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WHATCOM COUNTY COUNCIL
Planning and Development Committee

March 29, 2005

Committee Chair Seth Fleetwood called the meeting to order at 3:00 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

Present:

Barbara Brenner
Dan McShane

Absent:

None

Also Present:

Laurie Caskey-Schreiber

COMMITTEE DISCUSSION AND RECOMMENDATIONS TO COUNCIL

1. CONSIDERATION OF HEARING EXAMINER'S RECOMMENDATION ON PLANNED UNIT DEVELOPMENT "BAY CREST SOUTH" (PUD04-0002 AND LSS04-0013) AS PROPOSED BY APPLICANT JIJ CORPORATION (AB2005-153)

Brenner referenced item four of the recommendation. She asked the reason for the recommendation.

Bob Martin, Land Use Division Manager, gave background on the application. Transportation flow through the development includes the Millennium Trail, shown on the plat map. The lot sizes are small, to achieve densities required to retain the amount of appropriate open space. The small lot sizes do not accommodate accessory dwellings.

Brenner stated there are two kinds of accessory dwellings. This doesn't allow for attached accessory dwellings.

Sylvia Goodwin, Planning Division Manager, stated the code requires the plat to design for accessory dwelling units, if allowed. If not allowed, the plat isn't designed for accessory dwellings.

Brenner asked if the developer would have to request the accessory dwellings by including them on the plat. Goodwin stated that is correct. In this case, the developer did not request to be allowed accessory dwelling units.

McShane asked why they were unable to go to lot sizes smaller than the average of 5,583 square feet.

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1 Craig Parkinson, David Evans & Associates Engineer, stated the density is
2 based on net acreage, which is six units per acre (UR-6). The 3.97 is based on the
3 gross acreage available.
4

5 McShane stated the applicant could have requested smaller lot sizes.
6 Parkinson stated no minimum lot size is required.
7

8 McShane asked if it is a market force factor or a desire to not sell lots that
9 are as small. Parkinson stated the definition of small is a matter of opinion. The
10 underlying zone is 6,000 square feet if clustered and 8,000 square feet if not
11 clustered. This lot size is below even clustered lot sizes. He looked at the practical
12 minimum width for a single family home lot, which is 50 feet with five-yard
13 setbacks. The depth of the lot is a function of the wetland location. They must also
14 include road corridors. The lot sizes averaged out as that amount. The lot width
15 was the real parameter that limited the lot size. The decision was made early on
16 that this is the market they want to look at.
17

18 McShane asked if the decision on the lot sizes was partly due to market
19 factors. Parkinson stated the decision considered what would sell.
20

21 ***Brenner moved*** to recommend approval to the full Council.
22

23 Fleetwood stated a letter from the manager of the Birch Bay State Park, who
24 is also chair of the Trail Design Subcommittee, expressed a concern with the trail.
25 It constitutes a missing link in the trail design. Parkinson stated the original Bay
26 Crest project is across Jackson Road and Bay Road. One requirement of the project
27 was to improve the frontage of that project along Jackson Road and to widen the
28 shoulder of Jackson Road further to the north to Wood Ridge Road, across Terrell
29 Creek. That work has been done. The park manager believed full road widening
30 would occur beyond the frontage of the project, which was not a requirement.
31 After the Jackson Road shoulder north of the project was widened, it was
32 incorrectly striped. Since then, the concerns expressed in the letter have been
33 addressed. Trail connections will connect with the Coast Millennium Trail along the
34 bay, with a spur to Bay Horizon Park, Bay Crest North, and Bay Crest South.
35

36 Mary White, Engineering Technician III, indicated the trail paths on a map.
37 All the proposals include a six-foot wide shoulder along the frontage. There will be
38 a four-foot wide shoulder to Woodridge Avenue.
39

40 Caskey-Schreiber referenced the response of the Blaine School District
41 regarding school capacity. The staff summary of the school district's response
42 doesn't reflect the actual response received from the school district. Work with the
43 school district to develop a facilities plan, which it must have before it can ask for
44 an impact fee. The school is close to capacity now, and there is much more
45 development planned for Blaine.
46

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1 Sylvia Goodwin, Planning Division Manger, stated the school district is
2 working on a facilities plan now. The district has always felt like it wanted to keep
3 all schools centralized in Blaine. It resisted having a second school, but is looking
4 at the option now. She provided information to the school district on the proposed
5 subdivisions, houses, and the projections form the Birch Bay Subarea Plan. The
6 district is putting that information together to work on expansion plans for the
7 schools. The district is aware of the growth in Birch Bay and Blaine. The district is
8 working on expanding its facilities. The district has not ever been interested in
9 collecting impact fees before because it has a very good tax base with the Cherry
10 Point industries, and would rather get revenue through property taxes. That might
11 change with the new superintendent of the district. The County could work with all
12 school districts more proactively to encourage the districts to put together capital
13 facilities plans.
14

15 Caskey-Schreiber stated a condition is a cultural resource assessment of the
16 area. She asked how that works. Goodwin stated the Planning Department has a
17 general map of known sites. If a site is along the shoreline or if there are
18 suspected sites, an archeologist with known information checks for evidence. If
19 something is found, a further investigation is done. This requirement is in the
20 shoreline regulations.
21

22 Parkinson stated JIJ Corporation contracted with an archaeologist familiar
23 with the area. During excavation, someone will be watching the location for
24 cultural artifacts.
25

26 ***Motion carried unanimously.***
27

28 **2. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING**
29 **ORDINANCE, TITLE 20, CHAPTERS 20.37 – POINT ROBERTS**
30 **TRANSITIONAL ZONE (TZ) DISTRICT, 20.71 – WATER RESOURCE**
31 **PROTECTION OVERLAY DISTRICT, AND 20.97 – DEFINITIONS TO**
32 **CLARIFY REQUIREMENTS AND STANDARDS FOR CLUSTER**
33 **SUBDIVISIONS (AB2005-149)**
34

35 Amy Pederson, Planner II, submitted a memo (*on file*) and stated they are
36 looking at the cluster subdivision requirements. The primary difference with cluster
37 regulations in both zones is that the reserve areas are supposed to be permanent,
38 non-buildable reserve tracts. That wasn't clear enough to staff. Another issue with
39 the transitional zone is the requirements to get the rural residential, one unit per
40 acre (RR1) zone. In Point Roberts, there isn't an option for public sewer and the
41 options for a step facility and a community wastewater facility are proposed to be
42 stricken. As a result, one can't get to the RR1 density because none of the three
43 options can be done. The zone is stuck at rural, one unit per five acres (R5A). The
44 proposed ordinance is an attempt to remedy the situation. There is another issue
45 with on-site septic system and minimum lot size requirements. Staff scrubbed
46 many of the design standards. The biggest change in the transitional zone is there
47 is no longer a sliding scale for the open space reserve area. There is also a 20-foot

1 perimeter buffer to provide separation between neighboring cluster developments.
2 The number of allowed lots in a cluster division is reduced from 16 to 10 to be more
3 in character with development occurring in Point Roberts. There is an 80-foot
4 separation between clusters.
5

6 Brenner asked why they should care if the clusters are separated by 80 feet
7 if the clusters are in the same development, as referenced in subsection
8 20.37.310(8). Pederson stated the intent is to not have one subdivision on top of
9 another where they end up with a giant, sprawling subdivision.
10

11 Brenner stated she wouldn't want to see that happen. It could be remedied
12 by looking at it before anything happens. In some cases, clustering close together
13 in the same development might be a good thing. Pederson stated the 80-foot
14 separation would be the remedy to address that issue up front.
15

16 Brenner stated allow an exemption in the same development if the open
17 space requirements are still met and there won't be wall-to-wall development. The
18 developer could stagger the development, or it might change hands. It may never
19 happen, but it's possible. Pederson stated there may be more latitude, depending
20 on the plat approval process that the plat goes through. One could get a variance
21 from that requirement.
22

23 **McShane moved** to recommend approval to the full council, with staff's
24 suggested language changes in the memo dated March 29, 2005 regarding
25 proposed amendments to the Planning Commission recommendation for Council
26 consideration, numbers one through three.
27

28 ***Motion carried unanimously.***
29

30 Fleetwood stated there was a comment about citizens in Point Roberts not
31 being aware of this ordinance. He asked if there is a reason to believe people will
32 claim that the Council didn't follow process and the citizens weren't informed.
33

34 Sylvia Goodwin, Planning Division Manager, stated staff notified quite a few
35 people in Point Roberts of the proposed changes. The proposed changes are not
36 very significant. Not many residents went to the Planning Commission public
37 hearing. After the Planning Commission hearing, it made considerable changes. If
38 the residents had known about the Planning Commission's changes, more would
39 have attended. The most significant change is requiring dedicated public access to
40 the shoreline any time a new shoreline development is proposed, which will have an
41 impact on the Lily Point property when it is developed.
42

43 Fleetwood asked if citizens are still working on ways to protect Lily Point, or if
44 it is getting to be too late to take up that issue, given the fact that it might
45 subdivide into many lots. Goodwin stated it is almost already too late. Lily Point is
46 a \$10 million property. The County doesn't have the resources to acquire that
47 property. Many people want Lily Point set aside as a park or public open space.

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1 There are very steep eroding bluffs. It would be a dangerous place to develop
2 close to a shoreline. There is a heavily used trail that goes through the area that
3 people think is public, but it's private land. This proposal would require that public
4 access be dedicated through the project. That is one way to address the problem.
5 Acquiring the property would be ideal if someone had the money. Because the
6 landowners are no longer working together, the County is less likely to see one
7 large planned unit development (PUD) project and more likely to see a series of
8 smaller plats. This ordinance would require that an access be dedicated through
9 the area. As part of the development, it's reasonable that a property of this size
10 with this heavy public use would have dedicated public access through it. The
11 County Parks and Recreation Open Space plan is looking at that property. It will
12 take quite a few different funding sources to acquire a property that large and
13 valuable. It's possible for the County to acquire a part of the property or restrict
14 the property through the Shoreline Management Program and critical areas
15 ordinance. Restrictions are needed along the steep bluffs. People with houses up
16 there now are desperately trying to keep the bank from eroding.

17
18 **3. ORDINANCE AMENDING THE TEXT OF THE RESIDENTIAL RURAL,**
19 **RURAL AND RESORT COMMERCIAL ZONING DISTRICTS AND THE**
20 **DEFINITION OF "PUBLIC WATER" IN THE OFFICIAL WHATCOM**
21 **COUNTY ZONING ORDINANCE (TITLE 20) (AB2005-151)**
22

23 Matt Aamot, Senior Planner, stated the proposed amendment addresses four
24 items:

- 25 1. Density and lot size when one does not have public water,
- 26 2. Sewer in the residential rural zone,
- 27 3. Cluster bonuses in the rural zone, and
- 28 4. Definition of public water.

29
30 The property has five-acre density. Whatcom County Land Division
31 regulations were amended to require that a public water system serve each short-
32 and long-plat when dividing land. An exception allowed private wells if the lots
33 were at least five acres or if the lots were clustered at a density of one dwelling per
34 five acres. That is in Title 21, the land division regulations.

35
36 During the process of developing Title 21 amendments, the Health
37 Department expressed concerns about multiple private wells. Public systems have
38 ongoing monitoring and testing. Private systems do not. The land division
39 regulations were amended to require public water unless the density was one
40 dwelling per five acres. However, the residential rural, rural, and resort commercial
41 zoning districts allow land divisions that create greater densities without the public
42 water. Staff identified a conflict between Title 21 and the land division rules. Staff
43 proposes this amendment to make the rules consistent.

44
45 The second issue is public sewer in residential rural (RR) zone. Most RR
46 zones are in rural areas outside urban growth areas (UGA's). The Growth
47 Management Act (GMA) generally discourages public sewer in these areas, with

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1 exceptions. Two UGA's currently have residential rural zoning, which are
2 Bellingham and Lynden. Bellingham is now doing the urban fringe subarea plan
3 update. The Planning Department will recommend higher densities in place of the
4 RR zoning. In the city of Lynden, the City does not extend sewer outside the city
5 limits, so it's not an issue. Staff recommends eliminating the reference to sewer in
6 the RR zoning text to bring greater consistency with GMA.

7
8 The third is cluster bonuses. The rural zone contains text referencing a
9 density bonus if one clusters. The statement has become obsolete. The Hearings
10 Board invalidated cluster bonuses in rural areas in 1996. The County Council
11 removed the cluster bonus schedule from the zoning code in 1998. This text should
12 have been removed at that time.

13
14 The fourth issue is the definition of public water. The Health Department
15 indicated the definition in the zoning code is no longer valid because it references a
16 Washington Administrative Code (WAC) that has been repealed and replaced. Staff
17 recommends a new definition of public water consistent with State rules.

18
19 Last, the Health Department reference must be updated in Whatcom County
20 Code section 20.64.260 to remove the reference to Bellingham

21
22 **McShane moved** to amend WCC 20.64.260, "~~Bellingham~~ Whatcom County
23 health department."

24
25 **Motion carried unanimously.**

26
27 **McShane moved** to recommend approval as amended to the full Council, as
28 amended.

29
30 Brenner stated she agrees with all changes except one. Small acreage
31 zoning should be allowed to have a private well. By approving this change, they
32 will eliminate most rural residential zoning. Aamot stated a public water system
33 includes a group B well, with additional monitoring and testing requirements. One
34 doesn't have to have a water association or water district to qualify for public
35 water. A group B well, which is like a shared well, is allowed.

36
37 Brenner stated that fact changes her mind.

38
39 **Motion carried unanimously.**

40
41
42 **OTHER BUSINESS**

43
44 There is no other business.

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1 **ADJOURN**

2
3 The meeting adjourned at 4:00 p.m.
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5

6
7 _____
8 Jill Nixon, Minutes Transcription
9

10 ATTEST:

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

11
12
13
14
15
16 _____
17 Dana Brown-Davis, Council Clerk

Seth Fleetwood, Committee Chair