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WHATCOM COUNTY COUNCIL
Planning and Development Committee

February 13, 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:

Laurie Caskey-Schreiber
Dan McShane

Absent:

None

Also Present:

Barbara Brenner
Carl Weimer
Sam Crawford

OTHER BUSINESS

Hal Hart, Planning and Development Services Department, stated staff has been meeting with school districts lately about the school impact fee ordinance. They've received a lot of information from the districts about their financial capacity, how they respond to growth in the districts, and what they are doing financially and politically about growth. This is one of the four different concurrency areas they are talking about.

John Everett, Planning and Development Services Department, submitted a draft of the ordinance (*on file*). The draft ordinance is a combination of ordinances from other districts. It's a starting point for the conversation. The committee will discuss it further in two weeks.

Hart stated there is a need to get an interim ordinance in place now to capture what they can. The final ordinance will go through a longer public process, including the Planning Commission, through the year.

Caskey-Schreiber stated she is in favor of getting an interim ordinance on the books now. She asked if they will have to adopt it through a Comprehensive Plan amendment, and whether it would be an emergency docket. Hart stated he's not sure if it would be an emergency docket at this point. Most school districts have a capital facilities plan. Staff will evaluate the plans based on these documents. He anticipate that they do them all, as a group.

Caskey-Schreiber stated don't penalize those districts that haven't turned in a plan. Don't hold back one district that is ready. Hart stated he agreed. They want to get everyone into the cycle.

Caskey-Schreiber stated Lynden, Bellingham, and Mt. Baker school districts are ready to go. Hart stated the Ferndale School District is also ready to go.

Fleetwood asked if the impact fee would be assessed throughout the unincorporated areas of Whatcom County. He asked to what they are referring when they say that the districts are on board.

1 Caskey-Schreiber stated it applies to areas where the districts serve. They will
2 submit capital facilities plans for those areas they serve, and the County will incorporate
3 those plans into the Comprehensive Plan. It includes urban growth areas (UGA's) and
4 unincorporated areas that the districts serve. Those fees will go to those districts.
5

6 Hart stated three districts are charging impact fees now, including Bellingham,
7 Ferndale, and Lynden. The County has not yet adopted a process to include their capital
8 facilities plans into the Whatcom County Comprehensive Plan or entered into interlocal
9 agreements. They are starting to work on that process. Fee collection may be done by the
10 school district.
11

12 Meridian School District is interested in coordinating capital facilities planning with
13 growth in the north end. They've had a long conversation with that school district.
14

15 Caskey-Schreiber stated that until this is done, the school districts are spending a lot
16 of resources and time asking for mitigation costs in every State Environmental Policy Act
17 (SEPA) process. That's a very political process. This tool can remove the politics. It's just
18 a formula that will link any new residence to funding the cost to serve the kids.
19
20

21 **COMMITTEE DISCUSSION**

22 23 **1. RESOLUTION INITIATING 2007 COMPREHENSIVE PLAN AND ZONING** 24 **AMENDMENTS (AB2007-090)**

25
26 Docket #2007-C: Foothills Subarea Plan
27

28 Matt Aamot, Planning and Development Services Department, gave a staff report.
29 He indicated the locations on a map, the results of the public workshops in the area, and the
30 recommendations of the advisory committee (*on file*).
31

32 Brenner asked if that area is a limited area of more intense rural development
33 (LAMIRD). Aamot stated it's not, officially.
34

35 Brenner stated they can't make the area more dense without it being in the urban
36 growth area (UGA) or designate it as a LAMIRD. Aamot stated that is correct.
37

38 Brenner asked if people in the area supported making the areas more dense, so
39 people wouldn't leave the area. Aamot stated kids who have grown up in that area have
40 moved out, and more families haven't moved in.
41

42 Aamot stated the committee recommendation is to expand the small town
43 commercial zone, leave the remaining R2A alone, and designate those tribal lands on the
44 map. He described the Columbia Valley UGA and the committee's recommendations (*on*
45 *file*). Some of the growth is conversion from seasonal to permanent dwellings.
46

47 Fleetwood asked if the committee considered whether or not it should have a UGA
48 designation. Aamot stated the committee did not. An action item in the Comprehensive
49 Plan talks about incorporating urban growth areas into the subarea plan.
50

51 Fleetwood asked if this area would be obligated to accommodate future growth if it
52 were a UGA. Once this becomes a city, it would expand incrementally and regularly. Aamot

1 stated it would be obligated. The Growth Management Act (GMA) says they have to
2 accommodate 20 years' worth of population growth through increased density or expansion.
3

4 Fleetwood asked if keeping this area and letting it incorporate, they will be assured
5 of urban growth in the Foothills, spreading westward over time. Aamot stated urban growth
6 areas have to accommodate the 20-year population projection. They have discretion in the
7 projections.
8

9 Fleetwood stated they should discuss whether or not that is an appropriate place to
10 have a UGA. He may want to cap the area as an enclave, to ensure there wouldn't be
11 expansion over time. Have the policy discussion about whether that area should grow.
12

13 McShane stated that as long as it's just an urban growth area that isn't incorporated,
14 future County governments have some say about whether or not growth will be
15 accommodated in that area. The population of the area is bigger than some cities in the
16 County. The flaw is that it isn't a city. There are real problems because of that. In reality,
17 people of the area need additional growth. Many people live there who have no jobs or
18 have to commute a distance for jobs. If there is a policy discussion, there should be
19 discussion about the County's responsibility for this mistake. The area is what it is. Many
20 policies in the Comprehensive Plan recognize that problem. This place needs help.
21

22 Fleetwood stated he agrees with Councilmember McShane, except that the reality is
23 that a city shall accommodate growth and land supply shall be made, which guarantees
24 outward expansion and urbanizing the Foothills. They don't want that happening there.
25

26 Caskey-Schreiber stated the reality is that this is where a lot of the growth in the
27 county is occurring. This is the location of affordable housing. They do have a population
28 the size of a city in that area. The best thing the County can do is allow it to continue being
29 a UGA. Hopefully, they will eventually have a commercial tax base and the resources for
30 economic development, so the area becomes more sustainable. There are heavy service
31 needs for the area. It may not be the best place for a city, but neither is shore of Birch
32 Bay. The point of the Growth Management Act is to make dense areas self-sustaining.
33 Otherwise, this area will bleed the County dry.
34

35 Brenner stated the area is a nice place to have a town. There is nowhere in the
36 county that will grow without infringing upon natural resources. The Council must help
37 create economic development in the area. They don't need to focus on housing or anything
38 like that. Focus on what will provide jobs to that area.
39

40 McShane stated the community is thinking along those lines already. They've talked
41 about moving the urban growth area. The land solves the dilemma for anything east-west.
42 There could be other issues to the north. A fundamental issue for any UGA, including this
43 one, is maintaining the rural gateway along the Mt. Baker Highway. That's why they want
44 to move the line north. That seems to be a policy that could be put in place to prevent
45 southward expansion. It puts some constraints around that UGA. Constraints are missing
46 for a lot of the urban growth areas. Start talking about the location of the hard line, so they
47 can make correct decisions about the land base that will be available for urban growth.
48 Recognize that they may need to think about accommodating the growth through
49 redevelopment instead of expansion. Society will have to face that very issue.
50

51 Caskey-Schreiber stated this area is off the charts in terms of air pollutants. They
52 are going to have to get aggressive about cleaning up the air in that area. They may have

1 an opportunity here to encourage retrofitting or at least not allow the new developments
2 any wood fireplaces. It's an unhealthy living situation for people living there now.

3
4 Brenner stated the people in the area want to remain rural and also have better
5 criminal justice and fire services. However, there is a rural level of service. What people
6 generally want is more than that rural level of service. It has to be one way or another.

7
8 Hal Hart, Planning and Development Services Director, stated the subarea process is
9 an opportunity to balance countywide interest with local interest. They're talking to the
10 people at Birch Bay about implementation items. Birch Bay has five huge projects going on.
11 Cathy Berg is talking to the folks in the East County about organization, opportunities, and
12 actions from this planning process. That will focus requests to the County.

13
14 Weimer stated he agrees with Councilmember Fleetwood's concerns to some degree,
15 that this will spread down the Mt. Baker Highway at some point in the future. No one has
16 shown him an example yet of any firm lines that have been drawn anywhere in the county.
17 He's more than happy to look at this if they can come up with a firm line. He asked if the
18 committee recommendation was unanimous. Aamot stated the recommendation was not
19 unanimous. The Foothills website has a record of decisions and recommendations, that
20 includes voting information.

21
22 Caskey-Schreiber stated Mr. Aamot does a fantastic job with these folks. There are
23 many dissenting opinions. They work hard to be inclusive. Staff is very diplomatic in its
24 process.

25
26 Aamot continued his staff report on the Foothills area regarding the committee
27 recommendations. He presented his staff report on the background and committee
28 recommendations for the Maple Falls area and Glacier area.

29
30 *(Clerk's note: End of tape one, side A.)*

31
32 Aamot continued his staff report on the background and committee
33 recommendations for the Glacier area.

34
35 The remaining subarea includes everything that is not included in the urban growth
36 area, such as Deming, Maple Falls, and Glacier. He continued his staff report on the
37 background and committee recommendations for the remaining subarea and the initiation
38 criteria.

39
40 **McShane moved** to recommend docketing this item.

41
42 **Motion carried unanimously.**

43
44
45 Docket #2007-N: Residential to General Commercial (E. Pole Road)

46
47 Lesa Starkenburg-Kroontje, 313 Fourth Street, Lynden, stated she represents the
48 applicant, Truman Sterk. The owner of this property at the time of the application was
49 someone else, but the applicants have purchased the property. She described the property
50 location and characteristics. The Sterk family must decide how best to use the property.
51 They have recently been granted water needed to plat this property to its residential density
52 of six dwelling units. However, the owners think the property may be better used as an
53 extension of their commercial property to the north. Before proceeding with a plat

1 application, the time was right to come before the Council to consider this as an additional
2 commercial area. By designating this area as commercial, the commercial area boundary
3 becomes straight. This designation could be considered a logical boundary according to the
4 criteria in Revised Code of Washington (RCW) 36.78 on where commercial areas can exist
5 and logical boundaries. Changed conditions include build out of the Hinotes Corner area and
6 its impact on the amount of commercial area available.
7

8 McShane asked the limit of water availability for commercial development that the
9 owners may experience. Starkenburg-Kroontje stated this property is a member of the
10 Hinotes Corner Fire Protection Area, which will provide water for fire protection and fire
11 flow. The Pole Road Water Association would provide the potable water for the
12 development. The water association will review the required water use. At this point,
13 commercial and dairy water uses aren't capped or limited. Only the rate goes up depending
14 on how much water is used. The water association must sign off that it can supply enough
15 water to serve the proposed development. They don't have a cap for any particular amount
16 of water used.
17

18 McShane stated he wants to understand the limitations that commercial zone may
19 have. Starkenburg-Kroontje stated any commercial use would have to have a septic
20 system. A sewer system isn't available. The commercial development would be limited to
21 whatever a septic system could serve. The applicant owns the storage facility to the north.
22 The applicant would not want to have a contract rezone that only allows more storage
23 facilities.
24

25 Fleetwood asked if there have been any studies to indicate that there is an extra
26 demand for commercial zones. He asked if there is a greater demand for housing or
27 commercial in this area. Starkenburg-Kroontje stated she's not aware of any study that has
28 been done. The demand is owner-driven. The property on the southwest corner chose to
29 develop its commercial property as residential. The property on the northeast corner is
30 developing as commercial. Other properties to the north have recently sold as commercial
31 properties. There are not a lot of isolated commercial areas in Whatcom County. There are
32 more areas for residences to locate.
33

34 Caskey-Schreiber asked if this expands the boundaries of the limited area of more
35 intense rural development (LAMIRD).
36

37 Gary Davis, Planning and Development Services Department, stated LAMIRD's aren't
38 designated. They are awaiting the outcome of a case that's being appealed. The LAMIRD
39 boundary could be drawn around some of the smaller lot residential properties outside of
40 this property.
41

42 Caskey-Schreiber stated this application is reminiscent of the Faber Brothers
43 application from a few years ago. They wanted to expand their general commercial. The
44 Council denied the application. The issue is the same. It's an expansion of the LAMIRD,
45 even though there is question about the LAMIRD status. The boundaries are there. Don't
46 add more to it.
47

48 Fleetwood stated the question is whether the logical outer boundary of the LAMIRD
49 would be drawn outside of this proposal, if they did a LAMIRD analysis.
50

51 Caskey-Schreiber stated they drew the boundary at one time like it is.
52

1 Fleetwood asked the staff's recommendation. Davis stated there is no staff
2 recommendation. He gave a staff report and described the location and property
3 characteristics.

4
5 **McShane moved** to recommend that this item be docketed.

6
7 Caskey-Schreiber stated she is against using the argument of creating a straight
8 boundary because it sets a precedent. There are many areas in the county that could use
9 that same argument. The current general commercial zones in the area were adopted
10 based on existing businesses. This is not a UGA or suburban enclave. It's rural land. They
11 don't need to expand commercial areas in the middle of nowhere. The existing commercial
12 areas are sufficient to serve the area. There is a nightmare intersection where the County
13 must spend millions of dollars to fix. Adding more traffic to that area will not fit with any
14 rural resident's quality of life. She is against docketing.

15
16 Fleetwood asked the status of the court case. Hart stated written arguments are in.
17 The case could be heard by July.

18
19 Fleetwood asked if there could be future consideration of the LAMIRD, depending on
20 the outcome of the case. Hart stated that's correct, depending on the outcome. The
21 County would do a LAMIRD analysis if ordered. Staff will shift resources to do whatever the
22 court tells them to do.

23
24 Fleetwood asked if staff has done any preliminary work to begin analyzing Hinotes
25 Corner's logical outer boundary. Hart stated they have not.

26
27 McShane asked if the golf course is privately owned.

28
29 Caskey-Schreiber stated it is.

30
31 McShane stated the golf course is a private parcel zoned rural residential, two units
32 per acre (RR2). He's ambivalent about the applicant property. The area doesn't look rural
33 in the aerial photograph. It becomes a technical decision about how one draws the LAMIRD
34 lines. He's not sure how they would draw those lines. The question is whether this parcel is
35 developed as a suburban development with six houses or as commercial. If zoned
36 commercial, residential multi-family units could be developed on it.

37
38 Crawford asked if the applicant wants the rezone to commercial or direction from the
39 County on how the area should be developed. Starkenburg-Kroontje stated the applicant
40 wants the rezone to commercial. The applicant must make a decision on the property
41 development soon. If the commercial zone is not approved, the applicant will continue with
42 the residential development. The question isn't about where the line would be drawn, but
43 about identifying the best use for this property.

44
45 Hart stated that if drawing the boundaries, this property is probably within the
46 LAMIRD. The question is the intensity of the use.

47
48 McShane asked if staff is confident that the boundary line would be to the west. Hart
49 stated they have to do a series of analyses. This is a tightly compacted area. The policy
50 question is how much commercial development they want in that area.

1 Fleetwood asked if the property was zoned rural residential, three units per acre
2 (RR3) at the time of the 1991 aerial photo. Hart stated the 1997 Comprehensive Plan was
3 based largely on the zoning ordinance of the time.

4
5 Starkenburg-Kroontje stated the zoning has been that way since 1986, when the
6 Lynden Nooksack subarea plan was adopted.

7
8 Crawford asked how the County is spending millions of dollars on the intersection.
9 He asked if the road is being widened and right-of-way is being acquired.

10
11 Caskey-Schreiber it is. The County is paying for most of it, not the State.

12
13 Crawford stated a bunch of residents in the area just got the State to lower the
14 speed limit because it wasn't good for residential. These questions may be appropriate for
15 the Planning Commission. These questions may be a reason for this to go to the Planning
16 Commission. These issues could be vetted. If there is significant widening of the road, it
17 would be more conducive to commercial development. He is ambivalent about the
18 application. It's not a clear case, and is a good candidate for docketing to the Planning
19 Commission for review and consideration.

20
21 Fleetwood stated one reason Councilmember Caskey-Schreiber said she is opposed
22 to docketing is because of an increase in traffic in the area. He asked if build out of
23 residential uses add to a net increase of traffic.

24
25 Caskey-Schreiber stated six residences would have less impact than a commercial
26 facility. The engineers have not planned for that type of traffic because the property is not
27 zoned commercial. It's not factored into their design study. There is no change to warrant
28 an expansion to the west.

29
30 Starkenburg-Kroontje stated that any building development impacts would be
31 reviewed in the building permit and land use process. If developed as a mini-storage
32 facility, access could go through properties that are already developed by the owner. That
33 would be most logical. They are discussing details that should be discussed through the
34 docketing process.

35
36 Fleetwood asked if the owner is going to build on the adjacent property to the east.
37 Starkenburg-Kroontje stated they are going to build to the northeast corner. The plans are
38 working their way through the State and County. If this is docketed and then approved by
39 the Council, it will be two to three years before anything happens out there. The request is
40 timely, from the standpoint of how long it takes to do anything and of the owner's future
41 plans.

42
43 McShane stated that if docketed, they should consider traffic conditions on the
44 designation. That might inform any permitting of the adjoining property to the east. The
45 owners have a lot of land that is yet to be developed and is zoned commercial. One
46 question is whether or not they want that much commercial area. His main concern is
47 whether they are losing resource land and significantly impacted the county resources for
48 providing services. They will need to provide services for six more homes, but they don't
49 lose any resource land in this area. The community may indicate its preference.

50
51 Caskey-Schreiber stated docketing sets a precedent for anyone who wants to put in
52 an application to make a boundary better. She asked what could be gained, other than
53 appeasing the applicant. They don't need more commercial area in this neighborhood.

1 They don't want to steer growth to this area. They are changing predictability of the entire
2 neighborhood. Condos have gone in across the street.
3

4 McShane stated this is not a change in the LAMIRD boundary. This area is within the
5 LAMIRD boundary. The question before this committee is whether it's worthwhile to have a
6 conversation about whether this parcel should be residential or commercial. If he hears
7 from the community that they want the parcel to remain residential, then he will probably
8 lean toward that community desire. The LAMIRD argument doesn't work here.
9

10 Caskey-Schreiber stated that this was the LAMIRD boundary, the last time the
11 Council looked at this, with the Faber Brothers issue.
12

13 McShane stated the County doesn't have LAMIRD's.
14

15 Fleetwood stated it is identified as an enclave on the Comprehensive Plan map.
16

17 McShane stated the suburban enclave includes the RR2 zoned areas.
18

19 Caskey-Schreiber stated the LAMIRD was defined as the general commercial areas.
20

21 McShane stated they don't have a LAMIRD. They've never had LAMIRD's. They've
22 had suburban enclaves. The LAMIRD boundary will be different from the suburban enclave,
23 but it won't be around the general commercial zones. It will be around the general
24 commercial zones and lots that are smaller.
25

26 Caskey-Schreiber stated she saw a countywide map of all the LAMIRD sites. The
27 exact boundary of the general commercial zone was highlighted. That's why the Council
28 denied the Faber Brothers application.
29

30 McShane stated that was the zoning boundary between the two. The Faber Brothers
31 wanted to expand the commercial to the east. At the time, it was based on a line drawn
32 through a building. He wasn't interested in drawing a line around a commercial building
33 that ought not to have ever been built. The building shouldn't have been permitted.
34

35 Fleetwood stated he's not persuaded that the enclave designation on the map should
36 give them direction. That's the reason the lawsuit was filed to begin with. It will force the
37 Council to reconsider whether or not the enclave designations are appropriate, based on
38 LAMIRD analysis. He's also ambiguous. By docketing this, they don't guarantee that the
39 rezone will be approved. Knowing the Planning Commission, he's not sure they will
40 recommend a rezone. He will support the motion to docket.
41

42 Hart stated the Council could direct the Planning Commission to look at the
43 application with the LAMIRD criteria.
44

45 **Fleetwood suggested a friendly amendment** to direct the Planning Commission
46 to look at the application with the LAMIRD criteria and boundary.
47

48 **McShane did not accept** the friendly amendment. They've got suburban enclaves
49 all around the county. If councilmembers believe that some suburban enclaves are too
50 large and need to be redrawn, the Council should docket those as individual items. They've
51 done that with the Chuckanut area and the Toad Lake area, because they were glaring
52 mistake. This is not a glaring mistake. He's not interested in opening up the whole thing

1 because there is an applicant for a zoning change. The LAMIRD issue is clouding the
2 appropriate debate.

3
4 **Motion failed 1-2 with Fleetwood in favor.**

5
6 McShane stated Councilmember Caskey-Schreiber convinced him that this isn't worth
7 the effort.

8
9
10 **OTHER BUSINESS**

11
12 Hal Hart, Planning and Development Services Director, stated staff would have the
13 committee schedule a meeting on the school impact fee ordinance.

14
15 Caskey-Schreiber stated the committee could have an extra long meeting on a
16 regular meeting day.

17
18 *(Clerk's Note: End of tape one, side B.)*

19
20 Hart stated the League of Women Voters scheduled their planning short course the
21 same night as the Joint Lake Whatcom Management Committee. He may video record it
22 and run it on television.

23
24 McShane stated the City of Bellingham recently limited the square footage of huge
25 stores. He asked if there is a place in the county for a very large store to go. Hart stated it
26 may be able to go at the highway commercial area.

27
28 McShane stated there may be other language that will preclude that type of
29 development. Hart stated he'll need to check the code. The greatest likelihood of that type
30 of development would be in an existing city. The size and configuration of the parcels, as
31 well as the lack of sewer and water services, would prohibit such development.

32
33 Fleetwood asked if it is permitted in the light industrial zone. Hart stated he doesn't
34 believe it is. That has been his consistent interpretation.

35
36
37 **ADJOURN**

38
39 The meeting adjourned at 4:50 p.m.

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43 Jill Nixon, Minutes transcription

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52 Dan Brown-Davis, Council Clerk

WHATCOM COUNTY COUNCIL
WHATCOM COUNTY, WASHINGTON

53
Seth Fleetwood, Committee Chair