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WHATCOM COUNTY COUNCIL
Planning and Development Committee

January 28, 2003

The meeting was called to order at 3:05 p.m. by Committee Chair Dan McShane in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

Present:

Seth Fleetwood
Laurie Caskey-Schreiber

Absent:

None

Also Present:

Barbara Brenner
L. Ward Nelson
Sharon Roy

SPECIAL ORDER OF BUSINESS

1. ELECTION OF COMMITTEE CHAIR (AB2003-023)

Caskey-Schreiber nominated Seth Fleetwood.

Motion carried unanimously.

COMMITTEE DISCUSSION AND RECOMMENDATION TO COUNCIL

5. RESOLUTION ADOPTING RECOMMENDATIONS FOR OPEN SPACE/OPEN SPACE AND OPEN SPACE TIMBER APPLICATIONS (AB2003-077)

Elizabeth Olson, Planner I, stated there are five applications for open space.

The first is the open space/open space application from Trillium Corporation and Foxglove LLC. The land is presently transferred into ownership by the City of Bellingham. It is almost 200 acres. There is not much information on what the City is going to do with the property other than hold it in the Lake Whatcom watershed. There is a trailhead off the north side of North Shore Road.

McShane asked if they would still be able to do timber harvests on this property. Olson stated they would not. The zoning is rural residential, two units per acre (RR2) and rural one unit per two acres (R2A), which relieves the possibility for developments in that area.

McShane moved approval of the Trillium Corp./Foxglove LLC application.

1 ***Motion carried unanimously.***
2

3 Olson stated the next application is for open space/timber from Maril
4 Solomon for 21.85 acres. The application deletes the development rights and will
5 put the property in safe keeping in the Lake Whatcom watershed. The zoning is
6 rural forestry. The designation will keep the natural resources.
7

8 Brenner asked why the owners want to transfer to open space/timber
9 designation if the property is already designated forest. Olson stated she doesn't
10 know. She has not gotten an answer from the City of Bellingham about why the
11 City is asking people to go from rural forestry into an open space taxation
12 designation. There could be a difference in the amount of taxes paid because
13 designated forestry is commercial forestry. It was a condition of the sale.
14

15 Fleetwood asked for an explanation of the application process. Olson
16 explained the application process. If the application is for open space/timber
17 designation, the owner has to have to have a timber management plan. If the
18 application is for open space/open space or open space/agriculture, the property
19 has to be evaluated with the public benefit rating system. From there, the
20 application goes to the Planning Commission and then County Council.
21

22 ***Caskey-Schreiber moved*** approval of the Solomon open space/timber
23 application.
24

25 ***Motion carried unanimously.***
26

27 Olson stated the next application is a transfer from open space/agriculture to
28 open space/timber from Judith Tapley. This property is on the west side of the
29 creek that runs through the property. The remaining property includes the house,
30 outbuildings, a pasture, and a very large growth of trees. The forest timber
31 management plan is correct.
32

33 Caskey-Schreiber asked if there are any minimum requirements for open
34 space/timber approval. Olson stated a minimum acreage is five acres that are
35 totally treed.
36

37 Roy asked why this would "most likely" prevent any timber harvest in the
38 future. Olson stated they are able to selectively clear timber right now. New laws
39 are being changed on conservation stream buffering, so that ability might change.
40

41 Roy asked who makes that determination if the applicant wants to selectively
42 log the parcel. She's concerned about the creek.
43

44 Caskey-Schreiber stated the owner would have to get a logging permit
45 through the State Department of Natural Resources.
46

47 ***Caskey-Schreiber moved*** of the Tapley open space/timber approval.

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Motion carried unanimously.

Olson stated the next application is the open space/timber continuance from Singleton/Colwater Temple. The property is above the Mount Baker Highway. The timber management plan is correct.

Brenner asked what it means to be in continuance. Olson stated the continuance is of the open space/timber designation. This is an application that was done many years ago. Before 1995, there was no need for a timber management plan. Now, when the property is sold, she will go through the new process of asking for a timber management plan. Before the property was designated for open space/timber, the zoning was commercial forestry. This was done before the Comprehensive Plan in 1990. In the early 1970's, when they applied for a timber management plan, they had some form of clearing and house there. It's just a continuance, but with a timber management plan, which the Council is approving.

McShane moved of the Singleton/Colwater Temple approval.

Motion carried unanimously.

Olson stated the last application is for open space/timber from John Sand. The property was designated open space/timber in 1976 or 1977. During a change of ownership, she asked for a new timber management plan. They have a totally new timber management plan, which completes the file for this parcel.

Brenner stated it sounds like the owner doesn't have long-term timber plans if there are zoning change plans. She thought they were supposed to give credit to long-term commitment to timber use. Olson stated that is correct, except the property was already in open space/timber. They are not approving the open/space timber designation, only the new timber management plan.

John Sand, applicant, stated he questioned the word "will" in the report and asked that it say "may." His goal is not to change the use from forest. He doesn't think he will ever want to divide it. There are not many big pieces of land left in the county.

McShane moved approval of the Sand application.

Motion carried unanimously.

1. ORDINANCE AMENDING THE ECONOMICS CHAPTER OF THE WHATCOM COUNTY COMPREHENSIVE PLAN (AB2002-084S)

Sylvia Goodwin, Planning Division Manager, distributed a substitute ordinance from which they would work from today. This draft reflects the changes

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1 the Planning and Development Committee made to the Planning Commission
2 version earlier. It is not new material. It is what they discussed and decided on in
3 committee. It reflects all the Planning Committee's changes plus three additional
4 changes recommended by Councilmember Roy.
5

6 The first change Councilmember Roy recommended was on page 7-1, "1.
7 Maintenance of a strong **sustainable** economic base."

8
9 **McShane moved** to amend on page 7-1, "1. Maintenance of a strong
10 **sustainable** economic base."

11
12 **Motion carried unanimously.**
13

14 Goodwin stated the next change suggested by Councilmember Roy is to the
15 Diversified Economy section of the Issues, Goals, and Policies on page 7-5, "...A
16 fundamental aspect of **"qualify of life" characteristics** this is a strong..." This refers
17 to a survey regarding the top strengths that attract business to Whatcom County.
18

19 **McShane moved** to amend the Diversified Economy section of the Issues,
20 Goals, and Policies on page 7-5, "...A fundamental aspect of **"qualify of life"**
21 **characteristics** this is a strong..."
22

23 Nelson asked if there is a definition for the term "quality of life." Goodwin
24 stated there is none that she is aware of.
25

26 **Motion carried unanimously.**
27

28 Goodwin stated the third suggested change from Councilmember Roy is to
29 page 7-6, adding a paragraph in the Diversified Economy section of the Issues,
30 Goals, and Policies, "This difference may partly be due to the relatively high share
31 of Whatcom County's population being college/graduate students who may be
32 working part-time. In a presentation of local economic factors by Western
33 Washington University's Center for Economic and Business Research, it was
34 reported that over 10% of Whatcom County's population is enrolled in a college or
35 graduate school program, compared with a statewide average of only 6%."
36

37 Nelson asked where this statistic comes from. It doesn't explain why the
38 wages are so low in rural Whatcom County.
39

40 Caskey-Schreiber stated these numbers are from the 2000 census, which
41 applied to all county residents. The 10,000 students figured into the census data
42 significantly impact the wages.
43

44 Nelson stated he doesn't disagree with the overall figures. However, he
45 expects the city to be higher than what it is, if that is the case. He has trouble
46 speculating, and would not support this language.
47

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1 Steve Jilk, Sustainable Economic Development, stated the best thing to do is
2 check the accuracy of the statement and provide accurate numbers in rural county
3 versus Bellingham.
4

5 Roy stated some of the economic information in the packet seemed dated.
6 This was her attempt to insert some of the latest information.
7

8 Caskey-Schreiber stated revising the economic chapter was done before they
9 attended the seminar.
10

11 **McShane moved** to amend page 7-6 added paragraph, adding a paragraph
12 in the Diversified Economy section of the Issues, Goals, and Policies, "This
13 difference may partly be due to the relatively high share of Whatcom County's
14 population being college/graduate students who may be working part-time. In a
15 presentation of local economic factors by Western Washington University's Center
16 for Economic and Business Research, it was reported that over 10% of Whatcom
17 County's population is enrolled in a college or graduate school program, compared
18 with a statewide average of only 6%." Councilmember Nelson's comments are
19 equally valid.
20

21 Goodwin stated this is an annual process and they can add more next year if
22 they don't get it all this year.
23

24 Goodwin stated Growth Management Act (GMA) requirements on page 7-2
25 have been changed, so she updated that section of the chapter.
26

27 **Motion carried unanimously.**
28

29 **McShane moved** approval of the language changes to page 7-2 regarding
30 the GMA requirements.
31

32 **Motion carried unanimously.**
33

34 Goodwin stated Steve Jilk provided a list of minor amendments. Most have
35 merit, but they are not written up. They are briefly outlined.
36

37 Nancy *Unidentified speaker* stated some of the changes are changes in
38 nomenclature. One change is on page 7-8 in the middle of the page, "In 1998,
39 through the enactment of state legislation, ~~Whatcom County established in it's~~ the
40 boundaries of the Water Resource Inventory Area No. 1 (WRIA), were established.
41 which This developed caucuses representing various stakeholders designated to
42 address, through local government, their water resource planning needs from a
43 watershed perspective."
44

45 Goodwin stated staff would write up these suggestions.
46

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1 **McShane moved** to amend page 7-8 in the middle of the page, "In 1998,
2 through the enactment of state legislation, ~~Whatcom County established in it's the~~
3 boundaries **of the** Water Resource Inventory Area No. 1 (WRIA), **were established.**
4 which **This** developed caucuses representing various stakeholders designated to
5 address, through local government, their water resource **planning** needs from a
6 watershed perspective."

7
8 **Motion carried unanimously.**
9

10 Jilk stated there should be a reference in goal 7C to the transportation group.
11 This group is supposed to undertake the effort of integrating land use planning,
12 transportation planning, and economic development planning. He would bring
13 forward in writing the rest of their recommendations at the evening meeting.
14

15 Rich Emerson, Building Industry Association (BIA), stated he read the
16 version of the economics chapter that is in the Council packet. He will make three
17 points.
18

19 *(Clerk's Note: End of tape one, side A.)*
20

21 Emerson continued to state that the first point is that there is not a sense of
22 the importance of affordable housing reflected in this report. There is mention of
23 affordable housing. The plan talks about the many partnerships to work on
24 economic development. There is not a mention of the housing industry.
25

26 When the Partnership for a Sustainable Economy held it's recent meeting, it
27 was mentioned that eight percent of the people employed in this county are in
28 construction. That should be reflected as an important part of the overall economic
29 picture of Whatcom County. There has been a concerted effort, now a requirement
30 by the State, to include an economic chapter in the Growth Management Plan.
31 Since economic development has been mentioned with some importance, he wants
32 to be assured that the Council adheres to this chapter and all other requirements of
33 the Growth Management Act when it approves this chapter.
34

35 He read the components of economic developed as stated in the proposed
36 chapter. He asked the Council to consider who will maintain a strong economic
37 base, who will see that there is good diversification of the local economy, who
38 coordinates job training and educational opportunities in the county, and who will
39 be responsible for creating and maintaining a range of family wage jobs. He asked
40 whom the County Council would hear from to get a business perspective.
41

42 Caskey-Schreiber stated she is worried that Whatcom County is reflected a
43 national trend where construction is strong, which correlates to the lower interest
44 rates. Whether or not that is sustainable is a question of what happens when the
45 interest rates rise. That might have to be incorporated in the chapter. Something
46 would have to be included about why the construction is having a great year.
47

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1 McShane stated there may be differing views on how to solve that problem.
2 In the past, Whatcom County's economy was bad, but it was inexpensive to live
3 here. They have to take into consideration that, regardless of economic
4 development, those days are gone. Housing is going to cost more. The way that
5 will be addressed is not necessarily through economic development.
6

7 Emerson stated Sumas is a town that is hungry. They want people to build
8 affordable homes there. It is a struggle in Bellingham. In Sumas, it is a different
9 story. What is happening in Bellingham isn't what is happening in the rest of the
10 county.
11

12 Bob Wiesen, 3314 Douglas Road, Ferndale, stated he has worked on this
13 issue for many issues, beginning with the Jobs Based Economy. The County needs
14 to make this work. When making decisions, each decision will have an effect. He
15 has not seen anything in ten years that has been helpful for any of these issues.
16 Every issue chips away at affordable housing and the ability to create a job. When
17 the Council approves something like this, it needs to question how to implement
18 and facilitate the items in this document.
19

20 **McShane moved** to recommend the substitute ordinance to the full Council
21 as amended.
22

23 **Motion carried unanimously.**
24

25 **2. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY**
26 **COMPREHENSIVE PLAN MAP FROM LONG TERM PLANNING AREA**
27 **(LTPA) TO SHORT TERM PLANNING AREA (STPA) FOR 90 ACRES IN**
28 **THE BIRCH BAY URBAN GROWTH AREA (2002-396)**
29

30 Sylvia Goodwin, Planning Division Manager, stated the Planning Commission
31 and staff recommend approval. In a long term planning area, a property cannot
32 have sewer and the density is limited to one house per five acres. As a short term
33 planning area, it can connect to public sewer and develop at a density of four
34 houses per acre. It has been zoned urban residential, four units per acre (UR-4)
35 since at least 1987. The property meets all the criteria for converting to a short
36 term planning area. The Planning Commission and staff recommend approval. The
37 changed conditions include an increase in population growth in Birch Bay. The City
38 of Blaine and Birch Bay Water and Sewer District now can provide water for this
39 area. A new sewer line from the Birch Bay sewer plant to Arco, will allow sewer for
40 this area. The property sits on Grandview and Whitehorn, which are both county
41 arterial roads that can accommodate the traffic. It also has access to natural gas,
42 telephone, and cable television. They recently updated the Birch Bay Community
43 Plan, although it hasn't been adopted, which included a lot of the planning to show
44 there is infrastructure available to serve the area.
45

46 Fleetwood asked if the Birch Bay Community Plan and Birch Bay Subarea
47 plan are the same. Goodwin stated the existing plan is the Birch Bay Subarea Plan,

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1 which was done in 1987. The Birch Bay Community Plan includes a smaller area,
2 just the Birch Bay urban growth area. It is still a draft plan.
3

4 Roy stated this proposal is consistent with the draft community plan. The
5 community steering committee members working on this project went over all of
6 these things. This zoning is consistent with steering committee recommendation.
7

8 Caskey-Schreiber asked the process to get the Blaine School District involved
9 in collecting impact fees. The upzones are having a negative impact on the
10 schools. Goodwin stated the County now collects impact fees for the Bellingham
11 School District. They can do the same for the Blaine School District. The Blaine
12 School District has always been well funded and has never asked for impact fees.
13 The Blaine School District understands the process. It is also aware of the upzones
14 the County has done recently. The school district representatives have participated
15 in a number of the meetings.
16

17 McShane stated he is setting up a meeting with the Meridian School District
18 superintendent to help get the documents needed. He supports getting the word
19 out to the schools about this issue. He asked how if this particular item would be
20 impacted one way or another. Goodwin stated the draft community plan
21 recommends that they do away with the concept of short-term and long-term
22 urban growth areas. Make the entire area a short-term planning area. The original
23 theory for the long-term growth area was because the urban growth areas were
24 oversized back then.
25

26 McShane asked if the language about the sewer line extension to Arco not
27 being for residential development was a reference to residential development
28 outside the urban growth area. Goodwin stated she believed that is correct. The
29 rest of it is not zoned for residential development. It was an extension to the Birch
30 Bay Water and Sewer District service area. This area was already within that
31 service area.
32

33 Roy stated that the language in policy 2N1-5 should be stronger. It should
34 require the establishment of advisory committees for each unincorporated
35 residential/recreation urban growth area. Now may not be the time to make that
36 change. Goodwin stated that is a good suggestion. They would not have to wait
37 until they make a Comprehensive Plan amendment. The Council could go ahead
38 and establish the committee. They've already got the Sudden Valley Property
39 Owners Association, the Birch Bay Steering Committee, and there is a lot of interest
40 from Kendall. This is strong enough wording to encourage it. She's been working
41 with all the committees.
42

43 Roy stated that is another discussion they are going to have with the
44 administration to overview all the advisory committees.
45

46 Caskey-Schreiber asked when implementation of houses would happen if the
47 Council approves this.

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1
2 Ken Hertz, Malibu Associates, stated he hasn't gone through a subdivision
3 effort yet. He intends to do a study this year. This project has been in the works
4 for 18 years. He put together a plan, based on one done previously.
5

6 Caskey-Schreiber stated she is concerned that people moving into this area
7 are aware of the potential British Petroleum (BP) co-gen plant, which will be really
8 loud. She hoped the project moves along fast enough so the new residents can be
9 part of this process. Hertz stated they would like to get a plan this year. An
10 archaeological site is near the area. The wetlands are delineated. There are 131
11 lots out of 90 acres, which averages three-quarters of an acre per lot. Fifty acres
12 of wetlands will be set aside. The lots will be from 8,000 to 15,000 square feet in
13 size.
14

15 Brenner asked the kind of tree retention program they will have. Hertz
16 stated they would leave the trees, but they will take care of some problems with
17 trees in the wetlands falling on the houses. The wetland area abuts the Birch Bay
18 Sewer and Water District and the State Park. The Coast Millennium trail runs
19 through the area.
20

21 Roy asked if the shoreline rules would apply. Hertz stated the project is far
22 enough away that the shoreline rules would not apply.
23

24 Fleetwood stated there is a UR-4 designation. There are also Comprehensive
25 Plan goals and policies to reduce sprawl. Given the population and growth rate,
26 they can estimate how long it would be before the urban growth areas are filled.
27 There will be additional requests to expand the UGA. That is sprawl in the long-
28 term. They can't have it both ways. Development has to either go up or out. He
29 asked how the UR-4 zone is chosen and why the urban growth areas don't require
30 more density. He wants more density. Hertz stated the zoning of Birch Bay
31 doesn't matter. They are getting one lot per three-quarters of an acre for most of
32 the land in Birch Bay. The wetland constrictions will control most of the growth out
33 there. There are natural controls that would apply.
34

35 Roy stated she is also concerned about impacts to schools and law
36 enforcement. They've just added 300 to 400 homes out there in the last couple of
37 months. She asked how the County is supposed to get the deputies out there.
38 Goodwin stated that before this goes forward as a subdivision, there would be State
39 Environmental Protection Act (SEPA) review and a chance for the school to
40 comment. The school could request impact fees, or the Hearing Examiner could
41 impose impact fees as a SEPA mitigation measure.
42

43 ***McShane moved*** to recommend approval.
44

45 ***Motion carried unanimously.***
46

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1 **3. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING**
2 **MAP FROM NEIGHBORHOOD COMMERCIAL (NC) TO TOURIST**
3 **COMMERCIAL (TC) FOR .7 ACRES IN THE LAKE WHATCOM**
4 **WATERSHED (AB2002-453)**
5

6 Sylvia Goodwin, Planning Division Manager, stated this is a rezone of .7 acres
7 at Blue Canyon Road and Park Road. The Park Store occupies the location. It is
8 now a repair shop that services motorcycles and sells parts, neighborhood
9 convenience items, and some groceries. She gave a background on this issue.

10
11 Phillip J. Buri, Brett and Daughert, stated this is the end result of a long
12 negotiation. There is a concomitant agreement. It is not accurate that there is a
13 repair shop. The store has a loyal customer base of motorcyclists.

14
15 *(Clerk's Note: End of tape one, side B.)*
16

17 Phillip continued to state that the Planning Department is concerned about
18 motorcycle repairs happening on the site, which might threaten the watershed.
19 The concomitant agreement addresses any concerns that there might be any
20 activity at the Park Zone, according to the rezone regulations, that there would be
21 any harm to the watershed. He read paragraph three of the concomitant
22 agreement. This is a recorded agreement that runs with the land. It allows the
23 Park Store to operate while still preserving the lake. The use of the property will
24 become a tourist hub for the southern end of the lake. Once the bike path is
25 complete, the Park Store will become a natural destination for everyone who uses
26 that end of the lake.

27
28 Fleetwood asked what remedy the County would have to enforce a breach of
29 the agreement. Buri stated there would first be a violation of the zoning code
30 under the Lake Whatcom overlay. The concomitant agreement would be the same
31 as any kind of zoning requirement. After this long experience, Bob and Shelly do
32 not ever want to get involved again with the enforcement provisions of the County.
33 This rezone allows Bob and Shelly to continue their business without the fear of the
34 County reinterpreting the zoning code.

35
36 Fleetwood stated some community members are of the opinion that pollution
37 has emanated from that site and mechanical work has occurred. He asked what
38 accounts for that. Buri stated he's heard those concerns. The shop is set up so
39 there would never be any release of any fluids. If there is any repair that requires
40 more than just bolting on some parts, the repair is done outside the watershed at
41 another facility. With this rezone and the concomitant agreement, it is clear that
42 nothing happens at the repair shop that comes close to an engine repair. He
43 assured the Council that any rumors of repairs are over with.

44
45 McShane asked where the alternate repair facility is located.
46

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1 Bob Van Houten, The Park Store owner, stated the facility is located in the
2 Sedro Woolley/Burlington area.
3

4 McShane asked if Mr. Van Houten has specific information on where the
5 property is located. Van Houten stated that location has been available to him, but
6 he has not used it. It is an agreement he has with another shop. During the last
7 three years, he's done everything to convince his customers that he will not do any
8 repair work. He's found out that he is doing quite well selling parts, accessories,
9 and clothing. Ten percent of his gross income comes from labor. Most of that labor
10 is to install parts and accessories that do not involve harming the watershed or
11 releasing fluids. There have been rumors of that happening, but there has never
12 been any proof of it.
13

14 Caskey-Schreiber asked if there is still a recycled oil container. Van Houten
15 stated he's never had one.
16

17 Caskey-Schreiber asked if he has an oil container. Van Houten stated he
18 does not have a container for recycled oil.
19

20 Caskey-Schreiber stated that a memo from Councilmember Brenner
21 references an approved recycled oil container that allows people in the area to drop
22 off used oil. Van Houten stated that was a proposed service that never happened
23 due to the concerns of individuals.
24

25 Caskey-Schreiber asked if there is a hydraulic lift on the premises. Van
26 Houten stated they are air lifts, not hydraulic lifts.
27

28 Caskey-Schreiber stated a memo from Building Services Division Manager
29 Sam Ryan concerns her. Ms. Ryan went to the Park Store and found various
30 motorcycles in a state of repair. She read the memo into the record. She also
31 found out that Mr. Van Houten did not get any permits for the remodel. Her
32 biggest concern is that there is not a history of adhering to the law. She asked why
33 they should believe that Mr. Van Houten would agree to this concomitant
34 agreement. Van Houten stated Ms. Ryan's statement doesn't imply that any
35 mechanical work was going on or that any motorcycles were disassembled. She
36 saw motorcycles parked in the back. At that time, Park Road was in disrepair, and
37 people parked in the back of the store. He obtained permits for the building
38 restoration. A garage was added to the building. During the actual physical
39 restoration of the inside, they did not throw anything away. They sanded floors,
40 painted walls, and replaced windows. According to the Building and Codes Division,
41 he did not need permits to do that. He has not been cited for a violation. He has
42 not violated any rules and regulations.
43

44 Caskey-Schreiber stated Ms. Ryan told her today that there has never been
45 any permit on record of their remodel. The building was updated and renovated.
46 Van Houten stated that unless the structure of the building is altered, a permit is

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1 not required. He takes great offense to the implication that he skirted the law and
2 is untrustworthy.

3
4 Caskey-Schreiber stated she is looking at the entire history. When the Van
5 Houtens first applied for a rezone in 1990, they were going to put in a restaurant.
6 She asked how they got from that to where they are today. Van Houten stated
7 they had to have a conditional use permit, which he never applied for. The County
8 planned to develop over 90 acres at the end of Lake Whatcom into a County park.
9 That is mentioned in the original concomitant agreement.

10
11 Caskey-Schreiber stated there was not a commitment to develop a park.
12 Van Houten stated it was in the staff report. The store was to become a destination
13 for hikers and bikers.

14
15 Caskey-Schreiber stated that was not a contingency on the restaurant plan.
16 Van Houten stated it was.

17
18 Brenner stated the Hearing Examiner talked about there being a problem
19 with having a restaurant because the park was never developed.

20
21 Caskey-Schreiber stated the restaurant was proposed originally to serve the
22 32 neighbors of the area, according to the memo. Van Houten stated it was to
23 serve a seating capacity of 32 people. They were worried about parking.

24
25 Caskey-Schreiber read from a letter from Mr. Van Houten to Dan Taylor in
26 March of 1990. In that letter, Mr. Van Houten proposed to operate a restaurant
27 that would serve 32 people in the area. She's trying to figure out how they got
28 from a small restaurant to where they are today. When she looked at the store
29 website a year ago, it advertised mechanical services. Van Houten stated he took a
30 historic building that was in considerable disrepair. He spent a great deal of the
31 time with the County to come up with a plan to restore the building. He didn't
32 know that there would be a park there. The Planning Division told him they would
33 put a park there, and that the store would be a great destination point. He applied
34 for a conditional use for a restaurant, but the park never happened. He and his
35 wife got involved in the retail side of the motorcycle business to take advantage of
36 the traffic on the road. He is an engineer by trade, not a motorcycle mechanic. He
37 wants a business that can use the Park Store. He sells clothing, shoes, and
38 jewelry. He has \$65,000 worth of inventory in the store.

39
40 Fleetwood stated he's heard a concern from others about bands of
41 motorcycles driving through. He asked how often large groups of motorcycles are
42 parked outside the shop. Van Houten stated it's a weekend thing. His absence will
43 not stop the traffic on the road. It is a beautiful road. He is amicable with his
44 neighbors. He always asked the neighbors if they have concerns, and they have
45 not expressed any. They are happy to see the store operating and support the
46 store. There is not an uproar of neighborhood concern. He has declined to sell
47 cigarettes and alcohol from his store on the request of his neighbors.

1
2 Rita Foley, South Lake Whatcom, stated the store was illegal to start with.
3 Mr. Buri does not tell the truth. The store sells everything from small parts up to
4 entire motorcycles and trailers used to haul the motorcycles. Park Road is
5 collapsing and caving in. There was never a lot of traffic on Park Road. There have
6 never been motorcycles coming down South Bay Drive. The owners said they
7 would create a restaurant in 1990. She and the neighbors agreed with that. The
8 owners never even tried to open a restaurant. She has not seen any neighbors
9 hanging out there. The owners have changed oil and done repair work. She is sick
10 of the lies and innuendoes. The store is specific in what it deals with. She asked
11 how that could be considered for the tourist commercial zone. No one goes to the
12 store except bikers. They only have .7 an acre, no waterfront property, and a
13 creek that runs under the porch in which the Engineering Division installed asphalt
14 over. Her tax dollars paid for that blacktop. That place is loaded with motorcycle
15 stuff. They never tried to open a restaurant or convenience store. They have been
16 illegal most of the time. The motorcycles are beautiful, but they are very noisy.
17 This is not the place for that kind of business.

18
19 Bob Wiesen, 3314 Douglas Road, stated he visited the store. The store
20 wasn't just all motorcycles. The building is an old building that needed fixing up.
21 These owners thought they could start a restaurant because a park would be
22 developed, but the park wasn't developed. The owners came up with something
23 that works.

24
25 Buri stated that if the concern is that nothing illegal is going on at the Park
26 Store, the most effective way to do that is to approve the revised concomitant
27 agreement. Have this concomitant agreement as part of the law.

28
29 **McShane moved** to recommend scheduling a public hearing. If the Council
30 is going to deny the request, it has to have a public hearing to do so. He has some
31 concerns about changing the zoning. The intent has always been to create a
32 neighborhood commercial establishment at that location. It has come down to
33 what the owners can and cannot sell at the store. This is an issue that may go to
34 Superior Court.

35
36 Roy asked what the Council has decided on this issue.

37
38 McShane stated there was an appeal of the Hearing Examiner's decision.
39 The Council voted to overturn a portion of the Hearing Examiner's interpretation of
40 the code. The last time the Council voted on this was when it was brought forward
41 by a councilmember to docket as a zoning item, which failed. Since then, the
42 applicant has come forward with a zoning application. If the Council wants to
43 overturn the Hearing Examiner's decision, it must hold a public hearing to do so.

44
45 Fleetwood stated he is against the motion. There has been a lot of public
46 process already. They've received many written comments. It's difficult to see
47 how that could do anything more than create a zoo-like atmosphere.

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1
2 McShane stated that if they don't have a public hearing, the Council could
3 only vote to accept the Hearing Examiner's recommendation for approval.
4

5 ***Motion carried 2-1 with Fleetwood opposed.***
6

7 ***Fleetwood moved*** to recommend approval of the rezone to the full Council.
8 The reason for being opposed to this has been the allegation that there is pollution
9 going into the lake. He has not seen any evidence that there is pollution going into
10 Lake Whatcom. He concurred with the staff report and Hearing Examiner.
11

12 ***Motion failed 1-2 with Fleetwood in favor.***
13

14 **4. ORDINANCE AMENDING THE WHATCOM COUNTY COMPREHENSIVE**
15 **PLAN TO ADD 12 ACRES TO THE FERNDAL URBAN GROWTH AREA**
16 **(OLSON/NELLES SITE) (AB2002-084D)**
17

18 ***McShane moved*** to recommend approval to the full Council.
19

20 ***Motion carried unanimously.***
21
22

23 **COMMITTEE DISCUSSION**
24

25 **1. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING**
26 **ORDINANCE, TITLE 20, CHAPTER 20.71 – WATER RESOURCE**
27 **PROTECTION OVERLAY DISTRICT, CHAPTER 20.80 –**
28 **SUPPLEMENTARY REQUIREMENTS (STORMWATER AND CLEARING),**
29 **CHAPTER 20.85 – PLANNED UNIT DEVELOPMENTS, AND CHAPTER**
30 **20.97 – DEFINITIONS TO PROVIDE ADDITIONAL REGULATORY**
31 **PROTECTION FOR SENSITIVE WATERSHEDS (AB2002-222B)**
32

33 This item was held in committee for two weeks.
34
35

36 **OTHER BUSINESS**
37

38 There was no other business.
39
40

41 **ADJOURN**
42

43 The meeting adjourned at 5:15 p.m.
44
45

46 _____
47 Jill Nixon, Minutes Transcription

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ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

Dana Brown-Davis, Council Clerk

Seth Fleetwood, Committee Chair