

AMENDMENT TO MASON COUNTY FUTURE LAND USE MAP AND
BELFAIR URBAN GROWTH AREA ZONING MAP – **DAVIS REZONE**

ORDINANCE Mason County Future Land Use Map of the Comprehensive Plan and Belfair Urban Growth Area Zoning Map (rezone) under the authority of RCW 36.70A.80.

WHEREAS, the Washington State Growth Management Act (RCW 36.70A.130) requires each county, including Mason County, to take legislative action to review and revise its comprehensive plan and development regulations to ensure that the plan and regulations continue to comply with the requirements of the Act; and

WHEREAS, the County needs to address certain requests for comprehensive plan and zoning changes to meet the goals and requirements of Chapter 36.70A RCW (Growth Management Act); and

WHEREAS, Stan Davis, hereinafter referred to as "Applicant", owner of real property in Mason County known as parcel 12329-13-90091, has requested a zoning change of his property from Low Intensity Residential (R-4) to Rural Residential 5 (RR 5); and

WHEREAS, this request rezones the subject parcel from an urban designation to rural, thereby removing it from the Belfair Urban Growth Area and adjusting its boundary accordingly; and

WHEREAS, on November 21, 2016, the Mason County Planning Advisory Commission held a public hearing to consider the amendments and passed a motion to recommend approval of said rezone; and

WHEREAS, the Commissioners considered the requested rezone at a duly advertised public hearing on _____; and

WHEREAS, the Board of County Commissioners took public testimony from interested parties, considered all the written and oral arguments and testimony, and considered all the comments presented; and

WHEREAS, the Board of County Commissioners also considered the Staff Report and recommendations of the Mason County Planning Advisory Commission; and

WHEREAS, the Board of County Commissioners finds that the proposed amendments to the Future Land Use Map and Belfair Urban Growth Area Zoning Map complies with all applicable requirements of the Growth Management Act, the Comprehensive Plan, and the Mason County Code, and that it is in the best public interest; and

BE IT HEREBY ORDAINED, the Mason County Board of Commissioners hereby approves and ADOPTS revisions to the Mason County Development Areas Map rezoning parcel 12329-13-90091 from Low Intensity Residential (R-4) to Rural Residential 5 (RR 5) as submitted by Applicant.

DATED this 20th day of December 2016.

ATTEST:


Melissa Drewry, Clerk of the Board

APPROVED AS TO FORM:


Tim Whitehead, Chief DPA

BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON


Terri Jeffreys, Chair


Tim Sheldon, Commissioner


Randy Neatherlin, Commissioner



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REQUEST FOR REZONE AND AMENDMENTS TO COMPREHENSIVE PLAN FUTURE LAND USE MAP AND BELFAIR URBAN GROWTH AREA ZONING MAP

BELFAIR URBAN GROWTH AREA LOW DENSITY RESIDENTIAL R-4 TO MASON COUNTY RURAL RESIDENTIAL 5

RURAL MASON COUNTY

CHAPTER 17.05 – Administrative Procedures

REZONE CRITERIA, §17.05.080

STAFF CONTACT

Barbara A. Adkins, AICP

Ext #286

APPLICANT

Stan Davis

NE 410 Davis Farm Road

Belfair, WA 98584

SUMMARY OF PROPOSAL

Applicants are proposing to amend the Belfair Urban Growth Area boundary by removing parcel 12329-13-90091, and in turn amending the Comprehensive Plan Future Land Use Map accordingly. Once approved, the Applicant would request in a simultaneous action that the zoning be changed from Low Density Residential (R-4), which is an urban zoning designation, to Rural Residential 5 (RR5), a rural designation. This parcel is located within the Belfair Urban Growth Area ("UGA") and would, if approved, be remapped into the County, requiring amendments to both the Comprehensive Plan Future Land Use map and the Belfair UGA zoning map. The figure below illustrates a small map section showing the location of the parcel with a red dot. The light purple shading indicates the R-4 zoning within the Belfair UGA, and the sounding yellow is the Rural Residential 5 County zoning. While the area represents both urban and rural development, it is all residential.



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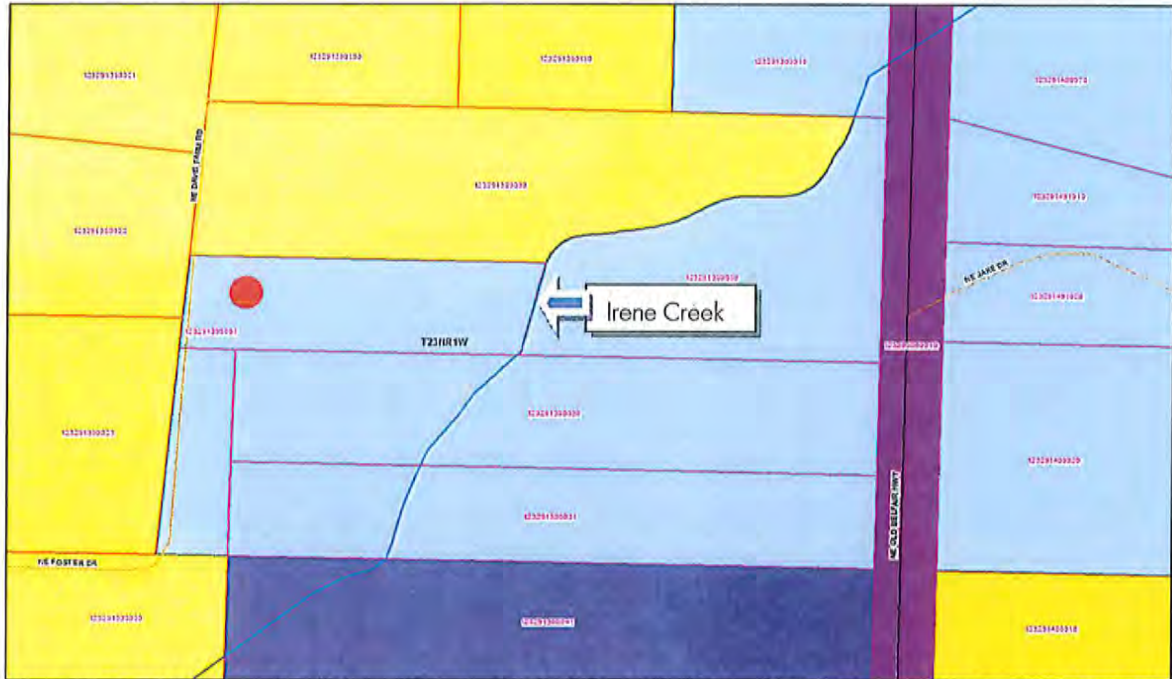
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The primary objective for this request is for development of a single family home on the property. This parcel's boundaries were recently changed with a Boundary Line Adjustment in June of 2016. Prior to the adjustment, the parcel fronted on Old Belfair Highway. The eastern boundary line was moved to where Irene Creek divides it naturally.

URBAN SERVICES – PUBLIC SEWER

As a single parcel, it also had sewer connection available at Old Belfair Highway; however the newly created parcel is now separated from the connection by an independently owned parcel and by Irene Creek. The creek appears on the map as a thin blue line running northeast to southwest. While this newly created parcel is still within 500 feet of the connection at its eastern most borders and required under the Mason County Code to connect, the Applicant is severely hindered from making that happen in two significant ways.

First, the Applicant's parcel has no legal access or easement across the neighboring lot to make the connection. Under the Code, the "[l]ocation of sewer lines will be prelocated and easements established in conformance with the sewer analysis plan and as illustrated on the Belfair UGA Build-Out Sewer Connection Map."¹ No easement was put into place at the time of the plan as there was no immediate need. Now that the parcels have been legally split, an easement from the neighbor must be secured.

¹ MCC §17.03.030(c)



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Second, the parcels are separated by Irene Creek, a fish bearing stream under the jurisdiction of Mason County's Resource Management regulations. Development near that stream must be at least 165 feet back from the shoreline on both sides. This means the Applicant will need to build the residence to the furthest end of the property away from road, and nearly 700 feet from the connection. Additionally, reaching the new home site will require drilling and trenching under the creek; an expensive and lengthy process.

URBAN DENSITIES – 4 DWELLING UNITS PER ACRE

The Low Density Residential District (R-4) is designed for development at four dwelling units per acre establishing the minimum levels needed to achieve urban densities. The applicant's parcel is just over one acre in size and while the regulations do not require that parcels be development to maximum levels of density, it is encouraged to accommodate growth. In this case, the parcel is bordered by a fish-bearing stream with a buffer and set back that diminishes its capacity for any level of urban development. Parcels such as the one subject of this proposal are ill suited for urban development or to accommodate any significant amount of growth, and should be seriously considered for removal from the urban growth areas.

PARCEL INFORMATION

Parcel No.: 12329-13-90091 is approximately 1 acre in size; and is bordered to the north and west by Rural Residential 5 and to the east and south by Low Density Residential. The parcel has road access from NE Davis Farms Road at the west end.

ZONING INFORMATION

CURRENT ZONING DESIGNATION:

R-4 – Low Density Residential

Belfair Urban Growth Area

The purpose of the R-4 district is to provide a lower density housing option in the UGA. Locations are restricted to sites containing critical areas and slopes as development is expected to be clustered into the more suitable building areas. The district allows for a density of four dwelling units per acre, except where "critical lands" are present—which reduce the permitted density. Clustering of the dwelling units is encouraged to protect open space and water quality, reduce infrastructure needs, and enhance energy efficiency. Multi-family dwelling units are conditionally permitted as long as they do not exceed the density requirement and minimize impacts to adjacent single-family dwelling units. This district also allows public parks and public utility service lines.



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PROPOSED ZONING DESIGNATION:

RR 5 – Rural Residential 5

This district allows single-family residences, hobby farms (small scale commercial agriculture, including aquaculture and wood lots), church, local community and recreation centers, group homes, cell towers, fire station, fish hatchery, public utilities.

RATIONALE

In addition to Staff's analysis, below, under the rezone criteria of MCC 17.05.080, the Applicant has provided the following statement for the Commission's consideration:

The Belfair UGA boundary was established in 1996. The Belfair subarea plan was adopted in late 2004. The Critical Aquifer Recharge Area in this area was identified as part of that 2004 plan. In 2005 VanBuskirk's 5 parcels to the north of the subject property was removed from the UGA. In 2008 US Geographic naming board and Mason County officially recognized and named fish bearing streams Irene, Miggie and Viola creeks all of which originate in the Belfair UGA with Irene creek bordering subject property. In 2011 Peterson-Clayton 3 parcels also removed from UGA. 2012 first phase of Belfair sewer connected parcels 12329-13-00030 and 12329-13-00031 bordering the Old Belfair Highway and did not serve the west side of those parcels on the west side of Irene Creek. The west sides of those parcels were purchased by Mr. Davis in July 1, 2016 and a resultant BLA created an expanded parcel 2.02 acres, parcel 12339-13-90090. Parcel is currently zoned as R-4 and is landlocked in the UGA. Parcel currently would not be able to achieve the R-4 urban standard of development by the existence of the critical areas associated with Irene creek and the expense of running a sewer line to serve a potential single family residence. Mr. Davis would like to amend the boundary of the UGA to exclude this parcel as it is immediately adjacent to other RR5 parcels, would help to protect Irene creek and protect long term agricultural lands held in perpetual trust that he and his family members own from urban development and associated pressures.

ANALYSIS

REZONE CRITERIA §17.05.080

While the rezone criteria that Mason County uses are not dictated by state code, there remains a necessity that local jurisdictions adopt some type of standards by which to evaluate them. In the absence of local land use regulations that provide an evaluation process or criteria to be met, courts may reverse or uphold a decision by applying general rules as deduced from the GMA goals. Courts have ruled that a site specific rezone was subject to review standards, regardless of whether or not any had been adopted of their own. The courts require that the proponents of a rezone must establish that conditions have substantially changed since the original adoption and that the rezone must bear a substantial relationship to the public health, safety, morals or welfare. If a rezone implements the comprehensive plan, a showing that a change of circumstances has occurred is not



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required. Mason County Code Section 17.05.080(a) describes the eight rezone criteria used to review a rezone proposal. These criteria have been established and adopted specifically for Mason County to establish standards by which each rezone is to be reviewed. The Code requires that each rezone be evaluated in light of these standards; however it does not require that they all be met. Below is *Staff's response* to the proposed request, together with those provided by the *Applicant*:

1. Development allowed by the proposed rezone designation shall not damage public health, safety and welfare.

This criterion is met as the applicant's proposed future use of the property would be exactly the same use under its current zoning – a single family residence.

Amending the Belfair UGA Subarea plan and rezoning to RR5 the subject parcels would not damage public health, safety, and welfare, assuming that all current planning and health development regulations are followed during any future reviews and development. The greatest concern would be for adequate protection of Irene Creek if any future development is evaluated and undertaken.

2. The zone designation shall be consistent with the Mason County Comprehensive Plan, Development Regulations, and other county ordinances, and with the Growth Management Act; and that designation shall match the characteristics of the area to be rezoned better than any other zone designation.

To consider whether or not the proposed zone is better than any other zoning designation, or more importantly, does the proposal implement the Comprehensive Plan, then Staff would believe this criterion has been met. The intent of this area in both the Belfair SubArea Plan and the Mason County Comprehensive Plan is to be residential. The rezone is consistent with those intentions.

Review of this criterion in light of the Growth Management Act (GMA) would also indicate that it has been met. The first Planning Goal² of the GMA is to encourage growth where public services are provided. The subject parcel is currently in an urban area where such services exist, however providing them to everyone has proven to be challenging. This gap between the existence of services and the adequate provision of those services has created something similar to an unofficial moratorium on residential development. The parcel subject of this proposal cannot feasibly access the required service, sewer in this case, and therefore cannot develop. To encourage growth where services are not and cannot reasonably be provided does not seem to meet the intent of GMA; however removing parcels such as this from inadequately served urban areas seems to make sense.

² RCW 36.70A.020(1) Urban growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.



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Secondly, the "concurrency" goal of GMA, or Planning Goal 12³, requires that public services be available to serve the development at the time of development. As discussed in the Proposal section of this Report, the Mason County Code directs that sewer lines be pre-located and that easements are established. In this instance, however, the legal splitting of a single parcel into two created a situation where no easement exists and therefore, no practical access to the service exists. Without the service the parcel cannot reasonably be developed as long as it remains in this urban area.

Additionally, the critical areas located on the parcel render it ill suited for urban levels of development. The location of a fish bearing stream impose a buffer in addition to set backs that diminish the capacity for development on most of the parcel.

The following Mason County Comprehensive Plan⁴ policies would need to apply:

RU 500a Ensure that rural residential development preserves rural character, protects rural community identity, is compatible with surrounding land uses, and minimizes infrastructure needs.

RU-501 New development in RAs should be guided by performance standards and design guidelines to enhance rural character, protect critical areas, and tailor development to the characteristics of individual sites.

RU-502 Residential uses in RAs should be at densities that can be sustained by rural levels of service for water, wastewater, drainage, police, fire, and schools.

RU-503 Utilities and services in RAs should be provided at levels suitable to rural densities including on-site septic systems, private wells or community water systems, and roads with gravel shoulders and open roadside drainage.

RU 521: Use the following criteria to establish rural densities and for assignment throughout the County for mapping decisions:

<i>Land Use Designation</i>	<i>Criteria</i>	<i>Principal Land use</i>
<i>Rural Residential 5 acre 1 du/5)</i>	<i>Single family plats with an established pattern of lots five acres or smaller, generally built out.</i>	<i>Single family</i>
	<i>Lots of five acres or smaller adjacent to RAC's and Hamlets.</i>	
	<i>Overlay designation for areas of pre-</i>	

³ RCW 36.70A.020(12) Public facilities and services. Ensure that those public facilities and services necessary to support development shall be adequate to serve the development at the time the development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

⁴ Mason County Comprehensive Plan, 2005, Chapter 3, Rural Lands



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	existing platted subdivisions with lots less than five acres, but not built out. Areas with a predominant pattern of five acre platting but may include 10 and 20 acre parcels; where existing infrastructure will support development. Infrastructure includes public roads, electrical service, and water service. Are not critical or resource lands.	
Rural Residential 20 acre (1du/20 acres)	<ul style="list-style-type: none"> a) Single family plats with established pattern of similarly sized lots surrounding the area on 75% of its boundaries b) Located in shoreline areas with similarly sized parcels; c) Lands affected by at least 2 critical areas, or lands adjacent to forest resource lands; d) At request of property owner for Forest/agriculture/open space taxation and/or uses 	Single Family Non resource forestry or agriculture Other uses allowed as in Table of uses

In evaluating the proposal to rezone at Rural Residential 5, the zoning of the subject parcel at that zone must match the characteristics of the surrounding area better than the original R-4 Belfair UGA zone designation. The areas to the north were rezoned to RR 5 in 2005 and 2011. The areas to the west are zoned RR 5 and ARL [agricultural resource lands]. The areas to the east and south are bordered by Irene Creek and R-4 zoning of the Belfair UGA. The subject property is accessed by the narrow Davis Farm Road.

3. No rezone shall be approved if, either by itself or together with other rezoning and/or development, whether actual or potential, the cumulative impacts of such zoning would be to materially increase sprawling, low-density rural development, or to significantly increase uses incompatible with resource-based uses in the vicinity.

The proposed rezone does not change the use and therefore would not increase incompatibility; it will remain residential and have no more impacts than its current designation. This criterion is met as staff believes the rezone of these parcels would not increase sprawl or low density development or cause it to occur.



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The cumulative impacts of rezoning the subject parcels would not change the existing land uses and the character of bordering RR 5 properties and the Davis Farm. It would not increase sprawling, low-density rural development beyond its current extent close to Old Belfair Highway.

4. No rezone to more intensive land use shall be approved if, either by itself or together with other rezoning and/or development, whether actual or potential, the cumulative impacts of such zoning would be to materially increase demand for urban services in rural areas, including but not limited to streets, parking, utilities, fire protection, police, and schools.

This criterion is met as the proposed rezone of this parcel would remove it from the appropriation of urban services thereby reducing the overall demand. This request is not to a more intensive land use, but instead to a less intensive use.

The reduced densities that would be created by rezoning this property would not affect current levels of service in the vicinity and would reduce the demand for the provision of urban services such as sewer, street, parking, utilities, fire protection, police and schools.

5. No rezone to more intensive land use shall be approved if, either by itself or together with other rezoning and/or development, whether actual or potential, the cumulative impacts of such zoning would be to materially interfere with the Growth Management Act goal to encourage development in urban areas where adequate public services and facilities exist or can be provided in an efficient manner.

This criterion is met as the request is to a less intensive land use and does not interfere with the GMA. See criterion #2.

This would be a less intensive land use and there are currently no public services such as public sewer available at this site nor can they be provided in an efficient, cost effective manner.

6. No rezone to more intensive land use shall be approved if, either by itself or together with other rezoning and/or development, whether actual or potential, the cumulative impacts of such zoning would be to materially interfere with the Growth Management Act goal to encourage retention of open space, to conserve fish and wildlife habitat, and generally to protect the environment, including air and water quality.

This criterion is met as the request is to a less intensive land use and does not interfere with the GMA. By removing the parcel from an urban area and from the required connection to sewer, it avoids the digging and trenching through Irene Creek and its buffer.



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This is a less intensive land use and would encourage conservation of habitat and protect the environment.

7. No rezone to more intensive land use shall be approved if, either by itself or together with other rezoning and/or development, whether actual or potential, the cumulative impacts of such zoning would be to create pressure to change land use designations of other lands or to increase population growth in rural areas as projected in the Mason County Comprehensive Plan.

This criterion is met as the request is to a less intensive land use would not increase pressure to change land use or increase population. The use is going from residential to residential, and the density is decreased.

This is a less intensive land use.

8. These criteria shall not be construed to prevent corrective rezoning of land necessitated by clerical error or similar error of typography or topography committed in the original zoning of such land.

The proposal is not applicable and not being requested as the result of any mapping errors.

PLANNING ADVISORY COMMISSION

The Planning Advisory Commission held a public hearing to consider the proposal on November 21, 2016. No specific comments or amendments were made; and the Planning Commission unanimously voted to recommend approval to the Board of County Commissioners.

STATE ENVIRONMENT PROTECTION ACT (SEPA)

A SEPA checklist was prepared for this project. A formal SEPA Determinations of Non-Significance was made on September 23, 2016. Comment and appeal periods for these determinations closed on October 7, 2016. A copy of the SEPA Environmental Checklist is attached. One comment was received from the Department of Ecology Waste & Resources Office. A copy is attached.

PUBLIC NOTIFICATION

A list of interested parties has been maintained by staff to ensure that notifications of public meetings and comment periods are addressed specifically to those individuals. All public meeting notices will be mailed to all parties of interest and posted in accordance with MCC 15.07.030.



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SUMMARY AND RECOMMENDATION

Staff would recommend that the Planning Advisory Commission consider this proposal together with Staff's Report and public testimony, and recommend approval to the Board of County Commissioners.