

SPONSORED BY: Consent
PROPOSED BY: Council
INTRODUCTION DATE: APRIL 25, 2006

ORDINANCE #2006-023

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

WHEREAS, Donald Leavitt, Leavitt Companies submitted an application to rezone approximately 68.78 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 NE¼ of the NW¼ and the SE¼ of the NW¼ of Section 24, T39N, R1E, W.M.; Assessor’s Parcel Numbers 390124 228456, 390124 204332, and 390124 264438; 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 Hearing Examiner held public hearings on the proposed site specific rezone; and

WHEREAS, the Hearing Examiner has evaluated the proposed rezone for consistency with the Whatcom County Comprehensive Plan and site specific rezone approval criteria; and

WHEREAS, the County Council has considered the Hearing Examiner’s Findings of Fact, Conclusions of Law, and Recommendation.

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 August 26, 2005.
2. Notice that the County received the rezone application was sent to the City of Ferndale on August 29 and 31, 2005 and to other governmental agencies on August 29, 2005.
3. Notice that the County received the rezone application was published in the Bellingham Herald on August 31, 2005.
4. Notice of the Hearing Examiner hearing for the rezone application was published in the Bellingham Herald on February 16, 2006.
5. Notice of the Hearing Examiner hearing for the rezone application was mailed to surrounding property owners within 300’ of the subject site on February 9, 2006.
6. Notice of the Hearing Examiner hearing for the rezone application was posted on the site on February 15, 2006.

7. Notice of the Hearing Examiner hearing for the rezone application was posted on the County's website on February 15, 2006.
8. Notice of the Hearing Examiner hearing for the rezone application was sent to the City of Ferndale, the Ferndale School District, Tribal representatives and other agencies on February 16, 2006.
9. The Hearing Examiner held public hearings relating to the rezone application on March 1 and April 5, 2006.
10. A mitigated determination of non-significance (MDNS) was issued under the State Environmental Policy Act (SEPA) on February 3, 2006.
11. The subject site is within the Ferndale Urban Growth Area. The Ferndale Urban Growth Area was divided into Short Term Planning Areas (STPA) and Long Term Planning Areas (LTPA) in 1997. Since 1997, the subject site has been within the LTPA. Property within the LTPA cannot be developed at urban densities nor annexed into the City of Ferndale. Properties within the STPA may be developed at urban densities (assuming public water and sewer are available) and/or annexed into the City. The subject application is to rezone the site from LTPA to STPA as a precursor to development and annexation of the site.
12. The Official Whatcom County Zoning Ordinance (Title 20) contains approval criteria for site specific rezones (WCC 20.90.063(2)). These criteria require that the proposed rezone must be consistent with the Comprehensive Plan.
13. Whatcom County Comprehensive Plan Policy 2S-1 contains criteria for rezoning property from Long Term Planning Area to Short Term Planning Area.
14. 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.
15. Comprehensive Plan Policy 2S-1 addresses provision of public facilities. The City of Ferndale and the applicant entered into an "Annexation and Developers Agreement" in August 2005. This agreement states:
 - . . . The City shall construct a new sewer bypass line to increase sewer line capacity to meet the needs of the City, the Project, and other areas that are anticipated to be annexed into the City. The City intends to construct the sewer bypass line in 2006 . . . The City agrees and commits to provide water and sewer service to the Project . . . (upon meeting several conditions).
16. Comprehensive Plan Policy 2S-1 addresses whether the Short Term Planning Area (STPA) in the vicinity of the subject site is meeting UGA density objectives. The net density in the STPA within ¼ mile of the subject site is one dwelling/4.5 acres, which does not meet the density objectives set forth in the Comprehensive Plan. However, the Ferndale Planning and Building Director stated, in a letter dated 9/21/05, that:
 - . . . Adjacent STPA properties are currently undeveloped. However, the annexation which has already received city approval includes properties, some

of which are inside and some of which are outside the STPA. The city anticipates that the undeveloped STPA property will develop once the site-specific rezoning is approved since the proposed plat will provide increased access and more options for providing infrastructure to the STPA property. . .

17. 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.
18. The approval criteria for site specific rezones (WCC 20.90.063(2)) require that the proposal must bear a substantial relationship to the public health, safety, morals, general welfare or community needs and must not adversely affect the surrounding neighborhood as a whole. Additionally, the proposal must be consistent and compatible with current uses and zoning of surrounding land. The proposed rezoning would provide serviced residential land adjacent to the existing Ferndale city limits. Properties directly to the east are either in the City of Ferndale (Single Family Dwelling RS8.5 zone) or are within the County's STPA (Urban Residential 3 dwellings/acre or UR3 zone). Properties to the north, west and south are within the County's LTPA (UR3 zone). The proposed zoning designation is consistent with the existing zoning to the east. The proposed STPA zoning classification is also consistent with future planned residential land uses to the north, west, and south.
19. The approval criteria for site specific rezones (WCC 20.90.063(2)) require that there must be changed conditions since the zoning became effective to warrant the proposed rezoning. Demand for residential lots (as evidenced by higher land prices), Ferndale's approval of the proposed annexation, the proposed sewer bypass line and Ferndale's commitment to serve the site with public water and sewer constitute changed conditions that support the rezoning request.
20. WCC 20.90.051 requires evaluation of the proposed rezoning's consistency with the City of Ferndale's Comprehensive Plan. The City of Ferndale, in a letter of September 21, 2005, stated:

. . . The Ferndale Comp Plan designates this area as Low-Density Residential, with a density range of 3 to 6 d.u./ac. (gross). That is consistent with the current county UR-3 zoning. The city determined through the annexation process that the zoning of the property will be RS10.5 (Single-Family Residential, minimum lot size 10,500 sq. ft.) once the annexation is finalized. The proposed site-specific rezoning appears consistent with Comp Plan land use designation and anticipated city zoning. . .
21. 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)).
22. 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.
23. 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 immediately east of the subject site (Horizon Middle School, Eagleridge Elementary School, and Clearview

High School). Additionally, Whatcom Transportation Authority (WTA) bus route # 27 is about 1/2 mile east of the site. Establishing high-density residential developments in proximity to schools and transit could facilitate greater use of alternative transportation modes.

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. 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 Urban Growth Area (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 City of Ferndale and the adjacent UGA to accommodate the projected 20-year population growth. However, inefficient low 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.
26. 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."
27. 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."
28. The City of Ferndale, in a letter of September 21, 2005, stated:

The city recommends that the site-specific rezone be approved subject to (at least) the following conditions:

 - a. The proposed plat shall be revised to achieve a net density of at least 4 units per net acre.
 - b. The proposed plat shall be revised to provide connectivity to the south as well as the east. The proposed connection point shall be approved by the city.
 - c. The proposed plat shall be designed to conform to all applicable City of Ferndale development regulations and design standards.

- d. The proposed plat shall be submitted to the City of Ferndale (together with a development review fee) for formal technical review to determine compliance with city regulations and standards. The plat shall be revised if necessary, prior to issuance of any land disturbance or construction permits.
29. The Whatcom County Planning & Development Services Director, in a letter of October 15, 2005, stated ". . . The Hearing Boards have determined that 4 dwelling units per net acre to be a minimum urban density . . . The City of Ferndale has stated that the proposal should be revised to achieve a net density of 4 dwelling units per acre. The county concurs and supports this statement. . ."
30. The applicant's representative submitted a revised plan on December 7 and associated documentation on December 8, 2005 indicating that the proposed development now achieves a net density of four-dwellings/net developable acre.

CONCLUSION

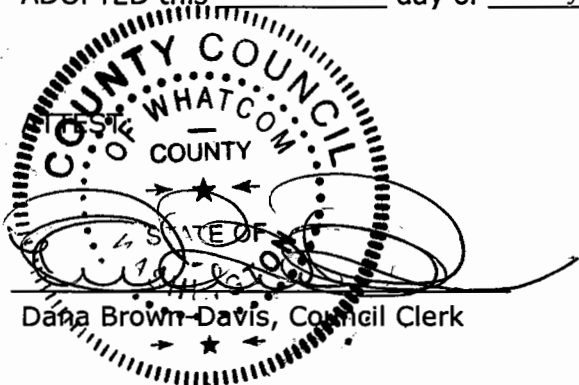
The subject amendment is consistent with approval criteria for site-specific rezones contained in WCC 20.90.063(2).

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. 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 9 day of May, 2006



Dana Brown-Davis, Council Clerk

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

L. Caskey-Schreiber
Laurie Caskey-Schreiber, Chairperson

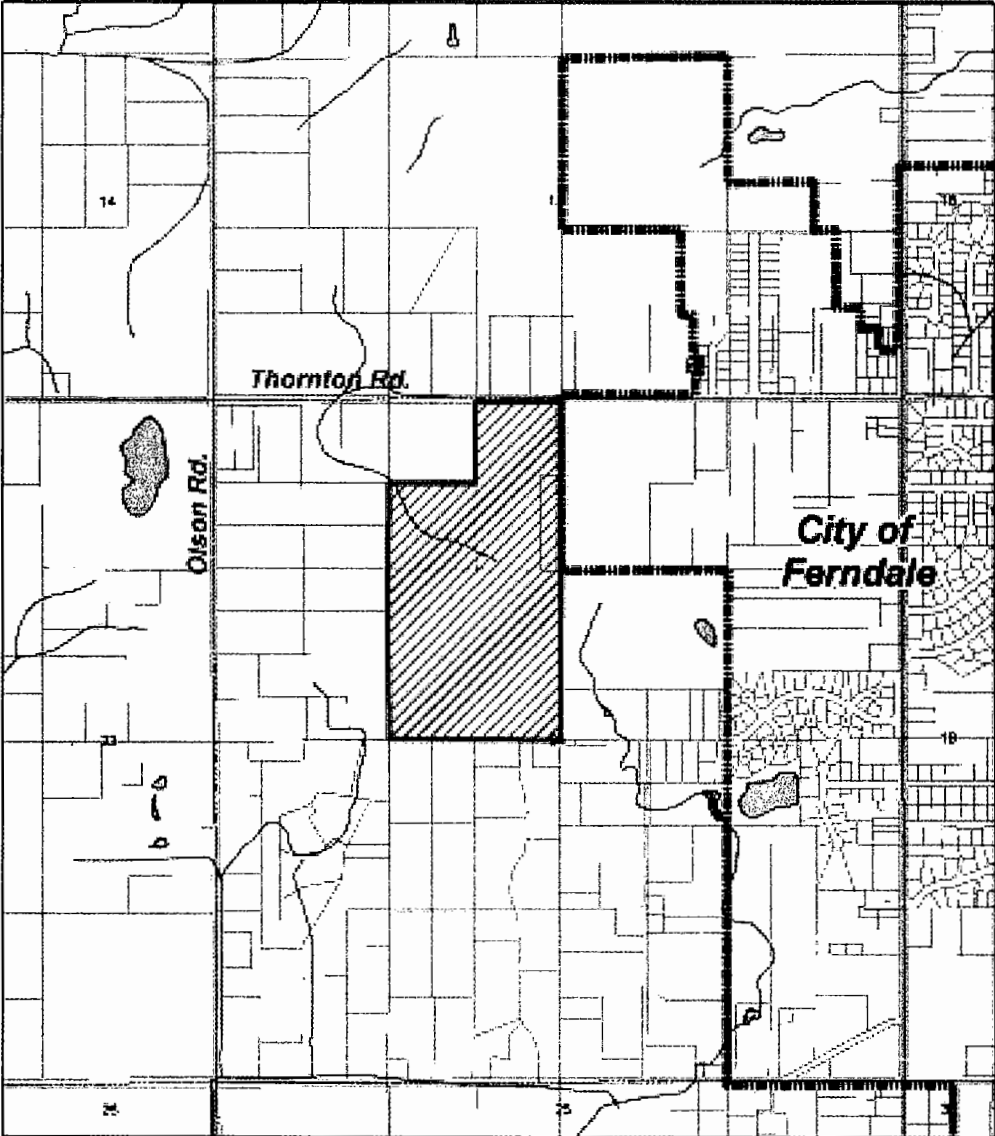
APPROVED as to form:

Karen R. Frakes
Civil Deputy Prosecutor

Approved Denied

Pete Kremen
Pete Kremen, Executive

Date: 5-17-06



File #ZON 2005-00018
 Ferndale UGA - Thornton Rd. (South) LTPA to STPA

 Subject Properties

