

1 WHATCOM COUNTY COUNCIL
2 **Planning and Development Committee**
3

4 March 14, 2006
5

6 Committee Chair Seth Fleetwood called the meeting to order at 3:00 p.m. in the
7 Council Chambers, 311 Grand Avenue, Bellingham, Washington.
8

9 Present:

10 Barbara Brenner
11 Dan McShane
12

Absent:

None

13 Also Present:

14 Laurie Caskey-Schreiber
15 Carl Weimer
16
17

18 **COMMITTEE DISCUSSION ONLY**
19

20 **1. ORDINANCE ADOPTING A SHORT TERM PLANNING AREA ZONING OVERLAY**
21 **DESIGNATION IN THE FERNDALE UGA NORTH OF THORNTON ROAD**
22 **(AB2006-129)**
23

24 Matt Aamot, Senior Planner, stated the subject proposal is to rezone property from
25 a long-term planning area to a short-term planning area. This would allow the site to be
26 annexed into the city, served by public water and sewer, and developed at urban densities.
27 He indicated the location on a map. Surrounding the urban growth area (UGA) is rural
28 lands and agricultural lands. There is a site-specific rezone directly to the south and
29 another to the east. Rural land uses are to the north and west. The subject site abuts the
30 city limits.
31

32 A significant issue is the density of the proposed rezone. Whatcom County Code
33 (WCC) 20.90.051(4) says that it must be processed in accordance to the interlocal
34 agreement with the City concerning annexation and urban growth. The interlocal
35 agreement says the City agrees to adopt and maintain annex areas consistent with the
36 State Growth Management Act (GMA), City Comprehensive Plan, and policies of the County
37 Comprehensive Plan. The Comprehensive Plan goal 2P is to encourage Ferndale to
38 establish new residential developments of densities averaging six to eight units per net
39 residential acre. The Planning staff and Planning Commission recommend a condition to
40 implement the density conditions.
41

42 Countywide Planning Policy D3 says short- and long-term boundaries may be used
43 to facilitate the provision of urban levels of service and to not preclude urban densities as
44 defined by the County Comprehensive Plan. Implement the density goal of six dwellings
45 per net acre to make it urban in character with appropriate density after annexation, to
46 minimize the effect of the proposal on adjacent areas, to preserve rural and agricultural
47 uses, to preserve rural communities, to uphold the integrity of the County Comprehensive
48 Plan density goals, and to uphold the integrity of the interlocal agreement. He submitted a
49 copy of the interlocal agreement (*on file*).
50

51 Fleetwood asked how the application minimizes the effects and preserves rural
52 character. Aamot stated that if there is low density development in the UGA, eventually

1 they will have to expand the UGA into the rural areas even more. Meet density goals so
2 that doesn't happen as rapidly.

3
4 Caskey-Schreiber asked if the Comprehensive Plan prohibits using gross density,
5 since it speaks about net density. Aamot stated there are two policies. One policy is about
6 net density of six to eight dwelling units per acre. Another policy says density over three
7 dwelling units per acre, but doesn't specify net or gross density. Staff interpreted it as
8 gross density so that it will equal the first policy. Comprehensive Plan policies can be
9 amended to consider gross density. The Hearings Board has talked about net density. The
10 City of Ferndale finds net density harder to administer.

11
12 Brenner stated net density is harder to administer. The County does reference both
13 net and gross density. The County Planning Commission is talking about having less dense
14 development along the outer edge of a city, so there is not such a shock between urban
15 and rural areas. She's tired of using UGA's as dumping grounds for all the density. If the
16 City objects, consider an amendment to the Comprehensive Plan. People who live in and
17 just outside of the Bellingham UGAs have been very upset. Provide flexibility. The people
18 outside this UGA support a density lower than six to eight units per acre. The County
19 should allow flexibility and try to work with the cities as much as it can.

20
21 Tom Black, City of Ferndale Planning and Building Director, stated he supports the
22 staff recommendation. It's appropriate. Staff and the City object to the imposed condition
23 of higher density.

24
25 The City thinks it's inappropriate for the County to dictate to the City what it's
26 densities are within the city limits, as long as it is compliant with the Growth Management
27 Act, which the City is. The Supreme Court determined that the Growth Management
28 Hearings Board never had the right to establish the net density requirement. Deference
29 should be given to the City, not the County, about how dense the city will be.

30
31 The condition is based on the concept of long-term and short-term planning areas,
32 which the Growth Management Act doesn't require. The County established them
33 arbitrarily. Forty-seven percent of residential land in the short-term planning area is not
34 developable. The County Comprehensive Plan says that 90 percent of the UGA should be in
35 the short-term planning area. Ferndale has about 50 percent, not 90 percent, in the short-
36 term planning area. The short-term and long-term planning area boundary is bogus. Any
37 decision based on this concept can't be supported.

38
39 The County shouldn't make a suggestion into a requirement. County policy 2P talks
40 about encouraging development at that density. When this policy was developed, all the
41 small cities would have gone to battle with the County if the word "require" instead of
42 "encourage" were used. There was a specific intent to make it a suggestion, not a
43 requirement. Don't turn around now and make it a requirement.

44
45 The interlocal agreement and map don't reference long- and short-term planning
46 areas. The requirement would be in violation of the interlocal agreement, since they are
47 changing the rules established at the time this was signed. The property ought to be
48 rezoned as requested.

49
50 Brenner stated only one city said anything to the Council about the density levels.
51 Black stated the density numbers were discussed by the Growth Management Oversight
52 Committee. Their position at the time was that, since it was a suggestion, the exact
53 number wasn't that important. Units per net acre translates to a different figure from gross

1 acres. The Ferndale Comprehensive Plan designates most of the UGA as low density urban
2 residential, with three to six units per gross acre. It equals about four units per net acre.
3 Within the city limits, 25 percent of the land is designated as critical areas. The same is
4 true in the UGA. Overall, 75 percent of the land is developable.
5

6 Basing actual proposals on net acreage is a nightmare to administer. Someone has
7 to do an immense amount of work, which may include wetland delineations and project
8 designs, up front just to determine their net acreage. Development review shouldn't be
9 done that way. Require the least amount of money up front so people know if they can go
10 forward. Establish minimum densities using gross acres. Ferndale has not established
11 minimum densities yet. It is something the City needs to establish, not the County.
12

13 McShane asked when the short-term and long-term planning area lines were drawn.
14 Aamot stated they were drawn in 1997.
15

16 McShane stated they were in place when the interlocal agreement was signed in
17 1999. Black stated the previous planning director knew nothing about the short- and long-
18 term planning areas.
19

20 McShane asked if some of the land in the short-term planning areas is not
21 developable because of environmental constraints. Black stated that when the County
22 squared off the boundary, the land in the short-term planning area in the area to the south
23 included an area that is almost completely wetlands. In the short-term planning area,
24 about 357 acres out of 600 acres total are deemed to be un-developable due to critical
25 areas.
26

27 Brenner asked if properties were bisected by the short- and long-term boundary.
28 Black stated that is the case with this property.
29

30 Doug Robertson, applicant representative, submitted a letter from the Ferndale
31 School District on the issue (*on file*). This is not an agricultural area. The Friberg family
32 wants to develop this very similar to the Pacific Highland development, in excess of six
33 units per acre. They don't want to get involved in the density issue. However, they did say
34 it does support the rezone.
35

36 The staff report identifies certain factors that should be considered for adoption.
37 Policy 2S-1 is the list of factors that have to be fulfilled to change from long-term planning
38 areas to short-term planning areas. All the factors have been met.
39

40 Potential development in this area takes into account environmental constraints,
41 property that has already been developed, and property that is subject to development.
42 Almost all the property in this area is subject to environmental constraints or development.
43

44 There are two factors that make this rezone different from any other. First, when
45 the long- and short-term planning areas were set up, it divided the Friberg property. It has
46 made it impossible for the Friberg family to develop the property. He read policy 2A-11 in
47 the Comprehensive Plan.
48

49 Another difference is that this entire property is subject to a utility local
50 improvement district (ULID). The principal amount of the ULID is over \$150,000. The
51 ULID has obligated the Friberg property to pay for it. However, according to the policy, the
52 Friberg property can't use that water because water can't be extended into the long-term
53 planning area. They can't use the water, but they have to pay for it. The Friberg family

1 has entered a settlement agreement and developer's agreement with the City. Unless they
2 have it rezoned, they'll be paying all the ULID and interest on 50 acres they can't develop.

3
4 For those two reasons, the property should be added to the short-term planning
5 area. Once added, they will ask to be annexed into the City of Ferndale.

6
7 Fleetwood asked if the applicant is interested in a density close to what is
8 conditioned. Robertson stated the applicant doesn't want to get into the density argument,
9 but plans to develop at that density. They are not objecting to any density requirement of
10 six units per acre.

11
12 Jerry Landcastle, Ferndale Mayor, stated he supports the two previous speakers.
13 The long-term/short-term issues have been inherited by the current City Council. Little or
14 no discussion on the long-term and short-term planning areas was held with the cities.
15 When that information came to the forefront, the City was surprised to look at how the
16 map was created. The City is constrained by a great deal of wetland area and other
17 unbuildable areas, which are in the short-term planning area.

18
19 Fleetwood asked if the County Planning Commission and staff did not offer reasons
20 for the distinction between the short- and long-term planning areas countywide, or just for
21 Ferndale. Landcastle stated he is unaware that it was done countywide. It did not come to
22 the Planning Commission when he was on the Planning Commission.

23
24 Caskey-Schreiber asked if the City is committed to annexing the area if it is
25 developed. Landcastle stated they are. They do developer agreements for annexations.

26
27 **Brenner moved** to recommend approval to the full Council that the area be added
28 to the short-term planning area.

29
30 Caskey-Schreiber stated she appreciates Mr. Black's comments, but the County does
31 have the right to determine or negotiate UGA densities. The County is within its
32 jurisdiction.

33
34 Royce Buckingham, Senior Civil Deputy Prosecutor, stated that is correct. The
35 question brought up is what "encourage" means. This is one of the things the County is
36 doing to encourage an average density of six to eight units per acre across the UGA.

37
38 Brenner stated she asked at the time if a density of six to eight units per acre is
39 okay with the City of Ferndale. That's why she agreed to it. She asked what the City's
40 interactions were when the County came up with those numbers. Aamot stated the six to
41 eight units per acre was created in 1997. He will have someone research that question.

42
43 Brenner stated the comment was made that no one from the City was present, so it
44 was assumed to be okay.

45
46 McShane stated the Council increased the densities about a year ago for the City of
47 Bellingham, and left the small cities alone. Holbrook stated that is correct. Some of the
48 smaller cities testified at the Planning Commission.

49
50 **McShane** stated the densities in the UGA varies from city to city, with Bellingham
51 taking more density since it is the biggest city. The interlocal agreement talks about
52 minimum urban densities. The City of Ferndale agreed to the policies of the County
53 Comprehensive Plan. One could argue that the density requirement isn't enough. If the

1 average density is six to eight units per acre, and the short-term planning areas that exist
2 now won't accommodate that level of density, then the required density isn't enough. It's
3 a minimal recommendation from staff. He ***moved to amend*** the motion to add the six to
4 eight density condition as in Exhibit B.

5
6 Aamot stated this condition says how Whatcom County will act if the City does not
7 agree to the density of six to eight dwellings per acre. This condition says that the
8 annexation would go through. If the City doesn't agree, the County would not sign the
9 interlocal agreement and it would presumably invoke the jurisdiction of the Boundary
10 Review Board. The County would argue the case before the Board. Technically, this
11 doesn't impose anything on Ferndale.

12
13 *(Clerk's Note: End of tape one, side A.)*

14
15 Aamot stated the County can't dictate annexation to Ferndale. However, Exhibit B
16 provides the County a forum before the Boundary Review Board, which may or may not
17 rule in favor of the County.

18
19 McShane stated the UGA's are where they are supposed to provide housing. The
20 policy shows up in many areas of the Comprehensive Plan. His motion doesn't lock in the
21 density. It may not even be an issue, since the applicant plans to develop at that density
22 anyway. If cities grow out with really low densities, it undermines other County policies.
23 Whether the County has that future decision to allow the expansion of UGA's has become
24 an issue. It's important to have this in there. Staff came up with a good approach to doing
25 this.

26
27 Brenner stated she agrees with the logic, but it's not a big deal. It's dictatorial.
28 Don't dump all the density in the UGA. This doesn't matter, but it sets a precedent,
29 especially since the City has come to ask the County not to do this. The County has given
30 lower densities to other small cities. The County should acknowledge the City's wishes.

31
32 McShane stated the City agreed with the minimum urban densities and the policies
33 of the County Comprehensive Plan policies.

34
35 Fleetwood stated he respects the City's opinion, but the wishes of that one
36 jurisdiction isn't the only consideration. The County wants to respect their wishes, but
37 there is an effect from their policies that has a direct bearing on County policy. He asked
38 where the City's right to insist on certain densities ends and the County's right to maintain
39 a rural character begins. It's not clear. Certain densities increase the likelihood of
40 suburban sprawl in farmlands. That's what they're grappling with. The GMA and Hearings
41 Board identified minimal requirements, but nothing prohibits the County from imposing
42 additional requirements. He will support the motion to include Exhibit B.

43
44 Brenner stated she hasn't seen evidence that complying with the City's wish will
45 negatively effect the rural areas.

46
47 ***Motion to amend to include exhibit B carried 2-1 with Brenner opposed.***

48
49 ***Motion to recommend adoption as presented carried unanimously.***

50
51 *(Clerk's Note: The committee took a break from 3:57 p.m. to 4:02 p.m.)*

1 **2. RESOLUTION FOR REVIEW OF THE RURAL ZONES, AGRICULTURAL ZONES,**
2 **APO AREAS, AND RURAL FORESTRY ZONES (AB2006-133)**
3

4 Kraig Olason, Senior Planner, handed out information (*on file*) and stated he would
5 review the docketed items and other items on the work plan related to agriculture. He
6 would also talk about the resolution. Strategize about how to proceed. He read the list of
7 five docketed items and their purposes. He also created a list of items that are related to
8 agriculture on page two of his handout. He read and explained the list of items. Many of
9 these changes will change the way the County does business. Some of the items are
10 before the Planning Commission right now.
11

12 When they consider the resolution, consider how to move all the items on both lists
13 together. These items are actions and measures to get at objectives. His handout includes
14 a proposed outline for a process. Council needs to clarify the general purpose and the
15 objectives. He presented an example general purpose in the handout. It's pretty broad.
16 The objectives are more precise and measurable than the general purpose.
17

18 Try to be clear about what they expect. To do that, clarify the general purpose and
19 objectives up front. He presented example objectives in the handout.
20

21 Brenner asked the number of acres in the agricultural zone. Olason stated there are
22 88,000 acres, but that number doesn't include areas that are roads and rivers. The real
23 number is a lot less than 88,000 acres. That amount still falls short of the goal to protect
24 100,000 acres.
25

26 Brenner asked how much open space resource land can be achieved through
27 clustering. Olason stated one proposal is that the cluster include the footprint and roads.
28 They don't always protect 75 percent. The land protection may not be agricultural land. It
29 could be a wood lot. Think about whether there are other objectives.
30

31 McShane stated the agriculture protection overlay (APO) is a tool for saving
32 farmland, but it's not working that well. Maintaining rural character is also not working
33 well. Olason stated consider whether the APO could be applied to any non-urban
34 development. Every land use has value that is more manageable if in larger blocks.
35

36 Brenner asked if they've defined rural character. Olason stated defining it may be
37 difficult. They talked about it in the context of larger lots, larger areas, open space,
38 connectivity, and variety of use. As a lot size is reduced, character changes.
39

40 Her vision of rural character may not be the same as the vision of other people.
41 She fears they will end up legislating their own aesthetic instead of protecting the resource
42 lands. She doesn't have a clear picture of what rural is. Olason stated that is true. It's
43 partly about the land base. As the parcel size gets smaller, certain uses are less likely.
44

45 Brenner stated rural character can contain clusters of houses in rural communities.

46 Fleetwood stated they don't have a definition.

47 Olason stated it could be a part of the scope.
48

49 McShane stated add an objective to protect rural character, including the level of
50 service. There is a vast area with a tremendous amount of potential for build-out. Costs
51 are associated with that. For some people, living in the rural area means being
52
53

1 independent. They may not be keen on the amount of road improvements necessary for
2 that build-out. The amount of traffic on those roads can be more than rural.

3
4 Brenner stated she's not comfortable with that objective without a definition of
5 "rural character." Olason stated they could break down that objective to specific
6 characteristics, such as a variety of acreage and uses. Too many one-acre lots looks like a
7 subdivision.

8
9 Brenner stated it wouldn't look rural if a bunch of trees were planted to hide the
10 cluster.

11
12 Fleetwood asked if they are really asking to review level of service for
13 unincorporated Whatcom County. Olason stated they could look at scoping and
14 background studies.

15
16 Fleetwood asked if the example objective "a" means reducing subdivisions and
17 density potential. Olason stated his concept was that subdivisions try not to break up large
blocks. Reducing density could further that objective. Size is a part of rural character and
also the usability of the remainder parcel.

Fleetwood stated that if the Council agrees with the docket items, the items could
be objectives. Olason stated a more generalized program would have objectives that are
directives for the types of techniques they want to employ.

Fleetwood asked if the staff would present a work plan that gets the blessing of the
Executive, and then the Council would formally approve it. Olason stated that is one
scenario. He hopes that the staff can work with the Council to help the Council articulate
clearly what it wants. The resolution has a general tone. One idea was a focused effort
with the community.

Fleetwood asked if the Executive approves of this effort. Olason stated they talked
with the Executive about it this morning, but he has not seen the work plan, which was
done this afternoon.

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

40
41 Olason stated that when they talk about process, it's about how they are going to do
42 this and what sort of methods there are to get through the process. It might be valuable
43 to bring in a small group of people who represent the players to scope out exactly what
44 they want addressed. That's why it's important to get the general purpose objective clear.
45 He wants to know the range of options. Look at the methods they have if they want to
46 reduce density. Several proposals look at that.

47
48 Brenner stated this will be as far-reaching as any water issues the Council has dealt
49 with. She is not interested in setting up another independent committee that may or may
50 not be appointed. The County Council should be the scoping committee, collecting input
51 from everyone. The Council knows these people. Olason stated that is an option. Some
52 group has to be convened to work out the issues.

53
The bulleted items are subjects he thought they may want to look out. He read the
items. They can add other items to the list. Data collection is an area where staff needs
time, money, and expertise to make sure there are clear findings that the County can
support. His proposal suggests a scheme to involve the public and get the Council's

1 purpose out to the public. Whatever comes forward shouldn't be a surprise to the public.
2 He continued to read through the proposed process. Involve the decision-makers
3 regularly.
4

5 Administration is a big issue. This is a big project with a lot of implications. It
6 needs to be done right. He worked out an idea that includes dedicated, upper-level staff
7 with assistants. In addition, work out budgets and other details of a complete project.
8

9 Getting this done in 12 months will be short. The more public process that is done
10 before the decision should result in less process required after the decision. If all goes
11 well, it will take 18 to 24 months, if there is funding already. The proposed budget is
12 loose. He read through potential budget items. Meeting facilitation and data collection is
13 important. They may have to go through the State Environmental Protection Act (SEPA)
14 process, which could be expensive. Staff will be important in this process.
15

16 This process would be similar to the critical area or shoreline update processes. It
17 could be \$100,000 to \$200,000 per year, depending on the detail. This is the first
18 estimate.
19

20 Fleetwood stated this is a great start. He asked what staff would do if the
21 committee approves this today. Olason stated staff will talk with the administration about
22 this. They have a generic sense of where to go. The question he has is how much more
23 detail needs to be done before establishing a working process, including authorized staff
24 and a budget.
25

26 Brenner stated she is not ready to approve this today. She would like to go over it.
27 Olason stated he anticipated that his proposal would give the councilmembers something to
28 work with. They can change the details. They can set the general parameters of what they
29 want to look at and why they want to look at it. That information is important to take to
30 the administration.
31

32 Brenner stated she would like to take two weeks to set those general parameters.
33

34 McShane stated this came through with a resolution. He hasn't received any
35 comments on the resolution. It needs some help. Fold the general purpose statement into
36 the resolution. The actions lined out in the resolution equal six. They don't deviate from
37 anything the committee has talked about. They deal with the process issues. Add a "Now,
38 therefore, be it resolved" statement to approve this general scope of work. Olason stated
39 the resolution appears to put a lot of this on the Agricultural Advisory Committee. This is a
40 broader subject. Staff would work with a broader group that would report to the public and
41 elected officials. People representing uses other than agriculture would be included, such
42 as forestry. Much of the acreage isn't agriculture.
43

44 McShane stated they would have to define what the resource is in the different
45 areas. Olason stated that the forestland is zoned rural. There are tons of that kind of
46 acreage, even more than agriculture.
47

48 Fleetwood stated this work plan is an excellent start. He would like to see the
49 outline and resolution from the Council work together so the resolution comports to the
50 work plan. They are not ready to approve a work plan yet.
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McShane stated he agrees that the work plan and resolution should be consistent and give guidance. Think about it for a couple of weeks. He doesn't object to holding it for two weeks. Go ahead with docketing tonight.

Fleetwood stated this will be back in the Planning Committee in two weeks. He **moved** to hold this in committee for two weeks.

Motion carried unanimously.

OTHER BUSINESS

There was no other business.

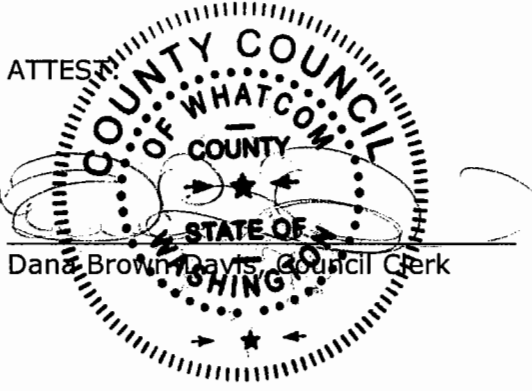
ADJOURN

The meeting adjourned at approximately 5:00 p.m.



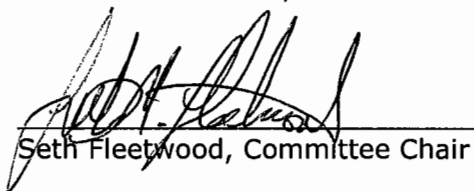
Jill Nixon, Minutes Transcription

ATTEST



Dana Brown Davis, Council Clerk

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON



Seth Fleetwood, Committee Chair