



CO00019243

SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON
ORDINANCE NO. 99-028

AN ORDINANCE RELATING TO THE SNOHOMISH COUNTY GROWTH
MANAGEMENT ACT COMPREHENSIVE PLAN, REPEALING THE LAND USE
DESIGNATION AND AMENDING LAND USE POLICY APPLICABLE TO A 33.7 ACRE
PARCEL OF PROPERTY ON CAVALERO HILL

WHEREAS, on November 27, 1996, the County Council adopted Amended Ordinance No. 96-074, "Adopting Map and Text Amendments to the Growth Management Act Comprehensive Plan," which redesignated a 33.7 acre parcel on Cavalero Hill in the Lake Stevens Urban Growth Area (UGA) from "Other Land Use" to "Urban Commercial" and added General Policy Plan policy LU 2.B.9 directing the rezoning of that property (hereinafter "Cavalero Hill amendments"); and

WHEREAS, certain parties challenged the validity of the Cavalero Hill amendments to the Central Puget Sound Growth Management Hearings Board (Board) in the case of *Kelly, et al. v. Snohomish County*, CPSGMHB Consolidated Case No. 97-3-0012c; and

WHEREAS, on July 30, 1997, the Board issued a Final Decision and Order (FDO) invalidating the Cavalero Hill amendments for failure to comply with the public participation requirements of the Growth Management Act (GMA) and remanding the matter to the County to amend its plan in conformance with the GMA; and

WHEREAS, the County is presently working to develop a subarea plan for the Lake Stevens UGA, including the Cavalero Hill property, and intends to consider the appropriate land use designation and zoning for that property as a part of the subarea planning process; and

WHEREAS, the County has conducted extensive efforts to engage the public and the City of Lake Stevens in the subarea planning process. Through the public planning process, the County has developed six land use alternatives and has undertaken environmental review for those six alternatives; and

WHEREAS, on January 26, 1999, after four public hearings, the Planning Commission recommended three alternatives to the County Council; and

WHEREAS, completion of the planning process for the Lake Stevens UGA is not expected until at least fall of 1999; and

WHEREAS, on March 31, 1999, the Board directed the County to take legislative action to remove the Board's finding of invalidity by repealing those portions of Amended Ordinance No. 96-074 comprising the Cavalero Hill amendments by May 27, 1999; and

WHEREAS, this ordinance is intended to comply with the Board's order; and

WHEREAS, the County intends to consider redesignation of the Cavalero Hill property as a part of the subarea planning process.

NOW, THEREFORE, BE IT ORDAINED:

Section 1. The County Council makes the following findings of fact and conclusions:

A. In *Kelly, et al. v. Snohomish County*, CPSGMHB Consolidated Case No. 97-3-0012c, at 7 (Order Finding Noncompliance dated March 31, 1999) (hereinafter "March 31, 1999 order"), the Board directed the County to repeal the Cavalero Hill amendments, consisting of the "Urban Commercial" designation on a 33.7 acre parcel on Cavalero Hill in the Lake Stevens UGA and General Policy Plan Policy 2.B.9 directing the rezoning of that property. The Cavalero Hill amendments had previously been found invalid by the Board in its FDO in *Kelly*, issued July 30, 1997.

B. This ordinance repeals the Cavalero Hill amendments, as directed by the Board. In the March 31, 1999 order, the Board determined that

Repealing [these] provisions will remove the result of the defective notice and remove the substantial interference with the GMA's public participation goal. The result of the repeal will be that the Cavalero Hill property will remain "Other Land Use," the same designation that resulted when the Board invalidated portions of Ordinance 96-074.

C. In the March 31, 1999 order, the Board determined that the Cavalero Hill property will retain its former designation of "Other Land Use" which was in effect on this property prior to the adoption of Amended Ordinance No. 96-074.

D. This action is consistent with all applicable elements of the County's GMA Comprehensive Plan.

Section 2. The County Council makes the following further findings of facts and conclusions:

A. RCW 36.70A.140 authorizes a local jurisdiction to modify its public participation process to enact legislation in response to a board's decision declaring part of a comprehensive plan invalid. The statute requires that the County provide for public

participation that is appropriate and effective under the circumstances presented by the Board's order. The County Council finds that appropriate and effective public participation will occur through holding a fully noticed public hearing before the County Council on this ordinance, which responds to the Board's order of invalidity in *Kelly*.

- B. In its March 31, 1999 order, the Board imposed a compliance deadline of May 27, 1999. An expedited timeline for legislative action on this matter is therefore necessary to meet the Board's deadline. This action cannot be reviewed by the Planning Commission in accordance with normal public participation procedures under Chapter 32.05 SCC due to insufficient time available for the notification and holding of a public hearing by the Commission.
- C. The County Council's action on this ordinance meets Snohomish County Charter requirements with respect to enactment of ordinances.
- D. The County's public participation procedures, adopted at Chapter 32.05 of the Snohomish County Code, allow for deviations from procedure if the spirit of the procedures is observed. The County Council finds that the spirit of the public participation process has been met, even though review will not occur before the Planning Commission, because the County Council has conducted a properly noticed public hearing. Further, as directed by the Board, the property will remain "Other Land Use", the same designation that was given to the property at the time of adoption of the Snohomish County Growth Management Act Comprehensive Plan on June 28, 1995. The County conducted extensive public participation in adopting the final comprehensive plan in 1995. *See Sky Valley, et al, v. Snohomish County*, CPSGMHB Consolidated Case No. 95-3-0068c at 1647-1654 (Final Decision and Order dated March 12, 1996). The public was afforded a full opportunity to participate and comment on the "Other Land Use" designation for the Cavalero Hill property during the legislative proceedings conducted to adopt the final comprehensive plan in 1994 and 1995.
- E. The County intends to consider redesignation of the Cavalero Hill property as a part of the Lake Stevens UGA subarea planning process.
- F. The Final Environmental Impact Statement (FEIS) for the Snohomish County Growth Management Act Comprehensive Plan (adopted on June 28, 1995) was prepared to satisfy SEPA requirements for the adoption of the "Other Land Use" designation on the subject property. No further action under SEPA is required.

Section 3. The County Council bases its findings of fact and conclusions on the record of the County Council relating to Amended Ordinance 94-125, Amended Ordinance 96-074 and Ordinance No. 99-028, including all testimony and exhibits.

Section 4. The County Council hereby amends the Future Land Use Map of the Snohomish County Growth Management Act Comprehensive Plan-General Policy Plan, which was adopted as Map 4 of Exhibit A in Section 4 of Amended Ordinance No. 94-125 on June 28, 1995 and last amended by Amended Ordinance No. 99-005 on March 3, 1999, as shown on Exhibit A, which is attached hereto and incorporated herein by this reference. This map amendment repeals the "Urban Commercial" designation on a 33.7 acre property in the southeast quadrant of the intersection of East Hewitt Avenue and Cavaleros Road located within the Lake Stevens UGA, which was adopted in Section 3 of Amended Ordinance No. 96-074 on November 27, 1996.

Section 5. The Department of Planning and Development Services is instructed to remove the reference to the invalidation on the map legend and replace the "Urban Commercial" designation on the map with the "Other Land Use" designation as shown on Exhibit A, which is hereby attached hereto and incorporated herein by reference, pursuant to the March 31, 1999 order of the Board referenced in findings of fact and conclusions in Section 1 above.

Section 6. The County Council hereby amends the Snohomish County Growth Management Act Comprehensive Plan-General Policy Plan, which was adopted as Exhibit A in Section 4 of Amended Ordinance No. 94-125 on June 28, 1995 and last amended by Amended Ordinance No. 99-005 on March 3, 1999, to amend Policy LU 2.B.9 as follows:

- 2.B.9 Within the Lake Stevens UGA, the Urban Commercial designations ~~in the southeast quadrant of the intersection of East Hewitt Avenue and Cavaleros Road and~~ in the southeast quadrant of the intersection of 4th Street NE, and SR-9 shall be zoned to the Planned Community Business zone. ~~Zoning within the East Hewitt Avenue designation shall be consistent with the approval of a concomitant zoning agreement.~~

Section 7. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

Passed this 17th day of May, 1999.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

Barbara E. Egan
Chair

ATTEST:

Sheela McCallister
Clerk of the Council, *asst.*

- APPROVED
- VETOED
- EMERGENCY

Date 5-18-99
[Signature]
County Executive

APPROVED AS TO FORM
ONLY:

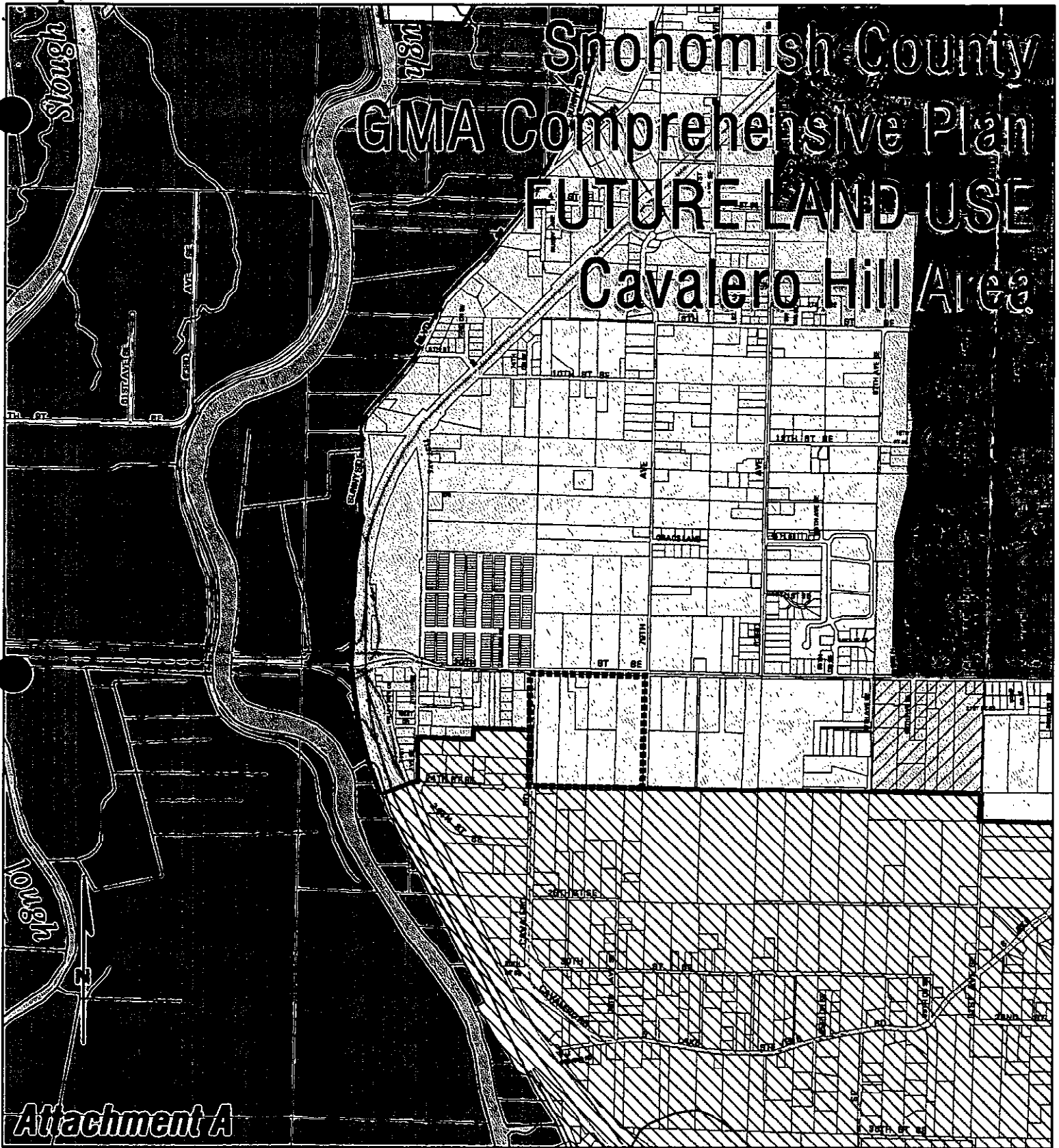
Barbara Dyles 4/14/99
Deputy Prosecuting Attorney

ATTEST: Josma Swanson














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RNG 5 E

Snohomish County GMA Comprehensive Plan FUTURE LAND USE Cavalero Hill Area



Attachment A

- | | | | | | |
|--|---|---|--|---|----------------------------|
|  | Riverway Commercial Farmland |  | Urban Commercial |  | Incorporated City Boundary |
|  | Rural Residential
(1 DU/5 Acres Basic) |  | Incorporated Cities, Towns,
Tribal Lands, & Rights-of-Way |  | Arterial Roadways |
|  | Urban Low Density Residential
(4 - 6 DU/Acre) |  | Growth Phasing Overlay |  | PUD Parcel line |
|  | Other Land Uses (See Subarea or
UGA Comprehensive Plans) |  | Rural/Urban Transition Area |  | Area Affected by Repeal |
| | |  | Urban Growth Area
Boundary | | |

1500 Feet