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WHATCOM COUNTY COUNCIL
Planning and Development Committee

January 13, 2004

Committee Chair Seth Fleetwood called the meeting to order at 3:10 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

Present:

Dan McShane
Laurie Caskey-Schreiber

Absent:

None

Also Present:

Barbara Brenner
L. Ward Nelson
Sam Crawford
Sharon Roy

**COMMITTEE DISCUSSION AND RECOMMENDATION TO COUNCIL –
COMPREHENSIVE PLAN**

1. ORDINANCE AMENDING THE LAND USE CHAPTER OF THE WHATCOM COUNTY COMPREHENSIVE PLAN (CHAPTER 2), WHICH INCLUDES RURAL LANDS (AB2003-075E)

Matt Aamot, Senior Planner, submitted the changes the committee made to the chapter so far. On page 2-6 of the substitute version with the committee's changes, there is a question about the amended language of goal 2A from the last committee meeting. He asked if the committee previously amended goal 2A, "Ensure provision of sufficient land **and densities** to accommodate...."

Caskey-Schreiber stated she wrote new language for the first sentence of the last paragraph of the background summary on page 2-6. An adequate supply of land is not something they can always provide. She read the language, "It is important to ~~provide~~ **assess the demand and supply of land zoned for various types of uses to meet the economic needs of the county, as well as utilize this information to guide policy decisions regarding land use.**"

McShane stated goal 2A should include the term "and densities."

Fleetwood stated he liked the language that Councilmember Caskey-Schreiber wrote.

Dan Warner, 3854 Squalicum Lake Road, Bellingham, stated he read the proposal to tout this place as a tourist attraction. They will get people who come here and see that this is a nice place to live, which will increase the population.

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1 The only way to keep that growth in check is to develop benchmarks for quality in
2 the community. A representative from the Washington State Office of Financial
3 Management said it comes down to how soon they want Washington State to look
4 like California. They don't want that to happen. People say growth is inevitable.
5 He read from a letter he submitted (*on file*) regarding the concept of "learned
6 helplessness." Increased population does not decrease the unemployment rate.
7 They can get a lot of people working, but will not improve the overall economic
8 condition of the county.

9
10 Dennis Jones, 1487 Sudden Valley, stated there is a lot of support for
11 downzoning. They can do something about it. They've already done the Joint
12 Resolution regarding Lake Whatcom. The moratorium that's necessary is to
13 sustain Lake Whatcom water quality. There are 21 goals. Do buybacks and trades
14 and education. They have to do better. This is not tight enough, but he will
15 support it because they need it.

16
17 ***Caskey-Schreiber moved*** to amend the first sentence of the last
18 paragraph of the background summary on page 2-6, "It is important to provide
19 assess the demand and supply of land zoned for various types of uses to meet the
20 economic needs of the county, as well as utilize this information to guide policy
21 decisions regarding land use."

22
23 ***Motion carried unanimously.***

24
25 Brenner referenced Comprehensive Plan page 2-11, the paragraph under
26 policy 2D-7. Remove churches from the list of incompatible land uses. Someone
27 can build a church anywhere they want. If someone puts in a church, it shouldn't
28 preclude a use that would have been a good thing to have. Unlike some of the
29 other things, people don't generally live at churches. The way they site churches,
30 they could make it so nothing could be built anywhere.

31
32 ***Caskey-Schreiber moved*** to amend that paragraph on page 2-11,
33 "incompatible land uses may include...daycare, ~~churches~~, high occupancy
34 buildings..." She'd rather they locate in an unbuildable area than taking up prime
35 farmland.

36
37 Brenner stated they allow churches anywhere. It's hard enough to site an
38 airport. Churches shouldn't be a reason to not site an airport. Aamot stated this
39 language is regarding compatible land uses around an existing airport. The
40 concern is about new houses going in around an airport, and the owners then
41 begin to complain about the airport. That recommendation came from the State
42 Department of Transportation's aviation division. These are things that shouldn't
43 be sited near an airport.

44
45 ***Caskey-Schreiber withdrew the motion.***

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1 **McShane moved** to amend the last sentence in the paragraph above goal
2 2H, Property Rights, on Comprehensive Plan page 2-12, "Property owners whose
3 rights are **unduly** infringed upon should be compensated."
4

5 Caskey-Schreiber stated she agrees. It diffuses the clear expectation that a
6 property owner will be compensated if they have been infringed upon for anything.
7 It brings reason into the situation.
8

9 Nelson asked why the last sentence is in there at all.

10 Crawford stated the Comprehensive Plan is a general guideline by which
11 they make laws for land use.
12

13 Nelson stated that compensation is not typically determined by the County.
14
15

16 Crawford stated the framers of the County charter felt it was important
17 enough to put it in the County charter. He agreed with the motion because it more
18 closely reflects the language of the charter.
19

20 Nelson stated it is determined by a court, not the County agencies.
21

22 McShane stated it's not solely up to the courts. In terms of setting policy,
23 some people view property rights in a broader sense than others. It's useful for
24 the Council and County to have policies where they think about a higher level of
25 property rights that some people have in the community. Individual
26 councilmembers may disagree on whether or not something unduly infringes.
27

28 Fleetwood stated this sentence is not about the diminishing value of
29 property, but about the rights. There is a very large bundle of rights.
30

31 **Motion carried 2-1 with Fleetwood opposed.**
32

33 **Fleetwood moved** to delete the last sentence in the paragraph above goal
34 2H, Property Rights, on Comprehensive Plan page 2-12, "~~Property owners whose~~
35 ~~rights are unduly infringed upon should be compensated.~~"
36

37 Caskey-Schreiber stated she is against the motion. It is listed in the
38 charter. It is a goal to compensate someone whose value is taken away.
39

40 Fleetwood stated the language is about any effect on rights. If they do
41 anything to affect a right, a person is entitled to compensation according to this
42 language. If someone is legally entitled to compensation, a person should expect
43 the County to have policies that attempt to compensate them. However, this
44 sentence is about a property owners' rights being unduly infringed.
45

46 Brenner stated they're talking a lot about people who get downzoned and
47 losing the number of lots they are allowed. She asked about people who are

1 annexed into the city and zoning restrictions change. She asked if people like that
2 are compensated.

3
4 Fleetwood stated they compensate people when people are legally entitled
5 to compensation.

6
7 Caskey-Schreiber stated she would support the motion. It would always be
8 subjective.

9
10 Roy stated the language opens a can of worms. People are thinking of
11 value, not rights. It's one thing to unduly diminish the value of the land.
12 However, property rights is another thing.

13
14 ***Motion carried 2-1 with McShane opposed.***

15
16 ***Caskey-Schreiber moved*** to amend policy 2G-1, "Examine and improve
17 methods to notify affected property owners...." She's already worked on
18 notification changes. The change demonstrates the work they've already done.

19
20 McShane stated they need to look at the action item list to see if something
21 has already been done or if something needs to be done more. They can have an
22 action item that they continue to assess the process.

23
24 ***Motion carried 2-1 with McShane opposed.***

25
26 ***McShane*** asked how policy 2H-2 is affected by the elimination of the
27 sentence in the paragraph above. He ***moved*** to amend policy 2H-2, "...when rights
28 are unduly infringed upon." If they're going to reduce the amount of sprawl that
29 can occur in rural lands, they might have to deal with some pretty controversial
30 things. They want to be fair.

31
32 ***Motion carried unanimously.***

33
34 ***McShane moved*** to eliminate policy 2H-3.

35
36 Brenner stated she would like to keep language about offering voluntary
37 incentives for the reduction of property rights.

38
39 ***Motion carried unanimously.***

40
41 McShane stated they could reference voluntary incentives in policy 2H-2. To
42 a degree, this policy already addresses it, but it's not all-inclusive.

43
44 Fleetwood suggested Councilmember Brenner think of how to include
45 language about voluntary language, and they'll come back to it.
46

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1 **Caskey-Schreiber moved** to amend policy 2L-4, "Whenever possible and
2 where zoning is compatible, eExpand the rural economic base by supporting
3 natural resource, cottage, and...."

4
5 Brenner stated that "wherever possible" is redundant. Take that out.

6
7 (*Clerk's Note: End of tape one, side A.*)

8
9 Fleetwood stated the term "in appropriate regions" addresses the concern.

10
11 **Caskey-Schreiber withdrew her motion.**

12
13 **McShane moved** to amend policy 2L-4, "...light industry, forestry, fishing,
14 and agriculture, as well as...."

15
16 **Motion carried unanimously.**

17
18 Aamot stated the population numbers should be amended in the rural lands
19 background summary section, "The population growth for Whatcom County from
20 2000 to 2022 is projected to be 65,114 68,103 for a total 2022 population of
21 231,928 234,917. This represents an increase by approximately 7,070 4,328
22 people in the areas of Whatcom County...."

23
24 **The committee concurred to correct the population numbers.**

25
26 **McShane moved** to amend policy 2CC-2, "Adopt mandatory and incentive
27 programs...." The amendment gets to mandatory and voluntary programs.

28
29 **Motion carried unanimously.**

30
31 Brenner suggested they amend policy 2CC-6, "~~...on parcels 20 acres and~~
32 ~~larger~~ with Rural 5 acre...." They can still do cluster stuff on parcels smaller than
33 20 acres and still receive a benefit.

34
35 Caskey-Schreiber stated they're trying to discourage denser development
36 out there.

37
38 Brenner stated this is for already-existing lots of record where they either let
39 them have an estate or push the development together to have more wide open
40 space. They'll still make an enough of an imposition that there won't be
41 agricultural production.

42
43 Caskey-Schreiber asked if this has to do with the rural, one unit per five
44 acres (R5A) zone where, if they have the cluster, the homes would be closer to the
45 road.

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1 Kraig Olason, Senior Planner, stated mandatory clustering gets at areas
2 used for purposes other than just agricultural soils for clustering, to provide an
3 alternative to the five-acre McMansion type of development. This language reflects
4 the language in Title 20, strictly for properties 20 acres and larger. The idea was
5 that the reserve parcel needed to be at least 15 acres or more to be of any value.
6 Any remainder can have a variety of purposes other than agriculture.
7

8 McShane asked if there is some flexibility where someone could develop less
9 than 25 percent of the property. Olason stated there is. It can be a problem with
10 onsite septic and wells if there is a strange layout of lots or if there are wetlands.
11

12 **McShane moved** to amend policy 2CC-6, "...development to be clustered
13 on a maximum of 25 percent of the available land..."
14

15 ***Motion carried unanimously.***
16

17 Brenner stated there are times when less than 20 acres is still appropriate.
18 Olason stated they have problems with how the agricultural protection overlay
19 (APO) overlays the county. It's open space or agricultural soils. They end up with
20 a lot of arguments with people about whether or not the land is good farmland. If
21 the land is farmable, there is some limitation to how small the property can be and
22 still be meaningful. That's where the 20 acre specification comes up. If they
23 expand it to areas outside of the APO, and have mandatory clustering in
24 designated areas, than it wouldn't matter what the use is.
25

26 Brenner stated a property next to an agricultural land, less than 20 acres,
27 could still be part of the bigger agricultural land picture. These properties border
28 on other properties. It doesn't hurt anything to take out the 20 acre limit. Olason
29 stated the 20-acre limit establishes the threshold for when someone applies. They
30 could reduce the threshold. An agricultural program is different than open space.
31 The reserve area is valuable for open space.
32

33 Fleetwood stated this policy relates specifically on the APO.
34

35 Caskey-Schreiber referenced the language on page 2-69 in the Rural
36 Employment Opportunities section. Language in the second paragraph conflicts
37 with earlier policies about valuing the quiet, peaceful life.
38

39 McShane stated the paragraph is consistent with the Economic Chapter
40 when they talked about creating some jobs in the eastern part of the county.
41 Significant development has and will occur. It would be nice to have jobs in that
42 area.
43

44 Caskey-Schreiber stated she's wary of having residential communities that
45 might not want light industry locating right next to them. It may be better in areas
46 designated for population growing areas.
47

1 Fleetwood asked about the types of residential communities in the rural
2 areas. Aamot stated there are some non-conforming subdivisions in the eastern
3 part of the county. Part of the intent is to keep everyone from having to drive to
4 Bellingham. Provide those job opportunities out there.

5
6 Caskey-Schreiber stated it would be better if there was more definition of
7 the residential communities.

8
9 Goodwin stated there are designated unincorporated urban growth areas
10 and small towns throughout the county. There are some recreational subdivisions,
11 but most are seasonal recreational.

12
13 **Caskey-Schreiber moved** to amend the last sentence of the Rural
14 Employment Opportunities section on page 2-69, "The intent is to provide job
15 opportunities close to **unincorporated urban growth areas and small towns**
16 residential communities."

17
18 **Motion carried unanimously.**

19
20 Caskey-Schreiber referenced policy 2EE-4. Change and approve the
21 language they just approved regarding unincorporated urban growth areas and
22 small towns. Goodwin stated this is different. This is intended for cottage
23 industries throughout the agricultural zone that are compatible with an agricultural
24 or a forestry zone. It's not intended just for the small town nodes.

25
26 Aamot stated there is a provision in the rural zoning district to allow
27 resource-based industries. Language in this policy exists regarding locating near
28 small towns or crossroad commercial communities.

29
30 McShane stated the industries associated with those natural resources are
31 often at odds with the residents. Olason stated the industries are generally there
32 by a conditional use permit. The idea is to provide ways for people to do
33 something other than commute to town.

34
35 **McShane moved** to amend the Northeastern Towns section on page 2-71,
36 "...constrained by physical limitations. **Glacier is built in a flood, landslide, alluvial**
37 **fan, and volcanic hazard zone, and development of this area should be**
38 **discouraged.**" It should be noted to keep it in mind when they start talking about
39 recreational development in Glacier. He would like to call out this area specifically
40 because people don't realize how bad it is.

41
42 Caskey-Schreiber stated it sets up a conflict in this paragraph when they
43 talk about how important it is to have tourist industries in that area. They've just
44 adopted the Mt. Baker/Bellingham campaign.

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1 McShane stated they should not promote anything other than what is
2 already there. Don't increase the area that can be developed. This hazard is really
3 bad.

4
5 Roy asked if this hazard is in the entire area. There is a lot of land up there
6 where they can encourage development. Glacier is just one area.

7
8 McShane stated that's correct. There are other areas that may or may not
9 be vulnerable. Glacier is in the worst spot.

10
11 Fleetwood asked if there are provisions in the Comprehensive Plan that
12 specifically address concerns about building in places such as Glacier.

13
14 McShane stated the provisions aren't called out as well as they should be.

15
16 **Fleetwood suggested a friendly amendment** to amend the Northeastern
17 Towns section on page 2-71, "...constrained by physical limitations. For example,
18 Glacier is built in a flood, landslide, alluvial fan, and volcanic hazard zone, and
19 development of this area should be discouraged."

20
21 **McShane accepted the friendly amendment.**

22
23 **Motion carried unanimously.**

24
25 **McShane moved** to amend the end of The Central Communities section on
26 page 2-72, "...new rural industrial use provisions. Deming is located in a flood
27 plain, and development should be consistent with the County Flood Hazard
28 Reduction Program."

29
30 **Motion carried unanimously.**

31
32 **McShane moved** to amend the end of The Central Communities section on
33 page 2-72, "...Flood Hazard Reduction Program. Acme is situated in a flood hazard
34 and alluvial fan hazard area, and development should be consistent with the
35 Nooksack Flood Hazard Reduction Program and any alluvial fan hazard programs
36 associated with Jones Creek and other alluvial fans in the area." He did a geo-
37 technical test at the Acme Elementary School. It's underlain by alluvial fan debris
38 deposits.

39
40 **Motion carried unanimously.**

41
42 **McShane moved** to amend page 2-73, policy 2GG-2, "...of the present
43 service areas and natural hazard areas."

44
45 **McShane withdrew his motion.** It's confined to western towns. He's
46 probably getting too fired up about central and eastern areas.

47

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1 Caskey-Schreiber asked if Van Wyck Road is still zoned crossroads
2 commercial. Aamot stated these areas are designated on the Comprehensive Plan
3 map now.
4

5 Roy asked if there is a definition of how many businesses comprise a
6 crossroads commercial area. Aamot stated there is a definition, but it's not about
7 how many businesses they can include.
8

9 Roy asked if the intersection at Blaine Road and Birch Bay-Lynden Road is
10 crossroads commercial.
11

12 Sylvia Goodwin, Planning Division Manager, stated it is not. It's in an urban
13 growth area.
14

15 Aamot stated the definition of crossroads commercial is on chapter page 2-
16 90.
17

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

20 **Caskey-Schreiber moved** to add the language of policy 2EE-6 as policy
21 2HH-4 on page 2-74, "2HH-4: Ensure that business operations do not adversely
22 impact neighbors, compromise water quality and quantity, or infringe on
23 productive agricultural and forest land."
24

25 Fleetwood stated the location where the language currently exists influences
26 people living near crossroad commercial areas. It would still benefit people in
27 places such as Hinote's Corner.
28

29 Caskey-Schreiber stated she would be more comfortable with language
30 about not adversely impacting the area since they are prone to infill and can get
31 pretty dense.
32

33 Fleetwood stated there are all sorts of things one can do in a crossroads
34 commercial area, including things that would be bothersome to neighbors if right
35 next to a residential neighborhood. He asked if they are creating and asking for
36 contention.
37

38 Caskey-Schreiber stated they are not. It's guidance. It defines that this is
39 first and foremost a neighborhood area, not a commercial area. The policy is such
40 a good one that it is worth repeating.
41

42 Fleetwood asked if they presume there are certain appropriate uses in
43 crossroad commercial areas that affect a neighborhood.
44

45 McShane stated they designated crossroad commercial areas because they
46 already existed. It may be a good policy to not expand those zones at all.
47

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1 Caskey-Schreiber stated she agreed.

2
3 Fleetwood asked if it's inconsistent with policy 2HH-3.

4
5 McShane stated the idea would be to delete policy 2HH-3.

6
7 Caskey-Schreiber stated she agreed with the idea.

8
9 Fleetwood stated that's different than the motion. He asked if it will always
10 be the case that someone can't do something in a crossroad commercial area if it
11 adversely impacts neighbors. Olason stated the question is what is outright
12 permitted. Most of them are conditional use.

13
14 Aamot stated Hinote's Corner is zoned general commercial, which allows
15 quite a few outright permitted commercial uses.

16
17 Goodwin stated Nugent's Corner is also general commercial.

18
19 Caskey-Schreiber stated Hinote's Corner is surrounded by active agricultural
20 land. Nugent's Corner is surrounded by forest land. Olason stated part of the
21 rationale for policy 2HH-3 is to comply with areas of more intense rural
22 development. The question is how to establish the outer boundary. Expansion is
23 really infill.

24
25 Fleetwood asked if expansion is not geographic expansion, but infill. Olason
26 stated that's correct.

27
28 Caskey-Schreiber stated it is still increased.

29
30 Fleetwood suggested holding this motion in committee until the next
31 meeting, due to the time.

32
33 The committee concurred.

34
35 ***(Clerk's Note: this motion was not voted on.)***

36
37
38 **OTHER BUSINESS**

39
40 Hal Hart, Planning and Development Services Director, distributed the
41 Planning and Development Services Department annual report and monthly update
42 for December 2003 (*on file*). They've divided the report by subarea. The Planning
43 Commission had asked to receive information on which urban growth areas are
44 receiving the most growth. That information is in the report. They can see the
45 success and distribution of growth in those urban growth areas. The map is less
46 accurate than the table at this point. The report includes trend data. Birch Bay is
47 looking like the area of future production based on the subdivisions that are

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1 currently on the market. Another increasing trend is condominium development in
2 areas such as Birch Bay and Point Roberts. Up to three more projects are coming
3 up in the Birch Bay area. This is a county people want to vacation in or move to
4 right now.

5
6

7 **ADJOURN**

8
9

The meeting adjourned at 4:55 p.m.

10
11

12 Jill Nixon, Minutes Transcription

13
14

15 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

16
17
18
19

20 Dana Brown-Davis, Council Clerk

Seth Fleetwood, Committee Chair