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WHATCOM COUNTY COUNCIL
Planning and Development Committee

January 16, 2007

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
Laurie Caskey-Schreiber

COMMITTEE DISCUSSION AND RECOMMENDATIONS TO COUNCIL

1. CONSIDERATION OF HEARING EXAMINER'S RECOMMENDED APPROVAL OF A PLANNED UNIT DEVELOPMENT, FILED BY CABOCHON CONSTRUCTION FOR "1010 TELEGRAPH ROAD PLAT" (PUD06-0004) (AB2006-471)

Brenner asked the minimum number of dwelling units allowed and the number of units planned.

Ali Taysi, Cabochon Construction and Development, Inc., stated six building units per acre minimum of net density is allowed, per the urban residential mixed, six units per acre (URM-6) zone. The net density is calculated after they take out all the wetlands and other areas. They used transfers of development rights (TDR's) to get that density.

Brenner asked if there is a problem with the note about accessory dwellings. Taysi stated he is fine with it one way or the other. He doesn't have any intention of having accessory dwelling units on the property, but he doesn't have any issue with it.

McShane moved to recommend approval to the full Council.

Brenner stated she would support the recommendation. She asked if the County is calculating net acreage instead of gross acreage.

Hal Hart, Planning and Development Services Director, stated they calculate both. Net density is a way that they are currently calculating density in this zone.

Brenner stated that if they don't calculate the density according to gross acreage, they will never get the density they want. Hart stated that is a discussion they need to have with the City of Ferndale. He will engage the City of Bellingham in those discussions for the urban growth area.

Taysi stated it forced them to go through the TDR process to reach the higher density. If they used the gross acreage, they could have reached 18 units without using TDR's at all. They have three acres of gross property.

Hart stated that if they change the calculation from net to gross somewhere else, they need to make sure the TDR program is changed to reflect that at the same time. Not all the cities are consistent.

1
2 **Motion carried unanimously.**
3
4

5 **COMMITTEE DISCUSSION**
6

7 **1. DISCUSSION REGARDING POSSIBLE REVISIONS TO THE INTERIM**
8 **TRANSPORTATION CONCURRENCY MANAGEMENT ORDINANCE**
9 **(AB2006-443A)**

10
11 John Everett, Planning and Development Services Department, stated staff met with
12 Mr. Robertson and the Building Industry Association (BIA) about their suggestions. The
13 meeting helped clarify language for the layperson. The proposed draft in the packet
14 includes changes. One proposed change was included in error. Page 3 of Exhibit A, line
15 117 should be, "(a) amend the application within ninety (90) days in such a way to
16 ensure...."
17

18 Brenner stated she's heard that latecomer's fees sunset after 15 years. She asked
19 to see the statute that says a latecomer's fee is only good for 15 years. She would like to
20 change that , and leave it open-ended. Everett stated he will provide that information.
21 Each jurisdiction must have an ordinance to enact the latecomer process.
22

23 Hal Hart, Planning and Development Services Director, stated that may be
24 something that the County can change.
25

26 Brenner stated she would like to change it. Some people sit and wait 15 years
27 before developing, so they don't have to pay the fee. She asked the shortest length of time
28 for concurrency in any county in the state. Everett stated there may be a range that
29 jurisdictions have used.
30

31 Fleetwood asked the purpose of the annual transportation concurrency report.
32 Everett stated the report is for the County to anticipate where they need to look at making
33 changes. It will highlight what the concurrency challenges are and what the near-term
34 objectives will be.
35

36 Fleetwood asked if it will be a big job to prepare the report. Everett stated it won't
37 be once they have the transportation model calibrated. The model helps project into the
38 future what happens if they continue the same patterns. It's something the City of
39 Bellingham has been using. They have an annual report about particular spots in the road
40 system that will have level of service issues in the future.
41

42 Fleetwood referenced Council packet page 270. He asked to reinstate Whatcom
43 County code (WCC) section 20.78.060(2)(d). Everett stated the list of (a) through (d) are
44 the things the applicant can do in response to the County denying issuance.
45

46 Fleetwood referenced Council packet page 269, WCC section 20.78.030(6). He
47 asked what a concurrency evaluation has that a trip generation and distribution study
48 doesn't. Everett stated the concurrency evaluation includes the level of service on the
49 affected road system. The trip generation and distribution study simply calculates the
50 number of trips they expect to be generated by the proposed use, and where those trips will
51 go.
52

53 Brenner asked how they determine concurrency without that. Everett stated they
54 can't. That is all in the section for exemptions.
55

1 Caskey-Schreiber asked the difference between a traffic impact fee policy versus
2 this. Everett stated concurrency is an approval/denial switch. Impact fees are a financing
3 tool.
4

5 Caskey-Schreiber asked if the second phase would be adoption of an impact fee
6 policy ordinance for traffic. Everett stated they are two legs of a three-legged stool. The
7 third piece is land use.
8

9 Caskey-Schreiber stated this doesn't allow the County to collect fees. It just
10 conditions the development. Everett stated this only helps the County determine whether
11 there will be adequate facilities by assuring the approval of the application. If not, the State
12 says they can't issue that. Impact fees will help the County finance any things that come
13 up in the concurrency report, which will identify the hot spots.
14

15 Caskey-Schreiber asked if this sets up the kind of development that will be allowed
16 in areas that can handle it. She asked if the County denies an application if a development
17 creates problems in an area that can't handle it, until they have a traffic impact fee
18 ordinance in place. Everett stated the impact fees are a way to reduce the frequency of the
19 County being in that situation. If the County has projects planned for which it has
20 financing, the financing should address the problem the development creates. They can
21 adjust the process so improvements can be done in a certain amount of time.
22

23 Brenner stated she doesn't want to wait awhile on determining the length of
24 concurrency. Hart stated the staff will bring the interim ordinance back when it can be
25 scheduled.
26

27 Brenner stated don't have concurrency be six years. She referenced Council packet
28 page 272, line 231, the definition of concurrency.
29

30 Fleetwood asked how they came up with six years.
31

32 Brenner stated they have a six-year road program.
33

34 Doug Robertson, attorney, stated there is a State statute that allows the County to
35 have a latecomer's process, but there is a County ordinance. The six years is set by
36 statute, in Revised Code of Washington (RCW) 36.70A.070(6)(B). He read the RCW.
37

38 Brenner stated the County can do establish concurrency for less than six years.
39 Clark County does it in three years. Robertson stated the law about whether or not
40 concurrency has to be six years or can be fewer years hasn't been interpreted by the courts.
41

42 Hart stated the majority of counties set it at six years. He believes they can set it
43 at whatever the community standard is. They wanted to do the research with the
44 transportation consultant to find the best fit for Whatcom County. Clark County has a lot of
45 experience with concurrency, and has evolved to where it is now.
46

47 Brenner stated don't spend time and money on coming up to decide how long they
48 should set concurrency. Setting it at six years is like not having it at all.
49

50 Everett stated they don't yet know the ramifications for Whatcom County of setting
51 concurrency at fewer than six years. Many things tie into the time horizon and how the
52 program operates. They may have to adjust certain things in the six-year transportation
53 improvement program as well.
54

1 McShane stated the Council had a presentation by the City of Bellingham regarding
2 traffic impact fees and their link to concurrency. The City was very proud of the zones they
3 created, with the idea that building in close would have less impact and a lower fee.
4 Recently, they've completely thrown that out, and made it citywide. There are advantages
5 and disadvantages to that. He asked if the County would go with different zones. Everett
6 stated impact fee zones are a tool to provide equity to those who pay the fees. In a
7 jurisdiction the size of Bellingham, one could say there are areas that bear a proportionate
8 share of planned improvements. His impression was that the City's zones were too many
9 and too fine to support anything they could quantify. Most smaller or medium-sized cities
10 will use one zone. Counties have much larger areas and more planned improvements. It's
11 easier to use the zones. Impact fee legality is tied to the development's impacts to an area.
12 He will start looking at having some zones, but not until the transportation model is better
13 calibrated.

14
15 McShane stated development could occur in the county that would have severe
16 impacts on city roads. He asked if any of the other cities have impact fees. Everett stated
17 the cities of Ferndale and Lynden have impact fee ordinances.

18
19 McShane asked if there is any thought of requiring concurrency through an
20 interlocal agreement for the urban growth areas. He asked if it is possible to transfer
21 money from an unincorporated urban growth area into an incorporated area. Everett stated
22 there are reciprocal traffic mitigation fees. An interlocal agreement would specify formulas
23 and operating procedures for projects that are in one jurisdiction and send impacts into
24 another jurisdiction. Impact fees may be collected on behalf of both jurisdictions.

25
26 Hart stated there is a placeholder in the interlocal agreements now for
27 transportation and coordination. Modeling will tell them the geography of the traffic flow,
28 which informs the decision-makers.

29
30 **McShane** stated he would encourage making that agreement. Think about the
31 County's fiscal ability to meet demands and the actual impact countywide, which includes
32 incorporated areas. Make sure they don't create problems. He **moved** to recommend
33 approval of the ordinance.

34
35 Caskey-Schreiber stated she agrees with Councilmember McShane. She's seen the
36 effect of growth in Lynden to the county roads. The County has to pay for infrastructure
37 improvements because of Lynden's growth. She asked if the County can work out a
38 reciprocal agreement with the City.

39
40 *(Clerk's Note: End of tape one, side A.)*

41
42 Caskey-Schreiber continued to state that the County will not be able to meet the
43 demands of the citizens in the long-run, as the jurisdictions continue to grow. Hart stated
44 he hopes the modeling effort will show the traffic contribution from Lynden. The volume of
45 traffic to Lynden is huge.

46
47 **Brenner moved** to amend WCC 20.78.110(6), "Concurrency means...within six
48 three years."

49
50 McShane asked if that means they would collect the funds, and then have to build
51 the infrastructure within three years. Everett stated they would have to make changes to
52 other sections to make it operate correctly.

53
54 McShane asked the impact to the Public Works Department. It would be a massive
55 workload to turnaround a project that quickly. Everett stated that if the window of time

1 were shrunk, they would increase the pressure on the Public Works Department to complete
2 projects within the three years.
3

4 McShane asked if there is an obligation to return the money collected if the project
5 isn't done. Everett stated impact fees are separate and will be directly tied to the six-year
6 transportation improvement program and supported by a model. To change how it
7 operates, go to packet page 272, line 213 and amend the definition of "committed
8 transportation system." That system allows any improvement to be considered made as
9 long as the improvement is in the six-year transportation plan and funded. The motion
10 would make it so that they could only count the projects that are scheduled to occur within
11 the first three years of the six-year plan and fully funded. It will increase the pressure on
12 the Public Works Department to fund those projects.
13

14 Brenner stated she has been asking why the Public Works Department must do
15 oversight to the level that it has been. She recently found out that the department doesn't
16 have to do that level of oversight. A licensed engineer just has to sign off on something.
17 The department was duplicating the same thing that a licensed engineer was doing. There
18 is no incentive for the Public Works Department to get anything done quicker. The Council
19 is being held hostage because of that. Regulations are the only way the Council has any
20 control. It's the administration's problem if the staff can't meet those things. Everything
21 has been sitting. They don't have to redo everything that has been done by a licensed
22 engineer. Now, they are finally allowing more things to be contracted out.
23

24 Fleetwood asked when the permanent ordinance will come forward. Everett stated
25 it will come forward with the new Comprehensive Plan amendments for 2007. In this case,
26 the six-year versus three-year timeframe only effects the County-planned improvements
27 projects the County can assume will be there.
28

29 Brenner stated they're also assuming more of it will be contracted out. That should
30 have been done all along. It's not up to the Council to fill those engineering positions or
31 contract for services. It's up to the administration.
32

33 Hart stated the Comprehensive Plan amendments will be developed with the
34 decisions they are making as they move forward on the ordinance. They are building the
35 Comprehensive Plan rationale for the impact fee and other pieces of the program, so they
36 can see the entire program.
37

38 Robertson stated a three-year window could create havoc when it has to do with
39 improvements that require State, Tribe, or Army Corps of Engineer permitting or input.
40

41 ***Brenner amended her motion*** to amend WCC 20.78.110(6), "Concurrency
42 means...within ~~six~~ three years unless the project involves State transportation facilities, in
43 which case the time will be six years."
44

45 Fleetwood stated he would like to understand the implications better before he can
46 support this. Get a discussion with and answers from the Pubic Works Department. They
47 can amend this later, but that doesn't need to stop the Council from approving this today.
48

49 Weimer stated the language in subsection (6) implies that only a financial
50 commitment has to be in place. It doesn't say that the road has to be built. If the money is
51 committed, then the County still meets the letter of this clause, even if the State takes its
52 time. The will of the State may not be in place, but that has nothing to do with the financial
53 commitment.
54

1 **Brenner** stated she agrees. She **withdrew the amendment to her motion. Her**
2 **motion** is to amend 20.78.110(6), "Concurrency means...within ~~six~~ three years."
3

4 McShane stated they are messing around with potential problems. Different
5 problems will be identified in different areas of the county. He worries about the loss of
6 potential money that could be directed toward projects by making the time period shorter.
7 He needs more information before making any changes.
8

9 **Motion failed 1-2 with Brenner in favor.**

10
11 **McShane moved** to amend Page 3 of Exhibit A, line 117, "(a) amend the
12 application within ninety (90) days in such a way to ensure..."
13

14 **Motion to amend carried unanimously.**

15
16 **Motion to recommend approval as amended carried unanimously.**
17

18
19 **OTHER BUSINESS**
20

21 Hal Hart, Planning and Development Services Department Director, stated they are
22 working on another interim ordinance on special district coordination.
23

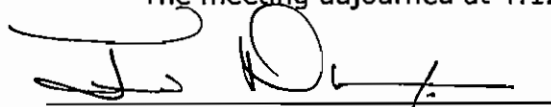
24 John Everett, Planning and Development Services Department, stated the ordinance
25 is in its final stages. They are circulating it internally. He hopes to have a work session at
26 the first meeting in February.
27

28 Brenner asked to schedule a discussion about the problems that Mr. Rockwell is
29 having in building a green, low impact structure. Hart agreed. Have the discussion in the
30 context of the permit center update.
31

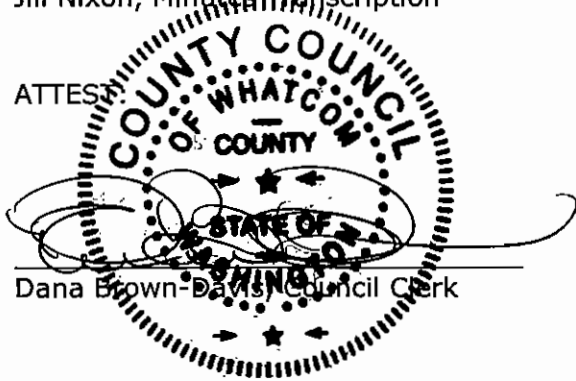
32 Brenner stated this designer is one of the best there is. The County is preventing
33 the owner from building a green development building. Hart stated he talked to the
34 individual over the weekend, and the staff will try to work through the issue.
35

36
37 **ADJOURN**
38

39 The meeting adjourned at 4:12 p.m.
40

41 
42
43 Jill Nixon, Minutes Transcription
44

45
46 ATTEST



WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON


Seth Fleetwood, Committee Chair