

WHATCOM COUNTY COUNCIL
Planning and Development Committee

April 25, 2006

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:
Carl Weimer
Sam Crawford

COMMITTEE DISCUSSION AND RECOMMENDATIONS TO COUNCIL

18
19
20 **3. CONSIDERATION OF THE HEARING EXAMINER'S RECOMMENDED APPROVAL**
21 **OF A PROPOSED PRELIMINARY LONG SUBDIVISION, PLANNED UNIT**
22 **DEVELOPMENT [AND SITE SPECIFIC REZONE] FOR "BLOMQUIST HEIGHTS,"**
23 **FILED BY DONALD LEAVITT (AB2006-186)**
24

25 Fleetwood stated this item was withdrawn from the agenda. It will be taken up on
26 May 9, 2006.
27

28
29 **1. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING MAP**
30 **FROM URBAN RESIDENTIAL (UR3) TO RURAL FIVE ACRE (R5A) FOR**
31 **APPROXIMATELY 44 ACRES SOUTH OF FERNDALE, IN THE CHERRY**
32 **POINT/FERNDALE SUBAREA (AB2006-184)**
33

34 Elizabeth Olsen, Planner II, stated this is a scrivener's error to a point. In the 1997
35 Comprehensive Plan, the area was designated as rural, but was left urban residential, three
36 units per acre (UR-3) on the zoning map. It is 44 acres, with six properties. About 19.5
37 acres are in open space/agriculture. All the properties are in the Federal Emergency
38 Management Agency (FEMA) flood plain. This is one reason why Ferndale does not wish to
39 put it in any short-term planning area. To the west and south is the recreation open space
40 Hovander Park. To the east is Tennant Lake. Two properties accessed from the east are
41 along a narrow, long road that is frequently flooded. The area is only served by water from
42 Ferndale. There is no sewer. The Comprehensive Plan designation of rural should be the
43 rural, one unit per five acres (R5A) zone on the zoning map. The land to the immediate
44 north in Ferndale is commercial. It is where the Hempler's meat plant will go. Other than
45 that, the area is extremely rural and should fit the R5A designation.
46

47 **Brenner** stated no one from the City addressed this issue when it was before the
48 Planning Commission. The area is very swampy, even in dry parts of the year. It's not in
49 the long-term urban growth area for Ferndale. This change would make it consistent with
50 the Comprehensive Plan. She **moved** to recommend approval to the full Council.
51

52 **Motion carried unanimously.**
53

1
2 **OTHER BUSINESS**
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4 Olsen stated the **consideration of Open Space/Open Space application filed by**
5 **Lois Van Winkle (AB2006-130A)** is being looked at slightly differently. They hope to get
6 a different monetary value. It is being tabled for now.
7

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9 **COMMITTEE DISCUSSION AND RECOMMENDATIONS TO COUNCIL**
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11 **2. RECEIPT OF PLANNING COMMISSION RECOMMENDATIONS REGARDING**
12 **REZONE OF LONG TERM PLANNING AREA TO SHORT TERM PLANNING AREA**
13 **IN THE FERNDALE URBAN GROWTH AREA ON THE WEST SIDE OF VISTA**
14 **DRIVE (AB2006-185)**
15

16 Matt Aamot, Senior Planner, stated the subject proposal is to change an area in the
17 Ferndale urban growth area (UGA) from long-term to short-term planning area. The site
18 could be annexed, served with urban sewer and water, and developed at urban densities.
19 He indicated the location and surrounding areas on a map.
20

21 The Planning Staff recommended approval, subject to a condition that the County
22 would enter into an interlocal agreement with the City of Ferndale for annexation of the
23 property and development at a density of six dwelling units per acre. The Planning
24 Commission recommended denial, as shown in findings 14 and 15. He read the findings.
25 Policy 2P is not satisfied. Goal 2S of the Comprehensive Plan is to prevent sprawl. The
26 Planning Commission felt that this leapfrogs over undeveloped land.
27

28 Fleetwood asked if staff's recommendation has changed. Aamot stated it has not.
29

30 McShane asked about the staff's recommended conditions in the staff report. Aamot
31 stated the condition is the same condition as the one staff recommended for the Friberg
32 site. Ferndale objects to the condition that the County will not approve or sign an
33 amendment to the interlocal agreement between the City and County concerning
34 annexation and development within the City of Ferndale UGA agreeing to annexation of the
35 subject properties, unless the amendment says that the City must require development at a
36 minimum of six units per net developable acre, and the average lot size shall not exceed
37 7,260 square feet.
38

39 Fleetwood referenced Comprehensive Plan goal 2S. He asked if it was the Planning
40 Commission's opinion that this area doesn't meet goal 2S, and it isn't adjacent to a
41 developed area. Aamot stated it was.
42

43 Fleetwood asked why staff didn't agree. Aamot stated it was a close call. There are
44 reasons to believe those neighboring areas will develop. This is an opportunity to provide
45 serviced land close to urban densities. The City of Ferndale concurred with the
46 recommendation of approval, just not the density.
47

48 Fleetwood asked if the owner is likely to develop at a density of at least six units per
49 acre.
50

51 John Harder, 6305 Vista Drive, stated he would like his property to be annexed. It
52 was stated that not many houses are close by. However, there are houses nearby. More
53 houses will be developed. They bought the property over 40 years ago. It's not farmland.

1 They held onto it for their retirement. The only way to retire is to sell the property to
2 someone who will build houses. If it's not annexed, it will sell in five acre pieces. Not being
3 annexed is more development trouble.
4

5 Fleetwood asked about the condition that the property be developed at six units per
6 acre. Harder stated people can live wherever they want to live. There will also have to be
7 houses that people can afford. Look at what's fair. He's lived there a long time and is
8 ready to retire.
9

10 Roberta Robertson, 6369 Vista Drive, stated she agrees with the previous speaker.
11 This is the time to develop and be annexed into the city. If they don't, they will have to sell
12 five-acre tracts. That's not very good so close to the city limits. Water and sewer will be
13 available. This is the time for development and annexation.
14

15 Bob Wiesen, 3314 Douglas Road, stated this is a good example of how the things
16 should work theoretically, but not practically. The option of subdividing into five-acre tracts
17 is not a good option. It will make the area much harder to accomplish urban density.
18 Around Ferndale, people are of the age to sell property they've held for many years.
19 Leapfrogging may be an issue, but the problem is that these property owners are ready to
20 sell. The closer property owners may not be ready to sell. It's much better to have too
21 large an urban growth area. Ferndale won't have a buildable land supply that it needs.
22 There will be impediments to get that supply it needs. There is a shortage of lots. When a
23 lot developer can raise the lot price by \$20,000 in a year, the City needs to make more land
24 available to develop. Have too much land available, not too little.
25

26 Brenner asked about the condition that the City require a density of six units per
27 acre instead of four units per acre. Wiesen stated the goal should be to try and get that
28 density, but don't hold these people hostage with the negotiation.
29

30 Brenner asked if the idea is that the Council should provide more and more land, but
31 shouldn't negotiate the density. Wiesen stated they should work with the City. However,
32 the people of the City don't want a bunch of lots. There are places where smaller lots are
33 appropriate. The City can find areas that have multiple units, so the average density overall
34 is six units per acre. No one is going to win, and the process will stop, by requiring the
35 density.
36

37 Tom Black, City of Ferndale Planning Director, stated the City commented on the
38 proposed rezones previously. Their position hasn't changed. The primary issue for the City
39 is self-determination, not the specific density. The community, not the County, should
40 decide density as long as the City meets the general parameters of the Growth Management
41 Act.
42

43 He provided a map of the area (*on file*). The minimum lot size is 8,500 square feet.
44 Some areas in the short-term planning area, which immediately abuts the subject property,
45 has a preliminary plat going before the Hearing Examiner soon. Another area has a
46 proposal for single family residences on 8,500 square-foot lots. It meets the City
47 Comprehensive Plan and zoning. That plan is appropriate, given the density that the
48 citizens want to see. The City has not addressed minimum densities or changed its zoning
49 to reflect those densities. They will go through that process in the next year or two. The
50 City should establish those densities.
51

52 The City has had no participation in the short-term planning area. The County
53 determined the area. There was no analysis to determine how much land was necessary. A

1 lot of land is in the long-term planning area. Forty seven percent of land in the short-term
2 planning area is un-developable because of critical areas. Of the remaining acreage, a
3 capacity of 750 units is projected. That is about four or five years of growth. That's very
4 short-term.
5

6 A recent Hearing Examiner decision on Blomquist Heights supports the idea that the
7 City decides where growth will go, as long as the Growth Management Act was satisfied.
8

9 The issue for Ferndale is self-determination. Let the citizens make their own
10 decisions. Their zoning is based on units per gross acre, not net acre. Their current zoning
11 conforms to the Growth Management Act. Approve the rezone, but don't include the
12 condition of a minimum density of six units per acre. That is a decision the City should
13 make.
14

15 Darryl Dewell, Remax Realtor, stated consider the physical characteristics of the
16 property to determine lot size. There have been no new developments in Whatcom County
17 that leaves 10,000 square feet available on a lot. The densities that the County Council has
18 an obligation to decide on severely impacts the lots that are built. There is a minimum
19 amount of wetlands on both properties. There is a large unusable draw in the property.
20 Vista Drive doesn't have sewer. The entire hill will require a gravity feed. Avoid pump
21 stations that overflow when there is a power outage. They can get gravity to flow from the
22 top of the hill down. It is natural, prime real estate to be developed into city lots, with
23 gravity flow and a City sewer system. Think closely about the size of the lots that should be
24 developed. It's a choice. They need infill densities to lower cost, but they must also
25 consider the human element.
26

27 McShane asked if this area would remain in the fringe of the city for 50 years.
28 Dewell stated it would not. That is right on the edge of development. Everything south is
29 already fully developed.
30

31 McShane asked if the city would continue to develop to the north. Dewell stated it
32 would.
33

34 Aamot stated there is a clustering provision in the long-term planning area. There
35 must be an 80 percent reserve tract. That would be better than five-acre tracts.
36

37 **McShane moved** to recommend to the full Council to schedule a public hearing to
38 grant the rezone with the condition that density be six to eight per net acre, as
39 recommended by County staff. The leapfrogging is a close call. Nearby property is planned
40 for development.
41

42 **Brenner** stated she supports the motion. Work with the people involved and the
43 City to come to a compromise, such as gross instead of net. This is an ideal place for the
44 development to go. Schools are in the area. All the jurisdictions should have the same
45 density imposed upon them. She **moved** to amend the motion to have a public hearing on
46 approval, with the condition that a density of six units per gross acre be applied. Black
47 stated the concern of the small cities was that the density be encouraged, not required.
48 The cities were also concerned about using net, not gross, density. The small cities don't
49 object to the density units used. Units per gross acre is more dense than units per net acre.
50

51 Brenner stated she doesn't understand why they require net acres in some places
52 and gross acres in other places. Take into account the natural impediment to the lands.
53 She asked if the City and County could work something out if that density works for the

1 owners and developers. She is uncomfortable with the County dictating City zoning. Black
2 stated the question is what is required. That density could be achieved if the developer
3 comes up with a plan. The City doesn't have a problem with that.

4
5 *(Clerk's Note: End of tape one, side A.)*
6

7 Black continued to state that the City is not prepared to establish a minimum
8 density.
9

10 McShane stated it is the County's jurisdiction right now. This is a power issue. It
11 has nothing to do with what is right or wrong. It has everything to do with one entity
12 feeling out of control. The County has to plan for the entire county. He's sorry the City
13 might resent that. The fact is that the County has no promise from Ferndale or other cities
14 to meet the density goals. There is no insurance from the cities, so this is the County's only
15 option. Without that option, the Hearing Examiner will agree with the City's position,
16 because that's what the zoning would require. This is the County's only opportunity to have
17 assurance. If the City wants to come up with some other mechanism to meet the County's
18 standards that would provide the County some assurance, the County and City can work a
19 lot better together. Without that assurance, there will be low density development. The
20 market forces will cause that to happen.
21

22 Black stated he agreed it is an issue of self determination with the City. In
23 establishing those numbers, be realistic about what the community desires. If the people
24 don't want smaller lots, they won't buy them and live there. That changes the entire
25 community. The policy is to encourage these densities. Ferndale has been encouraging
26 those densities. The City is talking about changing policies to allow high density mixed uses
27 downtown. The City is taking steps to densify the community. The City does object to the
28 County when it assigns an arbitrary number and says it will encourage those densities, and
29 then turns around and requires those densities. There is a difference between encouraging
30 someone and requiring someone to do something.
31

32 McShane stated that if the County has assurance that the City will meet those overall
33 density requirements, it is willing to work with the City. Black stated the community is a
34 long way from reaching consensus on what the density should be. The Growth Management
35 Act says the city must develop to an urban density. At some point, the Hearings Board
36 determined that urban density is four units per net acre, but that has been thrown out.
37 They don't know what that density is. All they have is a County policy that encourages a
38 density of six to eight units per acre. Nothing tells them what the City must do. The City
39 would like to work with the County on an agreement that will have to be in general, not
40 project-by-project. It will be a balancing act. They can't do an analysis of a short-term
41 planning area, and say that the adjacent area isn't dense enough when it's the result of 30
42 years of development at a lower density. Those areas aren't going to redevelop to smaller
43 lots.
44

45 McShane stated he disagrees. His experience is otherwise. Black stated they don't
46 want to encourage sprawl in the urban growth area, but within the city limits and short-
47 term planning area, allowing a parcel to remain undeveloped could be considered as
48 promoting sprawl. Someone on the fringe can hold the rest of the area hostage if they
49 don't allow properties to develop around it. That doesn't make a lot of sense, when the
50 property is in the middle of the city. Sometimes, the pressure of other people nearby
51 developing encourages other parcels closer in to develop.
52

1 **Brenner amended her motion** and moved to amend that the density be
2 encouraged, not required.

3
4 Fleetwood asked why staff wrote the requirement. Aamot stated there is an
5 interlocal agreement between the City and County. One section in the agreement is about
6 minimum urban densities being consistent with the State and County policies. The
7 ordinance refers to a section of the interlocal agreement about annexation planning.
8 Annexations are to be adopted and consistent with County policies. One finding is to ensure
9 densities. Another finding is to ensure that cities have adopted mechanisms to encourage
10 densities at desired levels.

11
12 The actual condition indicates how the County will handle the interlocal agreement.
13 The County would not sign the interlocal agreement unless this provision is included, which
14 implements the 1999 interlocal agreement. If the County doesn't sign it, the Boundary
15 Review Board will mediate the issue. The condition acknowledges the forum to deal with
16 the issue. The County is not trying to dictate anything. It is trying to implement an
17 agreement. The density is not arbitrary. It's based on County policy.

18
19 Growth Management doesn't say the cities will decide their densities. It is supposed
20 to be a joint process, which the County thought it had with the interlocal agreement. The
21 County has a clear and compelling interest in what happens in the urban growth area.
22 That's why the staff recommends this condition.

23
24 McShane stated the County doesn't have that assurance that the City has internal
25 mechanisms to accomplish that density. He asked if staff would still recommend a specific
26 zoning density if there was that mechanism in place. Aamot stated the City is going
27 through its Comprehensive Plan process now. Soon, it will go through a subarea planning
28 process for the urban growth area. It could result in pre-zoning, where the County and City
29 could agree on some type of zoning. That would make the process a lot easier.

30
31 McShane stated that until then, they are struggling with density.

32
33 Brenner stated the Council recently had a project come forward that a City wasn't
34 even going to annex. It sailed through. Until the City's regulations are fine-tuned, the
35 County needs to work with it. The County is behind in its Growth Management Act
36 requirements, too. If it looks like the City begins to sprawl, the County can change its
37 decisions at that time. Try to work with Ferndale.

38
39 **Brenner withdrew her amendment. She moved** to eliminate the requirement of
40 six to eight units per net acre.

41
42 McShane stated that isn't necessary.

43
44 **Motion failed 1-2 with Brenner in favor.**

45
46 **Motion to recommend a public hearing on the staff recommendation carried**
47 **unanimously.**

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50 **COMMITTEE DISCUSSION**

- 51
52 1. **UPDATE REGARDING THE FOOTHILLS SUBAREA PLANNING PROCESS,**
53 **INCLUDING SUBAREA BOUNDARY ISSUES (AB2006-199)**

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Matt Aamot, Senior Planner, stated there is an advisory committee appointed by the County Executive. They have had three meetings. The County hired a consultant to assist with the plan. A public process is being developed. He indicated the location on a map. When the Council established the advisory committee, it included a member from Deming, which brought up the discussion of the subarea boundary. The committee recommends an area around Deming be included in this subarea. The committee is asking if that raises any red flags with the councilmembers.

Brenner asked the current subarea in which Deming was placed. Aamot stated Deming is currently in the Lynden Nooksack subarea. The old boundary was generally on the crest of Sumas Mountain.

Fleetwood stated he doesn't see any red flags.

The committee concurred.

Aamot stated the advisory committee recommends elongating the process. It recommends that they bring the plan to the Council as a part of the 2007 docket.

Brenner stated that sounds good.

Fleetwood asked if staff concurs. Aamot stated Mr. Hart is reviewing the recommendation.

OTHER BUSINESS

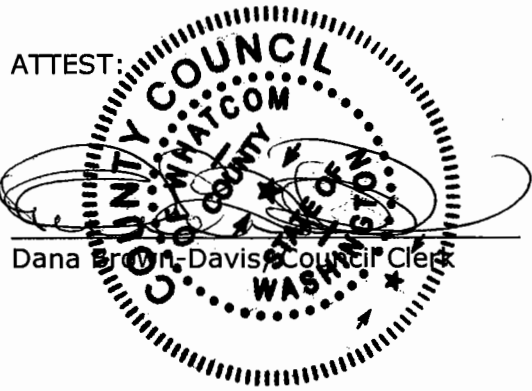
There was no other business.

ADJOURN

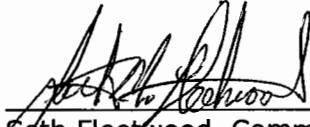
The meeting adjourned at 4:17 p.m.



Jill Nixon, Minutes Transcription

ATTEST:


Dana Brown-Davis, Council Clerk

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON


Seth Fleetwood, Committee Chair