Almost all of the people who spoke at the Planning Commission meeting supported the advisory committee recommendation. This proposal reflects what happened with the Lake Whatcom clearing ordinance. They do not have ecology and environmental problems. They are smashing the residents' lifestyles. The residents want their own watershed. He asked the Council to consider making a separate watershed for Lake Samish and the other watersheds. The proposal is to have one ordinance to make the entire county work. That will not work. The ordinance does not fit the watershed.

Rebecca O'Brien-Wilson, 921 W. Lake Samish, Lake Samish Citizens' Advisory Committee member, stated she was one of the five members who voted for the recommendation. A number of members were absent from the last meeting. Several members made it clear that the language presented would not be approved to go forward. At that point, they renegotiated. She voted for the renegotiation because she felt that something coming forward was better than nothing. Had the full membership been there, the outcome would have been similar to what the Natural Resource Committee put forth. The meeting at the fire station did have support from the community. There were a number of people present who would have supported the Lake Whatcom language, if it had come forth. There are additional issues about the County's own road ordinances not being up to speed with what they are trying to do to protect the water resources. She encouraged the Council to put staff time into revising the road ordinances. They did not approve the stormwater district because the committee was told by the County staff that a person would have to hire an engineer, and then approval would still be difficult. She encouraged the Council to put staff time into getting the stormwater ordinances in line. The Council should also look at incentives to encourage anyone living in a critical watershed to not develop his or her property to its fullest density.

Frank Higbee, 156 W. Lake Samish, stated he is developing 2.3 acres at that site. He is new here, but some of the things are going in too quickly, especially the storm drains.

Sandra Simon, 1820 Samish Lane, stated she has lived there for 20 years. Her husband is the president of the Lake Samish Concerned Neighbors, who are holding the meeting at the fire hall this evening. They did not know this issue would be scheduled on the Council's agenda tonight. She represents this group. The lake is at a crossroads. People use the lake for recreation, fishing, and boating. She wanted that to last for everyone. She was concerned about the growth in Lake Samish. Many of the people who spoke tonight own large pieces of property and want to develop them. She works for the Bellingham School District. Much interest is placed in the curriculum on how watersheds are protected. One of the models that they have has to do with Lake Stevens, which is a dead lake, with an aerator in the middle of the lake. She hoped that Lake Samish would not turn into a Lake Stevens.

Bob Wiesen, 3314 Douglas Road, Ferndale, stated the Planning Commission passed this issue on to the community. At the final Planning Commission hearing, there was very little disagreement. The Lake Whatcom watershed protection district may have turned out differently if people in the county realized that these conditions would apply to all the watersheds. One size does not fit all. The citizens who participate are discouraged because the special interests are given more weight than their interests.

Kim Herrenkohl, 321 Summerland Road, stated that she and her husband were the original proponents to apply the Lake Whatcom standards to Lake Samish. Throughout the meetings of the advisory committee, the members were consistent about wanting the 20 percent. It was at the last meeting, when the majority wasn't there, that it was changed. She asked the council to consider the true intentions of the entire committee. Lake Samish is smaller than Lake Whatcom, and does not have the same cleansing flows in and out of the lake. Regarding the meeting at the fire hall, it is not a public meeting. This is an organization that has rented a private facility and wanted to have a meeting on a different matter. It is unfortunate that the meeting is on the same night as this meeting, because more people who support her position would have attended. She encouraged adoption of the Natural Resources Committee recommendation.

Hoag asked if the majority of the committee wanted to apply 80 percent to all zones in the Lake Samish area. Herrenkohl stated the recommendation was to be consistent with Lake Whatcom.

Mike Roberts, 681 N. Lake Samish Drive, encouraged the Council to adopt the committee's recommendation. Ten percent one way or the other is not critical. Given the small lot sizes, the topography, and the soil, water recharge is not an issue. Runoff quality and quantity is the issue. It can be best addressed by stormwater standards, not limiting impervious surface area. Include the mobile home exemption. The people with the mobile homes have no option but to replace their homes with the larger homes, because the smaller homes are no longer made. People need the exemption to replace the units, which have a definite lifetime. He encouraged the County to do its part in maintaining the water quality. Provide a boat dock at the County park where there are public restrooms so recreational users can have someplace else other than the lake to use. Concentrate on the water quality and future development on the lake, and not on what is there today or on the existing lots of record.

Jim Bremmer, 961 W. Lake Samish, stated he's lived at the lake since the late 1960's, but he'd been away for the last 15 years. At the last meeting, everyone seemed to be in consensus. The 30 percent of impervious surfaces seemed to be the way things would go. He was happy to go along with the committee consensus. He has money tied up in construction. The difference between the 30 percent and the 20 percent is a death knell for him. He encouraged the Council to go with the advisory committee recommendation. That is what the community expects.

Cal Leenstra, 1802 Lakeside Avenue, stated he owns property on W. Lake Samish Drive. He supported the sewer when it went in. Shortly after, there was a downzone. There has been a series of regulations for the last 25 years. This is about no one wanting growth in their backyard. The Council needs to consider the rights of the property owners. There is a small contingent of neighbors that are trying to stop all development.

Craig (*last name unknown*), 500 W. Lake Samish Dr., stated his family has owned property since 1969. One assumption that people are making is that impervious surface equates pollution in the lake. Impervious surface just means faster runoff into the lake. That is something that can be addressed by stormwater retention. The ban on impervious surface is not the answer. The second assumption is that there is a problem with water quality in Lake Samish. If there is a problem with the lake water, it isn't from the large landowners who haven't developed their property. It's from people who moved in and developed at density far greater than 70 percent for impervious surface. The continued downzone says that people with undeveloped property will continue to pay for whatever problems arise. That is not the answer. No one has proposed a solution that would share the pain equally. This is a dispute between growth and anti-growth. Stay with the 70 percent pervious surface requirement. The 90 percent pervious surface requirement is a taking of property rights.

Hank Sharing, 371 Shallow Shore Road, stated he lived there for 22 years. The greatest impervious surface in the area is Interstate 5. Traffic has gone up 1,000 percent since 1986. The road scum deposited by this traffic washes into the lake every year. Take that into consideration, rather than holding the residents responsible for the lake's pollution. Money was set aside for retention basins and diversion channels to divert this runoff from Lake Samish. This project was never implemented. The state should also do its part to prevent the lake's pollution, since it is the major contributor.

Roger Ellingson, 3033 Alderwood, Bellingham, suggested adopting a more restrictive standard with a variance provision, as a compromise. The existing variance ordinance might cover it.

Hearing no one else, Nelson closed the public hearing.

(Clerk's Note: Council took a ten-minute break at 9:20 p.m. End of tape two, side A. Beginning of tape three.)

McShane moved to adopt the version of the ordinance recommended by the Natural Resources Committee.

Crawford spoke against the motion. The community did a good job of coming together and giving the Council what it asked for. They spent a lot of time on it. He was disappointed with some of the testimony, because he was at that Planning Commission meeting. There was a lot of compromise. Monday morning quarterbacking is easy to do. A meeting is what it is. The community clearly compromised on this. He would support the original Planning Commission recommendation.

Brenner stated she agreed with much of what Councilmember Crawford said. It might be easier to amendments to this ordinance. A lot of the concern is about the stormwater. Seventy percent is adequate. It will work fine if they rush that stormwater standard and say they are on it as soon as those standards are set, which is not what the original said. That would be a compromise that would solve a lot of the issues. They need to fast-pace those standards. She questioned whether they would review the stormwater standards when they are set. Goodwin stated the committee and Planning Commission recommended that Lake Samish not be included as a stormwater district, and that the ordinance would come back after the stormwater standards are written to add it as a stormwater district. The Natural Resource Committee change just said it was deferred until after the standards are written, then it would automatically become a stormwater district.

Brenner stated that is a cleaner way to do it. It is a minor change that would make a big difference. Vote on the percentage, and go with the language that came out of the Natural Resources Committee regarding the stormwater standards.

Imhof moved to re-insert the first sentence on Council packet page 335, section 20.71.302(4). It was the sentence that was struck. "In the Lake Samish watershed, for all zone districts, at least 70 percent of the parcel shall be kept free of structures and impervious surfaces. For lots smaller than 10,000 square feet, 3,000 square feet of impervious surface shall be allowed."

Nelson stated he recognizes everyone's concern about protecting water quality. He lives in the Lake Whatcom watershed, which is six or eight times larger than Lake Samish. They are taking great pains to provide a protection mechanism, while they develop these stormwater plans. Property rights were frequently brought up. He agreed with protecting property rights. They need to develop the standards to protect everyone's property rights, including those who want to be sure that they have good quality drinking water, a place to safely swim, and an environment to live it. This doesn't take away someone's right to build on their property. The Council is asking everyone to be responsible and to preserve this for the future. He would rather see the Council take a prudent step in providing protection, so they don't end up like Lake Sammamish, where they now have houses all around. Be careful and prudent. Develop the management systems that can be observed and used to preserve watersheds and habitat for the future.

Dawson agreed with Councilmember Nelson.

Hoag stated that Council packet page 345 shows the zoning around the lake. There are areas with Rural zoning. If the Council adopts the 70 percent rule, then 30 percent of the Rural zones would be covered. These rural areas are very close to the lake. She proposed a friendly amendment to change the amendment to require 80 percent in all zones. What the committee actually proposed depends on who you talk to and in what meeting it was at. What was proposed was 70 percent across all zones. Other people are saying they want 80 percent in the Rural Residential zone and 90 percent in the Rural zone. If they compromise with 80 percent across all zones, it would give those in the Rural zone more than what the people in Lake Whatcom have, but it wouldn't open it up to 30 percent in those rural areas, which is far too much. The deciding factor for her was the person who has been there the longest, who are older and wiser. They have the most to say about it. That person said she wants better impervious surface protection than what came out of the committee.

Brenner stated 70 percent would get them there. They need to not allow rezoning there. That was the problem with Lake Sammamish. The committee did a wonderful job. She could work with Councilmember Hoag's proposal. She wanted to require 70 percent on the smaller lots and 80 percent for the bigger areas, with the caveat that they allow a variance to make sure that people can do whatever they need to do. She didn't want to stop them from being able to do that. Putting in this watershed protection overlay is a remarkable thing. Everyone agrees with doing it. It's this percentage that is causing a lot of the friction. If everyone can live with the original proposal by the committee, then it is an incredible improvement that will do the work. The Council owes it to the community to be the least intrusive with what the community wants to do, and respect the committee.

McShane stated he appreciated what the community and the committee did. They did a great job. That committee and the community want to protect the watershed. That is certain. Many of the recommendations were taken to heart. One change they made was bumping it up to 3,000 square feet for the small lots. That was a good suggestion that was expanded to include Lake Whatcom. The mobile home suggestion was accepted. It was a great idea. Regarding the concern about requiring engineering for stormwater for small individual residences, it makes sense to not require that. Stormwater controls won't be put in place until the Technical Advisory Committee is done. It is clear that the community and committee are divided on this percent of impervious surface. They are faced with having a different impervious surface rule for Lake Samish than Lake Whatcom. The 90 percent, which sounds enormous, is for the Rural zone. The Rural zone is five acres or ten acres. If one has a five-acre site, one could have 22,000 square feet, a half acre, of impervious surface. One can build a pretty good size home within a 22,000 square foot impervious surface area. If they bump it up to 70 percent, the impervious surface allowed would be an acre and a half. As alarming as that 90 percent sounds, the amount of square footage is not that bad.

Dawson stated there is no question that the community is split. When there is a split like this, they need to look at the health, safety, and environment of the community. She will vote to keep it like Lake Whatcom.

Imhof withdrew his amendment.

Brenner moved to amend the ordinance so that smaller lots are required to preserve 70 percent instead of 80 percent, and the larger lots are required to preserve 80 percent instead of 90 percent. That is in the middle of what the Council heard during testimony.

Hoag stated all the area around the lake is zoned Rural Residential, two units per acre (RR2). The effect of that amendment would be to change everything that is right there on the lake from 80 percent to 70 percent.

Motion failed 2-5 with Brenner and Crawford in favor.

Brenner questioned whether they need an amendment to put in wording about a variance. Goodwin stated the County already has a variance procedure in Whatcom County Code 20.84. Anyone can apply for any variance

from a development standard. One could get a variance from impervious surfaces for a hardship case.

Nelson questioned where the percentages for the Lake Whatcom watershed came from. Goodwin stated it was developed over time. The Planning Commission and committee worked backwards. The Planning and Development Committee further refined it. They questioned how big a reasonable size house is, and how big a reasonable size driveway is. That is how they got at the different percentages. They wanted to leave room on the smaller lots for a reasonable size house and driveway. The basis of the percentages was the scientific information that they want to keep a ten percent impervious surface in the watershed overall. They have to recognize that they won't have ten percent on each lot. In the Lake Whatcom watershed and the Lake Samish watershed, they have well under ten percent impervious surface when they include all the forestland surrounding the lake. It is just that the developable land is close to the lake. There isn't any clear scientific study on where in a watershed or on a lake the development should occur.

Nelson stated he hated arbitrary numbers. When they get to the stormwater standards, the standards should be what they use when allowing building activity. He asked how long it would be before those standards come out, and if the intent is to apply the standards uniformly. Goodwin stated she hoped they would be done now. She thinks the standards would be done within the next couple of months.

Nelson questioned whether the Council would have an opportunity at that time to look at these arbitrary numbers. Goodwin stated the Council could revisit this ordinance at that time. She could docket it for review after the stormwater standards are done. The Council could add another section to the ordinance that the ordinance would be revisited after the stormwater standards are done.

Brenner asked how difficult the variance process is. Goodwin stated that the variance goes to the Hearing Examiner. There is a fee and a delay of at least a month or two in doing the project. If they look at the 3,000 square foot footprint, they should have room for a driveway and a house unless they are building a very large house. Even with the percentage, the owner is allowed a 3,000 square foot footprint. There wouldn't be a really long driveway on a small lot. One could have a two story house, with 2,000 square feet on each level, and still have 1,000 feet left for a driveway. If the driveway was narrow, it could be very long.

Crawford stated that if one uses alternative paving materials, he or she could cover 35 percent of the pervious surface.

Goodwin stated some of the lots along the lake are fairly steep, but the lots are also fairly small. Those driveways are not more than 50 feet. The houses are pretty close to the road.

Hoag moved to adopt language that requires 80 percent pervious surfaces in all zones. That is ten percent tighter than what came forward from the Planning Commission, and ten percent looser than what currently applies to all of these green areas.

Brenner stated she would support the motion, which helps a little bit. However, there are still going to be many variances for the smaller lots.

Dawson stated that there is still going to be dissention with the community. Keep it consistent with Lake Whatcom for the County staff who has to apply the regulation.

McShane stated that motion would allow one acre of impervious surface on a five-acre lot. One could have a very large house, and a barn.

Hoag restated her motion to amend 20.71.302(4), "In the Lake Samish Watershed, for all zone districts, at least 80 percent of the parcel shall be kept free of structures and impervious surfaces. For lots smaller...."

Crawford stated he was against the motion. He supported requiring only 70 percent.

Motion failed 2-5 with Hoag and Brenner in favor.

Motion to adopt the ordinance as recommended by the Natural Resources Committee carried 6-1 with Crawford opposed.