

WHATCOM COUNTY COUNCIL

Planning and Development Committee

March 28, 2006

Committee Chair Seth Fleetwood called the meeting to order at 3:03 p.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

Present:

Barbara Brenner
Dan McShane

Absent:

None

Also Present:

Carl Weimer
Sam Crawford

COMMITTEE DISCUSSION ONLY

2. CONSIDERATION OF HEARING EXAMINER'S RECOMMENDED APPROVAL OF A PLANNED UNIT DEVELOPMENT, FILED BY DENNIS SANDVIG FOR "BLUE HERON ESTATES" (PUD05-0009, LSS05-0015) (AB2006-152)

Martin Blackman, Land Use Supervisor and SEPA Official, stated Blue Heron Estates was previously the Padden Heights II development. Padden Heights II was cancelled. The owner sold a portion to Dick Skeers, who developed with a short-plat. Blue Heron estates is the remainder parcel of the original Padden Heights II property.

There are certain concerns with the request. Regarding the playground area, Mr. Sandvig agreed on a playground with maintenance shared by the plats. The County geologist testified there were no geological issues. There was some concern about soil flow, but it was just top soil, and erosion could easily be prevented. That is addressed in the engineering conditions. This would not exacerbate drainage issues at the Lake Padden I development. The trail issue is the most prominent issue. At one time, the applicant dedicated over six acres to the City Parks Department, which intended to hook up a trail that connected with a trail through Dick Skeers' short-plat. The Padden Heights residents felt that the topography is too steep and unsafe. Parks planning secures opportunity when they can get them. The park design was not formulated, but would be installed for neighborhood use, would be constructed safely, and would have an adequate parking surface. He did the State Environmental Protection Act (SEPA) review. The mitigated determination of non-significance (MDNS) conditions were about the open space requirements and open space connectivity. They are important elements of Comprehensive Plan goals.

Fleetwood asked if the resolution of the three issues is expressed in the findings from the Hearings Examiner. Blackman stated it is.

Fleetwood asked if the Council does not need to take addition action to remedy those concerns. Blackman stated that's correct. Traffic concerns have been expressed at times.

Brenner stated she has two concerns. This property borders on the City of Bellingham. Another concern is that the density is 2.6 units per acre. That is not an urban density. Density should be eight to 12 units per acre.

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2 Bob Tull, applicant attorney, stated the Comprehensive Plan goal is six to 12 units
3 per acre.
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5 Brenner asked why the Council would approve another low density development and
6 why this isn't being annexed. It's part of Bellingham's urban growth area (UGA) and is
7 right next to the City. They do not want to approve any more developments that can be,
8 but isn't, annexed because the County would have to provide stormwater management
9 according to new State and federal regulations.
10

11 Troy Holbrook, Planning Division Supervisor, stated that area is now zoned urban
12 residential, three units per acre (UR-3). It doesn't have a minimum density. This area, as
13 part of the subarea plan process, has been considered by both planning commissions. The
14 recommendation is for six to ten dwelling units per acre. However, this plat came in as
15 vested under the UR-3 zoning. A problem is that the County and City cannot move fast
16 enough through the subarea plan process, so this is a lost opportunity. When it was vested,
17 the developer already had an agreement for utility extensions with the city. The agreement
18 was done before the City's agreement for annexation, which is another lost opportunity.
19 The County wants to change those policies through the subarea plan process and interlocal
20 agreement. Create an annexation plan that has teeth.
21

22 Brenner stated she can't believe something is vested in a way that it can't be part of
23 the City. Vesting is only about conditions. Holbrook stated the agreement was already in
24 place. The County can't force annexation at this time. There isn't the policy or interlocal
25 agreement in place now to force annexation.
26

27 Tull stated all the lot owners in Padden Heights I were required to not protest
28 annexation. The current jurisdiction is Whatcom County. It has to make this decision and
29 follow the laws. Bellingham development standards will apply. The neighbors had two
30 concerns. One concern was drainage. The second concern was that the neighbors thought
31 this density was too dense. Mr. Sandvig had this project approved before the density
32 requirements. The neighbors insisted that a new application come forward. The owner,
33 rather than argue, submitted a new application. This matter is properly before the Council
34 at this time. The issue of concern is about when the County and Bellingham will refine it's
35 interlocal agreement, which is out of Mr. Sandvig's control. Mr. Sandvig entered into the
36 appropriate agreements with Bellingham and complied with the County's requirements.
37

38 Brenner stated she is shocked that the Council is battering the City of Ferndale about
39 density and the City of Ferndale density is higher than this. She thinks the density for this
40 project is fine. She really has a problem with the fact that it's not being annexed. In the
41 future, the County will have to do all the stormwater management. That is a big cost. Tull
42 stated the City is forging a significant amount of tax revenue from sales tax on construction
43 of the lots and homes and real estate excise tax.
44

45 McShane stated the Council's role is to check for any glaring errors. He asked if
46 there are any. Blackman stated there aren't any. The neighbors expressed a concern about
47 the easement and buffer behind three lots. They still leave sizeable lots. It's no problem to
48 readjust the smallest lots. It wouldn't create additional numbers of lots.
49

50 There were traffic concerns expressed, but the neighbors must accept that it is an
51 urban growth area that will grow.
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53 Last, there is a multi-family unit. The neighbors resisted having it there, but it's part
54 of the urban density. There is buffering between that multi-family parcel.

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McShane moved to recommend approval to the full Council. That zoning has been there for a while. It's a different situation from the Ferndale density, but it points out the need to consider urban densities.

Brenner stated she will support the motion. Ferndale's UR-3 zoning has been there for a long time, too.

Motion carried unanimously.

Tull stated the County staff did a very nice job on this project.

3. APPROVAL OF A PRELIMINARY LONG PLAT EXTENSION REQUEST FILED BY LOIS MEYERS (AB2006-153)

Fleetwood stated the applicant claims to be experiencing financial difficulties. Also, there has been a change in the Health Department regulations since the preliminary plat was approved, and it requires revisions.

Martin Blackman, Land Use Supervisor and SEPA Official, stated the preliminary plat approval was for ten single family lots and one remainder lot. After that approval, the Health Department rescinded its approval based on a court ruling that said only six lots could be created on a well system, and there is no vesting for that determination. There were two previously approved plats. Ms. Meyers requested a previous extension in March 2005. This second extension is based on financial hardship and the need to redesign the lots. The County code allows up to three one-year extensions for a variety of reasons.

The Engineering Division requests that the extension be approved, with the condition that the plat be developed to current development standards.

Brenner moved to recommend approval to the full Council.

McShane asked if the motion is to approve with the condition that development includes all current regulations.

Fleetwood stated the applicant is already subject to that condition.

Crawford asked the location.

McShane stated it is in the area of Smith Road and Mission Road.

Motion carried unanimously.

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

Troy Holbrook, Planning Division Supervisor, introduced the new Assistant Planning Director Dennis Rhodes.

Dennis Rhodes, Assistant Planning Director, discussed his background.

Kraig Olason, Senior Planner, stated the Council is considering a work plan. Develop specifics to provide staff greater clarity and direction on the work plan. There are a couple of additional handouts (*on file*).

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2 The first item on the handout is the program they have now. That program should
3 be ongoing and not disappear. The second item is one option for a standalone work
4 program, driven by consultants. The third item is a combination of items one and two, with
5 staff taking the lead on the work plan components.
6

7 A draft work plan was emailed to Councilmember McShane and looked like an option
8 for item three. It included the same components as the outline he provided at the last
9 committee meeting. It tried to articulate the purpose and background of a program.
10

11 Over the last two months, they've talked about how to introduce this to the
12 community in a way that provides a sense of the Council's purpose. Have a relaxed process
13 to initiate discussion.
14

15 Brenner asked if item three would also be a standalone program. Olason stated that
16 if item three is chosen, much of the Agricultural Advisory Committee work would focus on
17 this work plan. When done with that process, there will be a menu of items to use to meet
18 the objectives of protecting rural character and agriculture. Some of those programs would
19 be ongoing after they're done.
20

21 Brenner stated she understood that this process would include a diverse group from
22 the committee, more than just the Agricultural Advisory Committee. Olason stated the
23 Agricultural Advisory Committee would not be the central group working on this work plan,
24 but the committee would be focused on this issue. The working group would include other
25 groups of interest.
26

27 Brenner stated the working group should be the County Council. She can't take
28 ownership of something she isn't involved in. Olason stated the Council could play the role
29 of a scoping committee. The time this will take may overwhelm the Council. He suggests
30 that the Council get regular updates. It's up to the Council to decide.
31

32 Items one, two, and three on the timeline and budget estimate correlate with the
33 three items in the handout of the agricultural program options. He reviewed the timeline for
34 each option.
35

36 It would be his goal to help the Council be clear about the general purpose for the
37 work plan. The general purpose statement in the handout from two weeks ago (*on file*) is
38 his impression from past discussions. It's up to Council to decide what the general purpose
39 is.
40

41 Brenner added, "determine where changes are appropriate" and "give alternatives
42 and options of how they are going to get there." Everyone is so interested in this, so the
43 County could do a ballot measure. Don't fund it as a property tax. Have a levy specifically
44 for this. That will tell the County how serious people are about this.
45

46 Part of the objective is to determine alternatives, including downzoning with
47 compensation, design and development standards by which people can do different kinds of
48 clusters to allow for large areas of open space.
49

50 Fleetwood asked what staff needs today. Olason stated he would like to get clarity
51 on the goal and objectives first. When staff looks at the docket items, they are methods to
52 achieve the general purpose statement. They are talking about greater protection of
53 agricultural land through rezone proposals, additional soil protection, and clustering. They
54 looked at whether they should discuss methods before the scoping process and data

collection. Some methods may not work when they look at the data. The purpose of this exercise is to get clarity of the bracketed areas, and then agree on a process.

Holbrook stated not all the options are not included in the existing programs. For instance, they don't have a full-time staff person to work on agriculture.

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

Holbrook stated the options include additional dedicated personnel.

McShane stated they could easily get bogged down in figuring out process. Look at the goals of those docket items. The purpose is to preserve the County's natural resource land base, including agriculture and forestry. People have a variety of views on what that is about. His proposal was to push the review of the county's agricultural land. They've done some of that through the purchase of development rights (PDR) program. Think about it in terms of forestry, as well. In the 1940's, a lot of the land that is now forestry was farmland. He fears they will take on more than they are ready for. Concentrate on the purpose they already have in the Comprehensive Plan. The County is supposed to protect a certain amount of agricultural land. For now, concentrate on scoping and data collection. Council involvement would be helpful. Figure out the scope and identify tools. That would drive the following actions.

Figure out the administrative project supplemental budget. The Council is looking for the administration to decide how they are going to fund it. If funding has to be done through a supplemental budget, he would support it. If the Planning Department has to drop service levels a bit, he would support that, too. Someone should be dedicated to this and work on scoping to figure out where they are going, based on the Comprehensive Plan amendments and other ideas that have been discussed by the Agricultural Advisory Committee and Council's Natural Resources Committee.

Look at the methods to reduce density. Look at methods to reduce conversion and fragmentation of rural resource uses. Look at methods to protect open space from fragmentation. Ask if open space is important in non-agricultural areas. Look at methods to share protection costs between rural and urban areas. Identify areas that need protection for agriculture. Identify the forest areas they want to protect.

Go through the scoping process, then revisit the work plan. Touch base with the public as they move along. Then they may have a much better idea of the cost, because they can drop off certain things. He is a little concerned about going all the way out to 2008. In all likelihood, he will not be here in 2008. He would like to finish it by the end of 2007.

Olason stated all the information in the handout is to get the Council thinking about how to do this. Gathering information and evaluate methods is a good idea.

Brenner stated she disagrees with getting it done by 2007. The most important thing they have to end up with is general public trust and feeling of ownership. She would rather the councilmembers put every idea on the list, and then whittle down the work plan.

Crawford stated he likes the word "preservation" instead of "protection." If the Council can get to that level of agreement, he will support the concept. The councilmembers don't have to agree, but they all must understand what it is they're trying to do.

1 He doesn't know where they are going to get the money for these items. They may
2 have the money for it, but establish the work plan, first.
3

4 The scoping committee should maybe be different from the Agricultural Advisory
5 Committee or Agricultural Preservation Committee. It should include others besides the
6 Agricultural Advisory Committee members and Agricultural Preservation Committee
7 members.
8

9 McShane stated the Agricultural Advisory Committee doesn't have unanimity on
10 downzones. They are unanimous in providing an agricultural land base. There are different
11 ways to do that. The Council can use those groups for scoping assistance, while adding
12 representatives with other interests. As the Council scopes, it will figure out the process it
13 will need, how much consultant it will need, and how much ongoing staff it will need. If
14 they deviate too much from the Agricultural Advisory Committee, he will be concerned
15 because that committee is established as an action item to review the agricultural and rural
16 zoning designations. The Council may have to do a Comprehensive Plan amendment if it
17 changes that too much.
18

19 Crawford stated that in the definition of the purpose and objectives, get information
20 on farm gate value and recent U.S. Department of Agriculture (USDA) statistics. Put the
21 economic impact of agriculture in context with the economic contribution of other local
22 industries. Have good statistics on agriculture.
23

24 Brenner stated she is concerned about the Agricultural Advisory Committee process.
25 Recently, her recommendation for an alternative to a moratorium wasn't even discussed,
26 while the advisory committee supported another councilmember's recommendation for a
27 moratorium. She doesn't trust a committee when one councilmember's ideas are
28 recommended and another councilmember's ideas aren't even given the courtesy of a
29 discussion. She has a problem with that.
30

31 Weimer stated the Council sees this as a real priority. However, the discussions
32 about this every two weeks doesn't seem to be enough to accomplish anything. Have
33 something like the water resource inventory area (WRIA) process to get the scoping
34 underway.
35

36 McShane stated that is a good idea. The Council has done that with other issues. It
37 would show the administration that the Council is committed.
38

39 Fleetwood stated the committee direction seems to be to emphasize scoping and
40 data collecting. This item would be held in committee for two weeks.
41

42 Crawford suggested the full Council have a work session to brainstorm ideas. There
43 won't be consensus, but they will get an idea of general ideas and common concerns.
44

45 McShane stated that idea sounds like a scoping meeting. He's not comfortable going
46 through the entire outline now. Deal with the general purpose first. Don't worry too much
47 about the objectives. The next step is to do the scoping. Then, the Council will have a
48 clearer picture of where it's going. That is the purpose of having a resolution to define the
49 things that should be considered. A scoping meeting could determine whether or not the
50 Council wants to hire a consultant or leave it to administrative staff.
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52 Crawford stated the Council provides meeting facilitators for many things. This is an
53 important decision. The Council's methods for decision-making is dysfunctional in some
54 ways. Get a budget supplement for assistance to do this scoping meeting.

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McShane stated part of the scoping process could be to find out where they need a consultant. He suggested a general purpose statement, "preserve the county's agriculture, forestry, and natural resource land base while recognizing land values and property rights."

Brenner stated that after the general purpose statement, have professional assistance. There will be more diversity and input about objectives. Don't get bogged down. Do the objectives all together as a group, with a facilitator.

Hal Hart, Planning and Development Services Department Director, stated they are going to schedule a two- to four-hour block of time soon. He will get staff to facilitate that meeting. Then, he will know how to implement the docket. He needs to know which staff people should be at the scoping meeting.

Crawford stated the meeting should be a full Council work session.

Fleetwood stated the meeting should include the Agricultural Advisory Committee and the Agricultural Preservation Committee.

McShane stated the meeting should also include at least two foresters.

Brenner moved to recommend approval of McShane's suggested purpose statement, "Preserve the county's agriculture, forestry, and natural resource land base while recognizing land values and property rights."

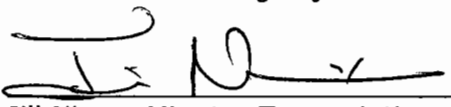
Motion carried unanimously.

OTHER BUSINESS

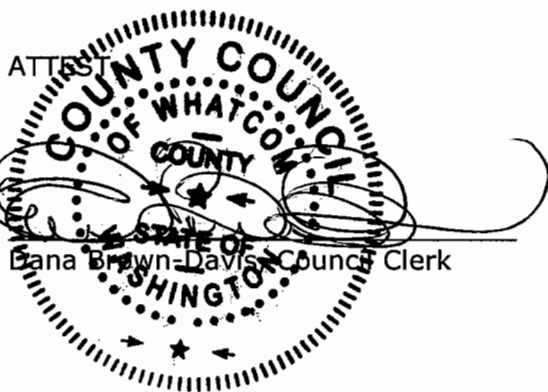
There was no other business.

ADJOURN

The meeting adjourned at 4:30 p.m.



Jill Nixon, Minutes Transcription

ATTEST

Dana Brown-Davis, Council Clerk

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON



Seth Fleetwood, Committee Chair