

**WHATCOM COUNTY COUNCIL AGENDA BILL**

**NO. 2006-129**

<b>CLEARANCES</b>	<b>Initial</b>	<b>Date</b>	<b>Date Received in Council Office</b>	<b>Agenda Date</b>	<b>Assigned to:</b>
Originator: Matt Aamot	MA	2/16/06	<b>RECEIVED</b>  <b>FEB 21 2006</b>  <b>WHATCOM COUNTY COUNCIL</b>	2/28/06	Introduction
Division Head: Troy Holbrook	TH	2-16-06		3/14/06	P&D/Council
Dept. Head: Hal Hart	HH	2-16-06			
Prosecutor: Royce Buckingham	RB	2-16-06			
Purchasing/Budget:					
Executive: Pete Kremen	PK	2/18/06			

**TITLE OF DOCUMENT:** Rezone long term planning area to short term planning area in the Ferndale Urban Growth Area on the north side of Thornton Rd.

**ATTACHMENTS:**

(1) Proposed ordinance  
 (2) Planning Commission Findings of Fact & Reasons for Action, Conclusions and Recommendations

*Note: Background materials are available for review at the County Council office (Planning Commission minutes will be forwarded to Council when they become available).*

SEPA review required? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> NO SEPA review completed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> NO	Should Clerk schedule a hearing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> NO Requested Date:
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<sup>1</sup> A hearing must be held if the Council changes the Planning Commission recommendation (WCC 20.90.051).

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:**

Rezone approximately 59 acres from long term planning area to short term planning area in the Ferndale Urban Growth Area. Short term planning areas can be developed at urban densities and/or annexed into the city. Long term planning areas cannot be developed at urban densities and cannot be annexed. The proposed rezone site is within the SW 1/4 of section 13, T39N, R1E, W.M., west of the Ferndale City limits on the north side of Thornton Rd. (Assessor's Parcel #'s: 390113 208201, 390113 261031 and 390113 228033).

<b>COMMITTEE ACTION:</b> 3/14/06: Forwarded to Council for adoption	<b>COUNCIL ACTION:</b> 2/28/06: Introduction 3/14/06: Adopted 6-1, Nelson opposed
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<b>Related County Contract #:</b>	<b>Related File Numbers:</b>	<b>Ordinance or Resolution Number:</b> Ord. 2006-012
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**Please Note: Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).**

SPONSORED BY: Consent  
PROPOSED BY: Planning  
INTRODUCTION DATE: 2/28/06

ORDINANCE # 2006-012

**ADOPTING A SHORT TERM PLANNING AREA  
ZONING OVERLAY DESIGNATION IN THE  
FERNDALE UGA NORTH OF THORNTON RD**

**WHEREAS**, John A. Friberg submitted an application rezone approximately 59 acres from long term planning area (LTPA) to short term planning area (STPA) in the Ferndale Urban Growth Area; and

**WHEREAS**, The proposed rezone site is located within the SW 1/4 of section 13, T39N, R1E, W.M. West of the Ferndale City limits on the north side of Thornton Rd. Assessor's Parcel #'s 390113 208201, 390113 261031 and 390113 228033; and

**WHEREAS**, Rezoning to STPA is a prerequisite to developing the site at urban densities and/or annexation into the City of Ferndale; and

**WHEREAS**, Legal notice requirements have been met; and

**WHEREAS**, The Planning Commission held a public hearing on the proposal; and

**WHEREAS**, The Planning Commission has evaluated the proposed amendments for consistency with the Whatcom County Comprehensive Plan; and

**WHEREAS**, the County Council has considered the Planning Commission's Findings of Fact & Reasons for Action, Conclusions and Recommendations.

The Council makes the following findings of fact and conclusions:

**FINDINGS OF FACT**

1. Notice of the rezone application was sent to state agencies, including the Department of Community, Trade and Economic Development (CTED), on July 8, 2005.
2. Notice that the County received the rezone application was sent to the City of Ferndale and other governmental agencies on July 8, 2005.

3. Notice that the County received the rezone application was published in the Bellingham Herald on August 4, 2005.
4. Notice of the Planning Commission hearing for the rezone application was posted on the County's website on January 25, 2006.
5. Notice of the Planning Commission hearing for the rezone application was sent to the City of Ferndale, Ferndale School District, Tribal representatives and other agencies on January 25, 2006.
6. Notice of the Planning Commission hearing for the rezone application was mailed to surrounding property owners within 300' of the subject site on January 30, 2006.
7. Notice of the Planning Commission hearing was posted on the subject site on January 27, 2006.
8. Notice of the Planning Commission hearing for the rezone application was published in the Bellingham Herald on January 27, 2006.
9. The Planning Commission held a public hearing relating to the rezone application on February 9, 2006.
10. A determination of non-significance (DNS) was issued under the State Environmental Policy Act (SEPA) on July 25, 2005.
11. Whatcom County Comprehensive Plan Policy 2S-1 contains criteria for rezoning property from Long Term Planning Area to Short Term Planning Area.
12. Comprehensive Plan Policy 2S-1 addresses County/City cooperation relating to an interlocal agreement, annexation issues and joint planning for land use. An "Interlocal Agreement Between the City of Ferndale and Whatcom County Concerning Annexation and Development Within the City of Ferndale UGA" (hereinafter "Interlocal Agreement") was signed by the Ferndale Mayor on May 20, 1999 and by the Whatcom County Executive on June 3, 1999. This interlocal agreement addresses annexation issues and joint planning for land use in the Urban Growth Area.
13. Comprehensive Plan Policy 2S-1 addresses provision of public facilities. The City of Ferndale, in a letter of August 10, 2005, stated ". . . city water and sewer are readily available. For the Friberg properties, city water and sewer lines are located immediately adjacent to the property boundary, having been stubbed-out to this point by the adjacent residential development (Pacific Highlands) . . ." Additionally, a "Settlement Agreement" between the City of Ferndale and Friberg dated October 5, 2005 states ". . . The City agrees and confirms that it shall provide water and sewer utility services to the Friberg Property. . . " subject to paying applicable assessments and fees.

14. Comprehensive Plan Policy 2S-1 addresses whether the Short Term Planning Area in the vicinity of the subject site is meeting UGA density objectives. The net density in the Short Term Planning Area within ¼ mile of the subject site is currently one dwelling/13.33 acres, which does not meet the density objectives set forth in the Whatcom County Comprehensive Plan. However, the Friberg Family LLC owns approximately 50 acres of land in the long term planning area that, along with land owned by others, is proposed to be rezoned to short term planning area. The Friberg Family LLC also owns about 20 acres in the short term planning area immediately east of the subject rezone site. While there are approximately 27 acres of undeveloped/underdeveloped land in the short term planning area within ¼ mile of the subject site, the Friberg Family owns approximately 20 of these acres. Therefore, the Friberg Family LLC owns about 70 acres in the area. The applicant, John A. Friberg, stated that if the subject rezone is granted, the 70 acres of Friberg Family property would be subdivided under one development plan, which may be constructed in phases. In other words, while it is true that land immediately to the east of the rezone site has not met the UGA density objectives, it is largely in the ownership of the applicant, who intends to develop it, along with the rezone site, at urban densities once annexed.
15. Comprehensive Plan Policy 2S-1 addresses the need for additional land in the local area. A rapid increase in the price of houses and lots in the Ferndale area indicates a need for additional developable land that is served by public water and sewer.
16. Comprehensive Plan Policy 2S-1 addresses consistency with the Comprehensive Plan. The Whatcom County Comprehensive Plan states:

County goals encourage Ferndale to develop residentially zoned areas at average net densities of six to eight units per net developable acre. Net developable acreage is calculated by subtracting areas with development limitations such as steep slope, flood areas, and other critical areas, and land needed for rights-of-way, utilities, infrastructure, and open space. . . (p. 2-35).
17. Growth Management Act Planning Goal 1 is to “Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner” (RCW 36.70A.020(1)).
18. County-wide planning policy D-3 states: “. . . Short term and long term boundaries may be used to facilitate provision of urban levels of service and to not preclude future urban densities *as defined within the Whatcom County Comprehensive Plan*” (italics added for emphasis).
19. County-wide Planning Policy J-3 is:

To encourage use of single occupant vehicle alternatives and development of pedestrian scale neighborhoods, high density residential development shall be encouraged in urban growth areas with particular attention to those locations within cities and in close proximity to arterials and main transit routes.

20. The subject site is within an urban growth area, where high density is encouraged by County-wide Planning Policy J-3. There are three schools located southeast of the subject site (Horizon Middle School, Eagleridge Elementary School, and Clearview High School). Additionally, the site is about 1/2 mile west of Whatcom Transportation Authority (WTA) bus route # 27. Establishing higher density residential developments in proximity to schools and transit could facilitate greater use of alternative transportation modes.
21. Section 2F of the Interlocal Agreement is entitled "Minimum Urban Densities." This section states "The City agrees to adopt and maintain land use designations for annexation areas consistent with the State GMA, City Comprehensive Plan, and policies of the County Comprehensive Plan."
22. Section 2C of the Interlocal Agreement is entitled "Annexation Planning." This section states "Annexations shall be based on policies adopted in the City's Comprehensive Plan, be consistent with adopted County-wide Planning Policies and Comprehensive Plan Goals 2N . . ."
23. Whatcom County Comprehensive Plan Goal 2P is to ". . . encourage Ferndale to establish new residential developments at densities averaging six to eight units per net residential acre. . . while respecting unique characteristics associated with each city." This provision was numbered Goal 2N in the May 1997 and the November 2000 versions of the Whatcom County Comprehensive Plan. It was renumbered as Goal 2P in 2001 because Ordinance 2001-070 inserted a new Goal 2M and "Renumbered subsequent sections of the Land Use Chapter" of the Comprehensive Plan. Therefore, what is now Goal 2P was Goal 2N when the Interlocal Agreement was signed 1999 (changes to the Goal were adopted in 2005 under Ordinance 2005-016 to clarify that the goal refers to net density).
24. The Whatcom County Comprehensive Plan states that "The Short Term Planning Area (STPA) is designed to promote urban levels of density and cost-effective provision of services and avoid sprawl. . ." (p. 2-16).
25. The City of Ferndale, in a letter of August 10, 2005, stated that the ". . . properties being considered for rezone could be logically added to the city's STPA. . ." However, the City of Ferndale also stated that they would not support imposing a condition on the subject rezone that would require the site to be developed at a net density of 6 to 8 dwellings/acre.
26. The subject site is immediately west of the Pacific Highlands development, which is within the City of Ferndale. The density of this development, which received final approval from the City of Ferndale in 2004 and 2005, exceeds six-dwellings/net developable acre. The average lot size in Pacific Highlands is approximately 6,036 square feet.

27. Whatcom County has an important interest in ensuring that appropriate urban densities are achieved on land that the City of Ferndale annexes from unincorporated Whatcom County. A substantial amount of the land surrounding the City of Ferndale and its UGA is designated either Rural or Agriculture by the Whatcom County Comprehensive Plan. The City of Ferndale Buildable Lands Inventory (April 2005) indicates that there is more than enough land in the Ferndale UGA to accommodate the projected 20-year population growth. However, inefficient lower density residential land uses in the UGA will place more pressure to convert rural and/or agricultural lands to UGA at some point in the future.
28. Whatcom County's important interest in ensuring appropriate urban densities is expressed in Whatcom County Comprehensive Plan Goal 2A, which is to "Ensure provision of sufficient land and densities to accommodate the growth needs of Whatcom County and protect the qualities that make the county a desirable place to live." Additionally, Comprehensive Plan Policy 2P-1 is to "Ensure that cities have adopted mechanisms which will encourage densities at desired levels."
29. Whatcom County's important interest in protecting rural and agricultural lands in the County (including those rural and agricultural lands surrounding Urban Growth Areas) is also expressed in the Comprehensive Plan. Specifically, Policy 2A-9 is to "Retain existing rural and heavy industrial areas in the northwestern region of the county." Additionally, the Comprehensive Plan states ". . . The urban growth area identified for Ferndale attempts to provide the best balance among encouraging growth within the cities, maintaining low density rural areas outside of UGAs, and recognizing the desires of Whatcom County residents. . . ." (p. 2-35). It also indicates ". . . Maintaining the rural character and lifestyle is very important to Whatcom County residents. . . ." (p. 2-62). Additionally, Comprehensive Plan Goal 8A is to "Conserve and enhance Whatcom County's agricultural land base for the continued production of food and fiber."
30. The "Interlocal Agreement Between the City of Ferndale and Whatcom County Concerning Annexation and Development Within the City of Ferndale UGA" must be amended every time an annexation is proposed (Section 1). Whatcom County Comprehensive Plan Policy 2W-6 is to "Review and update the interlocal agreement with Ferndale, as needed, to provide for . . . zoning designations and density within the UGA. . . ."
31. Therefore, Whatcom County, which has authority to grant or deny applications to rezone property in the UGA prior to annexation, finds that development on the subject site should occur at a minimum net density of six dwellings/acre to ensure compliance with the Interlocal Agreement, to ensure compliance with the Whatcom County Comprehensive Plan, to provide appropriate urban densities in the UGA and to preserve rural and agricultural lands surrounding Ferndale over the long term.

## CONCLUSION

The subject amendment is consistent with the Whatcom County Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED by the Whatcom County Council that:

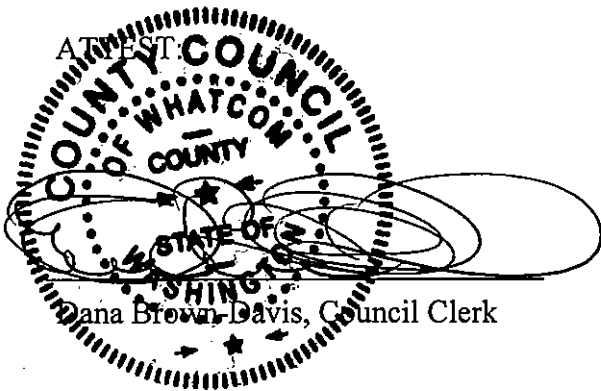
Section 1. The Official Whatcom County Zoning Ordinance map is hereby amended from long term planning area to short term planning area for the subject site shown on Exhibit A.

Section 2. This amendment to the Official Whatcom County Zoning Ordinance map is subject to the condition shown on Exhibit B.

Section 3. Adjudication of invalidity of any of the sections, clauses, or provisions of this ordinance shall not affect or impair the validity of the ordinance as a whole or any part thereof other than the part so declared to be invalid.

ADOPTED this 14 day of March, 2006

WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON



*Laurie Caskey-Schreiber*  
Laurie Caskey-Schreiber, Chairperson

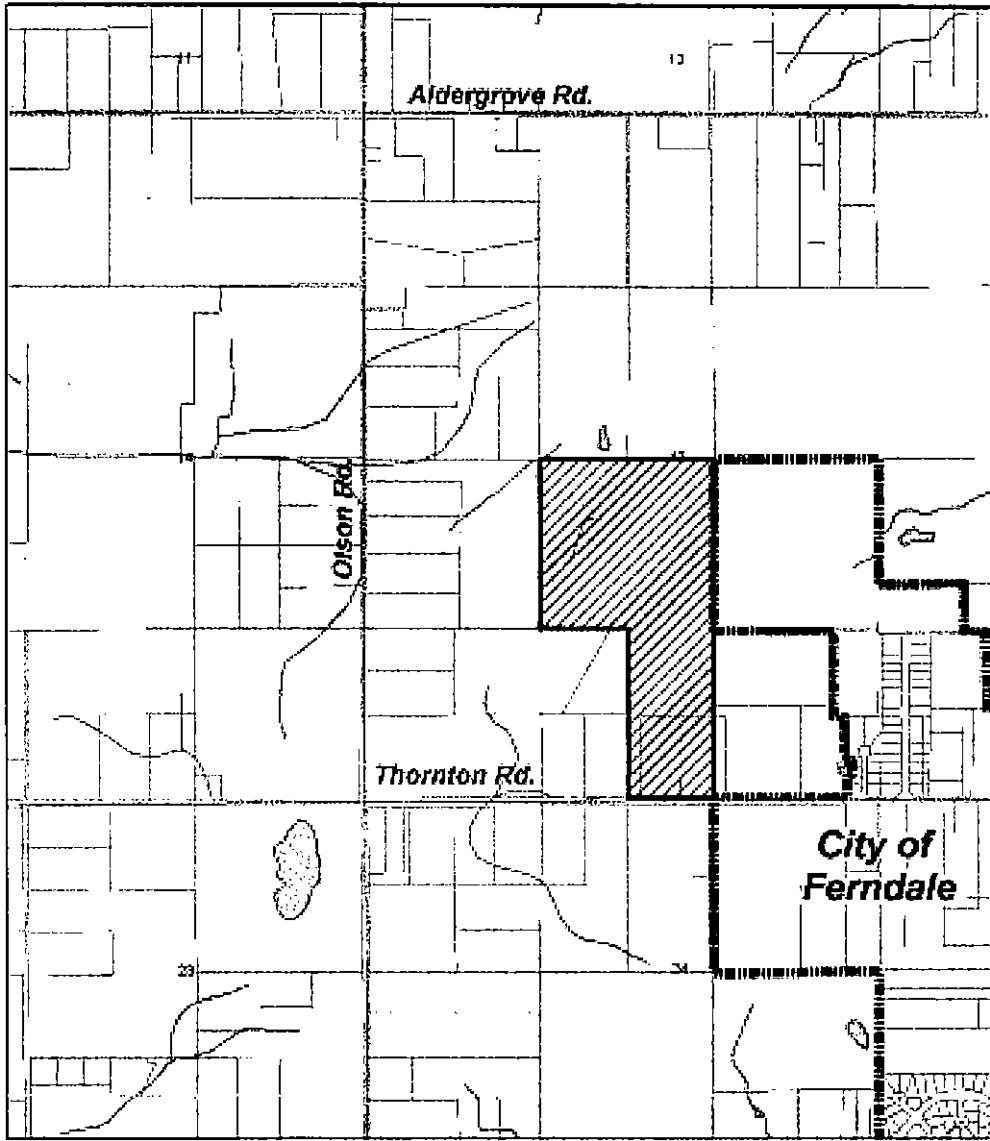
APPROVED as to form:

Approved     Denied

*[Signature]*  
Civil Deputy Prosecutor

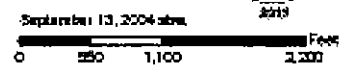
*[Signature]*  
Pete Kremen, Executive

Date: 3-20-06



File #ZON 2005-00006  
Ferndale UGA - Thornton Rd. (North) LTPA to STPA

 Subject Properties



## Exhibit B

Whatcom County will not approve or sign an amendment to the "Interlocal Agreement Between the City of Ferndale and Whatcom County Concerning Annexation and Development Within the City of Ferndale UGA" agreeing to annexation of the subject properties unless the amendment contains the following condition:

1. The City of Ferndale will require the subject properties to be developed at a minimum density of six dwellings per net developable acre. Average lot size shall not exceed 7,260 square feet.