



CO00003082

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON

ORDINANCE NO. 03-050

REVISING THE BOUNDARIES OF THE MALTBY URBAN GROWTH AREA, AND
AMENDING AMENDED ORDINANCE NO. 96-073 PURSUANT TO
CHAPTER 30.73 SCC

WHEREAS, the Growth Management Act (GMA), codified at chapter 36.70A RCW, requires Snohomish County to designate urban growth areas (UGAs) to accommodate projected population growth;

WHEREAS, by Ordinance No. 96-073, adopted on November 27, 1996, the Snohomish County Council designated a Final UGA for Maltby;

WHEREAS, on December 20, 2000, the Snohomish County Council adopted Ordinance No. 00-094, which amended the General Policy Plan (GPP) and Future Land Use (FLU) Map, both of which are part of the Snohomish County Growth Management Act (GMA) Comprehensive Plan;

WHEREAS, Ordinance No. 00-094 expanded the Maltby UGA by approximately 13 acres, for the sole purpose of accommodating a church and church-related uses to be built by Maltby Christian Assembly and used by the residents of the Maltby and Clearview communities;

WHEREAS, in order to preclude residential, commercial, or industrial uses on their property, Maltby Christian Assembly entered into a concomitant agreement with the county that restricted use of their property to a church and church-related facilities;

WHEREAS, because the site was limited to church and church-related uses, the county concluded that the UGA expansion requirements set forth in GPP L.U. 1.A.9 and Countywide Planning Policy UG-14 did not apply, as those requirements relate solely to commercial, residential, and industrial UGA expansions

WHEREAS, although the concomitant agreement restricted use of the Maltby site solely to church-related uses, adding it to the UGA required the County to re-designate the site to an urban land use designation;

WHEREAS, because the County did not have a public use or institutional designation in its GMA Comprehensive Plan, the Maltby site was re-designated from

Rural Residential and Rural/Urban Transition Area, which can only be used outside UGAs, to Urban Commercial;

WHEREAS, Corinne Hensley appealed Ordinance No. 00-091 to the Central Puget Sound Growth Management Hearings Board, which issued its final decision and order on August 15, 2001, under the caption *Hensley IV*, CPSGMHB Case No. 01-3-0004c;

WHEREAS, the Board's decision held that concomitant agreements were not a legitimate GMA planning tool and invalidated Ordinance No. 00-094 expanding the UGA, with instructions to take appropriate legislative action by November 14, 2001;

WHEREAS, the Board's decision in *Hensley IV* included a concurring opinion by Boardmember Joseph Tovar, in which he suggested that amending the comprehensive plan and future land use map to include an institutional use designation would be one of several ways to allow the proposed UGA expansion in compliance with the GMA;

WHEREAS, Maltby Christian Assembly did not receive notice of the hearing before the Board until after the Board issued its decision, at which time it appeared before the Board as an intervenor and appealed the decision to Snohomish County Superior Court, under cause number 01-2-07907-5;

WHEREAS, the Court remanded the case to the Board for a de novo hearing on the grounds that Maltby Christian Assembly had been entitled to notice of the Board hearing, but the Court also stated that it agreed with the Board's decision invalidating the UGA expansion;

WHEREAS, following a de novo hearing in response to the Court's remand, the Board re-affirmed its prior decision invalidating the UGA expansion and instructed the county to take appropriate legislative action by March 24, 2003;

WHEREAS, in response to the County's request, the Board extended the compliance deadline to June 20, 2003; and

WHEREAS, in response to the Board's order the County Council held a public hearing on June 4, 2003 to consider the entire record and hear public testimony on Ordinance No. 03-050, which expands the Maltby UGA.

NOW, THEREFORE, BE IT ORDAINED:

Section 1. The County Council adopts and incorporates the foregoing recitals as findings and conclusions.

Section 2. The County Council makes the following additional findings and conclusions:

- A. The County Council hereby adopts and incorporates by reference the findings and conclusions adopted and the legislative records developed in adopting Amended Ordinance 96-073, which established the boundary for the Maltby UGA.
- B. The amendments adopted by this ordinance add the 13-acre Maltby Christian site to the Maltby UGA, which was previously done by Ordinance No. 00-094 prior to its invalidation by the Board.
- C. The UGA expansion adopted by this ordinance does not activate the requirements of GPP Policy LU 1.A.9 or Countywide Planning Policy UG-14 because the area added to the UGA is designated P/IU concurrent with the UGA expansion and therefore cannot, under the amendments adopted by Ordinance No. 03-049, be used for commercial, residential, or industrial uses.
- D. The amendments creating the P/IU designation and amending the FLU Map are consistent with the final review and evaluation set forth at Snohomish County Code (SCC) 30.74.060(a)-(f):
 1. The amendments maintain consistency with other elements of the GMA Comprehensive Plan.
 2. All applicable elements of the GMA Comprehensive Plan support the proposed amendments, including the transportation element and the capital facilities plan;
 3. The amendments more closely meet the goals, objectives, and policies of the GMA Comprehensive Plan, particularly GPP Policy LU 1.A.9.
 4. The amendments are consistent with the Snohomish County Countywide Planning Policies, including UG-14.
 5. The amendments comply with the substantive and procedural requirements of the GMA.
 6. The Board's final decision and order in *Hensley IV*, which was not available to the County at the time the UGA was initially expanded, supports the creation of the expansion of the UGA to include the Maltby site under the P/IU designation.
- E. Because the amendments creating the P/IU designation and amending the FLU Map are adopted in response to the Board's final decision and order in *Hensley IV* and its subsequent order of noncompliance, no hearing before the planning commission is required under SCC 30.73.040(2)(d)-(e). The hearing held before the County Council on June 4, 2003 satisfies the public participation requirements of county code for the adoption of comprehensive plan amendments.

- F. The public hearing for the amendments expanding the Maltby UGA, as well as the published notice for the hearing, satisfy the public participation requirements of state law, including RCW 36.70A.020(11), RCW 36.70A.035, RCW 36.70A.130, and RCW 36.70A.140.
- G. On September 12, 2000, the Snohomish County Department of Planning and Development Services (PDS) issued a Draft Supplemental Environmental Impact Statement (DSEIS) for, among other actions, the 13-acre expansion of the Maltby UGA and related FLU Map amendments adopted as part of the 2000 docket. PDS issued a Final SEIS, including response to comments on the DSEIS, on November 28, 2000 following the 30-day comment period. The purpose of the SEIS was to supplement the GMA Comprehensive Plan Final EIS, adopted June 21, 1995, by analyzing potential significant adverse environmental impacts of the proposals and any alternatives that were not previously identified in the two EIS documents.
- H. The UGA expansion adopted by this ordinance is a non-project action within the scope of the analysis contained in the FSEIS and associated environmental documents. Adoption of the UGA expansion satisfies the requirements of the State Environmental Policy Act, chapter 43.21C RCW, and chapter 30.61 SCC.
- I. The UGA expansion adopted by this ordinance is consistent with the Vision 2020 regional growth and transportation plan, the multi-county policies adopted in March 1993 by the Puget Sound Regional Council for King, Kitsap, Pierce, and Snohomish counties as amended thereafter.

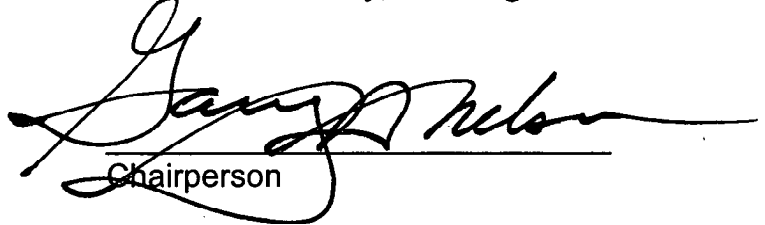
Section 3. The County Council bases its findings of facts and conclusions on the entire record before the council, including all testimony and exhibits relating to these amendments, as well as the entire record before the Planning Commission and the County Council in the adoption of Ordinance No. 96-073, Amended Ordinance No. 00-091, and Ordinance No. 00-094.

Section 4. The County Council hereby amends Amended Ordinance 96-073 as adopted on November 27, 1996, and last amended by Ordinance No. 00-094 on December 20, 2000, to repeal Exhibits A and B which were incorporated therein and to replace and incorporate therein two new exhibits: (1) Exhibit A, which is a map that depicts the boundary for the Maltby UGA; and (2) Exhibit B, which is a county assessor's map that accurately depicts the boundary for the Maltby UGA. Exhibits A and B are attached hereto and incorporated herein by reference as though set forth in full.

Section 5. Severability. If any section, sentence, clause or phrase of this ordinance shall be held to be invalid or unconstitutional by the Growth Management Hearings Board (Board), or a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance. Provided, however, that if any section, sentence, clause or phrase of this ordinance is held to be invalid by the Board or court of competent jurisdiction, then the section, sentence, clause or phrase in effect prior to the effective date of this ordinance shall be in full force and effect for that individual section, sentence, clause or phrase as if this ordinance had never been adopted.

PASSED this 4th day of June, 2003.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

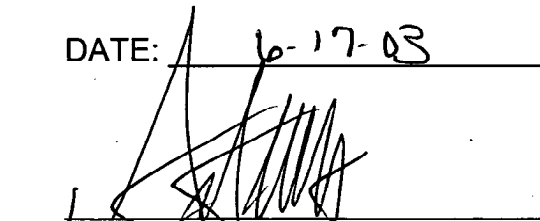

Chairperson

ATTEST:

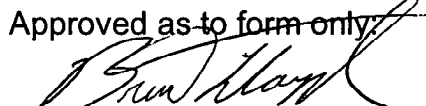

Clerk of the Council, asst.

- APPROVED
- EMERGENCY
- VETOED

DATE: 6-17-03


Snohomish County Executive
Executive Director

ATTEST: Connie Merino

Approved as to form only

Deputy Prosecuting Attorney

D-7

Exhibit A



**Snohomish County 2003 Docket
Proposed Comprehensive Plan Amendment
Maltby Christian Assembly**



April 2003

LEGEND

Existing County Plan Designations

- Rural Residential (1 DU/5 Acres Basic)
- Rural/Urban Transition Area
- Urban Commercial
- Urban Industrial

Proposed Plan Amendment

- Maltby Christian Assembly: Redesignate Rural Residential (1 DU/5 Acres Basic) and RUTA to Public / Institutional Use and remove RUTA
- Expand Maltby UGA.

Incorporated Cities
 Existing Urban Growth Area Bd

This map is a graphic representation derived from the Snohomish County Geographic Information System. It does not represent survey accuracy. Property lines are for illustrative purposes. Open water bodies: aerial photo update 1998.
 Produced by Snohomish County Planning Div., GIS Team; cbi; c:/dock/dock03/maltbychristianassembly_ftu.ar
 Scale in Feet 0 1250 50'

