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WHATCOM COUNTY COUNCIL  
**Planning and Development Committee**

June 5, 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:

Carl Weimer  
Sam Crawford

**COMMITTEE DISCUSSION AND RECOMMENDATIONS TO COUNCIL**

**1. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING MAP FROM URBAN RESIDENTIAL - 3 UNITS/ACRE (UR3) TO URBAN RESIDENTIAL - 4 UNITS/ACRE (UR4) IN THE FERNDALE URBAN GROWTH AREA (AB2007-247)**

Gary Davis, Planning and Development Services, stated the two agenda items are related. They are part of a program to ensure Growth Management Act (GMA) compliance. This item is one of three components of that program. They are to bring areas into compliance that were within urban growth areas (UGA's) deemed to be not dense enough to be a UGA. The urban residential, three units per acre (UR-3) density was found to be insufficient in density through the Futurewise decision. A second component is the opposite issue of zoning classifications that are too dense for rural areas that are outside the urban growth area (UGA). They are awaiting the outcome of the appeal to find out what they need to do about those properties. The third part of GMA compliance is to make sure they've done the ten-year reviews of the UGA's. They are working on Bellingham, and will bring forward the other cities this year.

The first of the three compliance issues are these two agenda items. He indicated the locations that would be rezoned on a map. The court case decision was that four dwelling units per acre for urban growth is not an inflexible requirement, but is a general rule of thumb. Where there are reasons to deviate, the County's should show those reasons. The decision did not invalidate the parts of the Bellingham UGA that were within the Lake Whatcom watershed and near the airport approach area because of the County's documented environmental constraints. In this case, to locations were similarly constrained by environmental issues and are justified to remain zoned UR-3. Staff consulted with the Ferndale Planning Director, who felt the rezones are compatible with Ferndale's Comprehensive Plan. There was one letter of opposition from a resident due to density and traffic issues. The resident referenced an area that was removed because of wetland issues.

Caskey-Schreiber stated the Mayor and Ferndale City Council Members talked about flipping the UGA from the west to the east. She asked if that has come up recently. Davis stated it has not. They will review the UGA's around the county. Ferndale is one of those that will be reviewed. They are working with staff to review the boundaries and the existing UGA for a 20-year land supply.

1  
2 Caskey-Schreiber stated she doesn't want to increase density in areas that will be  
3 downzoned if the UGA areas were flipped. Davis stated they received no comments on that.  
4

5 Dave Pros, 1466 Roy Road, Bellingham, stated the UGA should have the buildable  
6 lots for the land supply. If this upzone were to go through, and the UGA changes later, it  
7 would change the size of the UGA. The County should upzone by one-fourth areas that can  
8 hold the population projection for the next 20 years, and reduce other areas by one-fourth,  
9 to maintain the number of lots needed for the 20-year growth projection. Send it back to  
10 Ferndale about sizing the UGA with this pending upzone. Another alternative is to tier this  
11 area so conditions have to be met before the zoning can be used. He is concerned about  
12 having a UGA that is much larger than it should be. Downtown businesses aren't helped  
13 when businesses move to UGA areas. Make the UGA tighter so growth occurs downtown as  
14 much as possible.  
15

16 Weimer asked why they aren't looking at the areas in the UGA that are zoned rural,  
17 one unit per five acres (R5A). Davis stated the UR-3 and UR-4 zones have a holding  
18 density. Until they have urban utilities, they have a minimum lot size of five acres. The  
19 R5A zone is consistent with that holding pattern, and it wasn't challenged under the  
20 Futurewise issue.  
21

22 Karen Frakes, Prosecutor's Office, stated this item is to address the County's  
23 noncompliance with the GMA. She hoped the County would obtain compliance by  
24 addressing these UR-3 areas. The County is being denied grants because it is out of  
25 compliance.  
26

27 Fleetwood asked if there are any other UGA areas with this issue. Frakes stated the  
28 Bellingham UGA also has these areas. If it will take a while for the whole Bellingham plan to  
29 be adopted, then they may want to consider separating out the UR-3 areas to address  
30 compliance.  
31

32 Fleetwood asked about Mr. Pros's concern about accommodation. He asked if they  
33 should reduce the accommodation elsewhere if they are making more units available.  
34 Frakes stated they will shortly be reviewing those UGA's, and will take up that issue later  
35 this year.  
36

37 Fleetwood asked if they will lose leverage to change it later by adopting it now.  
38

39 McShane stated the way they did this is a mess. They were too lazy to litigate on  
40 specific areas. All of this stuff could have been resolved at that time. They litigated broadly  
41 so they could set a precedent for other counties.  
42

43 Finding of fact 10 is not compliant with the Comprehensive Plan. He asked if that  
44 also would be addressed in the future. He asked if they could add a finding of fact that  
45 states they recognize inconsistencies between the Comprehensive Plan and the UGA zoning,  
46 which will be addressed at the time they review the Ferndale UGA. Frakes stated the  
47 Council could add that finding without being required to have another public hearing.  
48

49 McShane stated create a finding that this issue of incompatibility between this UGA  
50 and the Comprehensive Plan would be addressed at the time the urban growth boundaries  
51 are updated.  
52

1           Davis stated the UR-3 and UR-4 zones refer to a gross density. The six to eight units  
2 called out in the Comprehensive Plan refers to net density. Therefore, the UR-4 zone is  
3 calculated in terms of gross density, not net density, and could result effectively in six units  
4 per acre. Therefore, they are not necessarily in conflict.  
5

6           Also, the Council will see at a future meeting a proposal from the Planning  
7 Commission to add a minimum net density of four to the acre on UR-4. Now, it only has the  
8 maximum gross density.  
9

10          Jack Petree, 2955 Sunset, Bellingham, stated the UGA was developed to handle the  
11 1995 to 2015 population of Ferndale. Ferndale is still working on its Comprehensive Plan.  
12 Anything they do today would inform that Comprehensive Plan. Also, the Blaine  
13 Comprehensive Plan uses 1995 statistics on which they based their plan. They didn't  
14 update anything in their plan. The fact is that they don't know whether there is too much  
15 population in both areas. In the case of Ferndale, Ferndale will look at what the County  
16 does and adjust its Comprehensive Plan to account for it.  
17

18          Weimer stated he has the same concerns as Councilmember Caskey-Schreiber.  
19 Ferndale still may want to swap the areas to the east for the areas to the west. He asked if  
20 there is some way to add some protection to keep them from doing that at the same time  
21 the County upzones the area to the east.  
22

23          Caskey-Schreiber stated that if she approves this, she won't want to undo it. The  
24 swap would be history. There were good arguments for the swap.  
25

26          McShane stated they are anxious to solve all the planning issues around Ferndale.  
27 This is simply to get this Futurewise thing off the County's back. It's a technicality. They  
28 will take on Ferndale's UGA at the appropriate time. They don't have the facts to make  
29 changes now.  
30

31          Caskey-Schreiber stated that instead of upzoning the area to comply, just remove it  
32 because it doesn't comply.  
33

34          McShane stated he doesn't have anything on which to base his decisions on  
35 compliance and other issues of growth in the Ferndale area.  
36

37          Davis stated staff and the County will have that information in a few months. They  
38 will look at density and land supply information on which to base another decision.  
39

40          Caskey-Schreiber stated she doesn't like that course. They are putting the cart  
41 before the horse. Many of these lands to the west are undeveloped. She asked if the  
42 committee can postpone this until hearing from the City.  
43

44          Fleetwood stated the UR-3 zone is still a non-rural designation. It would take a long  
45 time to remove the area from the UGA. He asked if they could hear from the City about this  
46 in the next couple of weeks. Davis stated they don't have a lot of information until they  
47 review the UGA and find out what numbers they are looking at. They are awaiting a  
48 decision from the Court of Appeals on the rural lands that are too densely zoned. However,  
49 that appeal does not apply to the issue of lands within the UGA's. They remain under a  
50 compliance order now.  
51

1 Weimer asked if the outstanding issue applies to the rural residential, one unit per  
2 acre (RR1) that is adjacent to the City of Ferndale. Davis stated it may. They have to wait  
3 and see the court decision.  
4

5 Weimer stated there may be a push to include that in the City of Ferndale right after  
6 they've upzoned this other area that is still rural. Davis stated there may be options to  
7 include that area as a limited area of more intense rural development (LAMIRD), for  
8 instance. They are exceptions that allow LAMIRD's next to UGA areas.  
9

10 McShane stated that it would take a long time procedurally to remove these areas  
11 from the UGA. It would have to go back to the Planning Commission for more public  
12 hearings. It will require the City of Ferndale to have public hearings. It won't take a few  
13 weeks. At best, it would take months. They are going to address this anyway. This is a  
14 technical matter. There is no pressing emergency. If there is an emergency, they can do a  
15 building or subdivision moratorium in the area until it's resolved.  
16

17 Fleetwood stated he agreed.  
18

19 **McShane moved** to recommend approval to the full Council.  
20

21 **Motion carried unanimously.**  
22

23 **2. ORDINANCE AMENDING THE OFFICIAL WHATCOM COUNTY ZONING MAP**  
24 **FROM UR3 TO UR4 IN THE EVERSON URBAN GROWTH AREA AND UR3 TO**  
25 **R5A ADJACENT TO THE EVERSON URBAN GROWTH AREA, ON THE EAST SIDE**  
26 **OF EVERSON-GOSHEN ROAD (AB2007-249)**  
27

28 Gary Davis, Planning and Development Services, described the proposal and  
29 indicated the location on a map.  
30

31 McShane asked if the rural, one unit per five acres (R5A) zone is consistent with the  
32 Comprehensive Plan. Davis stated existing zoning to the south is all R5A. This is consistent  
33 with the City of Everson plans.  
34

35 Caskey-Schreiber asked if it is wise to increase density that close to a mining  
36 operation, and if it would make mining non-compliant. Davis stated the mining operation  
37 won't exist forever. Also, the City has no plans to extend utilities to that area.  
38

39 **McShane moved** to recommend approval to the full Council.  
40

41 **Motion carried unanimously.**  
42  
43

44 **OTHER BUSINESS**  
45

46 Weimer stated he has concerns about many plans and docket items that haven't  
47 come forward from the Planning Department. He asked if any councilmembers are  
48 interested in having discussions with the administration about possible solutions, such as  
49 hiring extra consultants get caught up.  
50

51 Caskey-Schreiber stated she supports that idea. They are almost two years behind.  
52 The County may be in a vulnerable situation. She would much rather spend money on

1 extra consultant salaries than attorneys. She worries about how much the Council can get  
2 done.  
3

4 Weimer stated he would like to know if councilmembers are in favor of the Council  
5 having a chat with the administration about solutions.  
6

7 Linda Peterson, Planning and Development Services Department, stated she  
8 understands the concerns. The departure of Planning management gives them an  
9 opportunity to step back and look at systems and procedures. They are definitely making  
10 changes to streamline procedures. They are not increasing staff, but are learning to work  
11 more efficiently and effectively. Now that the Council has a policy analyst, the staff plans to  
12 work directly with that person. That will help matters. They can start moving things more  
13 quickly. Her focus as a manager is to look at the backlog. As they go forward, she will make  
14 sure assignments are set out early, that staff knows what is expected, and that they keep  
15 things more on track. She is working with the County administration on Planning staff  
16 assignments and project lists. Many projects on the project list are not priority items. They  
17 need to focus on meeting all the compliance requirements first and foremost. Then, pay  
18 much closer attention to the docketed items, Comprehensive Plan amendments, and zoning  
19 map amendments. Get caught up on those and move forward. The list of projects that  
20 aren't priorities will be set aside. She hopes they can get caught up in the next few months.  
21 She has a concern about having too many consultants. That also takes time to recruit and  
22 manage consultants. They have a really good long-range planning team right now. The  
23 Council will see a real change in the next coming months. The Planning staff will do a better  
24 job of prioritizing issues. Part of the problem is the staff vacancies they've suffered.  
25

26 Weimer stated his concerns aren't with staff, but with the amount of work that the  
27 Council has piled on staff. He wonders if they can add extra people for very distinct work  
28 items to alleviate the pile of work. Peterson stated there may be times when that is  
29 appropriate. She looks forward to working with the Council's policy analyst. It will help to  
30 determine what staff should work on, the Council's priorities, and the legal mandates.  
31

32 McShane stated planning is primarily about policy, which is primarily legislative.  
33 Long-term planning is primarily legislative. The County Council should maybe take over  
34 long-term planning. Some of the Council's priorities have not been priorities of the  
35 administration. Therefore, things the Council prioritizes don't come forward. It also puts  
36 the Planning Department staff in a conflict situation. The downside of long-term planning  
37 not being under the Planning Department is creating policy that is unenforceable because  
38 the Council doesn't fully understand it. Councilmembers have a growing concern that some  
39 of the problem isn't just about not having enough staff. If it is a staff problem, then have  
40 more staff if they feel they are moving too slowly on some policy items. The concern is also  
41 that priorities being set aren't the priorities of the legislative body. It's a difficult position  
42 for the staff to be in. He hopes the staff really does work with the Council's new policy  
43 analyst.  
44

45 *(Clerk's Note: End of tape one, side A.)*  
46

47 Peterson stated she welcomes any assistance the Council wants to provide. The staff  
48 shortages have to do with the shortages and staff vacancies that exist in the Land Use  
49 Division.  
50

51 Caskey-Schreiber stated Whatcom County loses a lot of staff because of the low  
52 salaries it offers. She hopes the administration will rectify that situation. Peterson stated  
53 she agrees that they are not competitive in today's market.

1  
2 Weimer stated the councilmembers still need to decide what they will talk to the  
3 administration about.

4  
5 McShane asked the status of the Bellingham urban growth area issue.

6  
7 Fleetwood stated the Planning Committee will make a safety factor recommendation  
8 at its next meeting on June 19. He explained the expected timeline after that.

9  
10 There was discussion about the timeline for finishing the Bellingham urban growth  
11 area.

12  
13 Caskey-Schreiber asked for a refresher on the decisions the committee has made so  
14 far and final numbers regarding accommodations. They also have to have a presentation on  
15 and analyze the Planning Commission findings. Then they have to move forward with  
16 reconciling it all.

17  
18 Fleetwood stated on June 19 they will try to finalize land use policies, zoning maps,  
19 and discuss safety factor. The committee must think about whether it is prepared to make  
20 a committee recommendation on the five-year review areas. That would give the Planning  
21 staff time to prepare a resolution for the Committee of the Whole by early July.

22  
23 Weimer stated it seems like they are looking at Bellingham in a vacuum, separate  
24 from the rest of the county. The unincorporated areas of the county are meeting their  
25 growth numbers more quickly than Bellingham. He asked if they take those numbers into  
26 consideration when deciding Bellingham's area for the next 20 years.

27  
28 Gary Davis, Planning and Development Services Department, stated the City's land  
29 supply analysis has taken the growth projections for the Bellingham subarea to come up  
30 with the amount of growth that would happen from 2006 to 2022. That is the focus  
31 number. That is the way the process is set up. They are to look at each individual urban  
32 growth area.

33  
34 McShane stated that from the perspective of land use policy, they can consider the  
35 unincorporated portion. It plays a role in how they deal with upzones. The County Council  
36 set an amount of growth that should occur in the unincorporated area that is quite low.  
37 There needs to be mechanisms to address it in an equitable manner. They should consider  
38 any UGA of any city as they are reviewed. The County is obligated to deal its portion of  
39 development. Density in a city is to be encouraged because the County's goal is to not  
40 have a lot of growth in an unincorporated areas because of the resource lands. It will  
41 inform the land use policy and may lead to an interlocal agreement that comes after that  
42 decision.

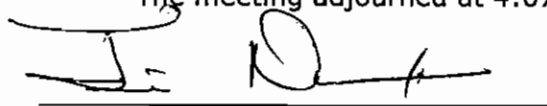
43  
44 Weimer asked if they should subtract 1,000 people out of a projection in some UGA if  
45 the Birch Bay area has taken in 1,000 more people than expected.

46  
47 McShane stated crossing communities is problematic, but not in the unincorporated  
48 area. It would inform a negotiation between any of those urban growth areas and how they  
49 respond. If a lot of growth occurs in Birch Bay, and they get into an issue with a given City  
50 where they are trying to settle, it can be raised as part of the negotiation.

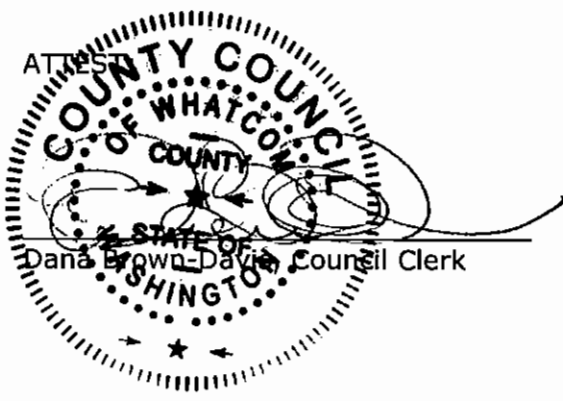
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**ADJOURN**

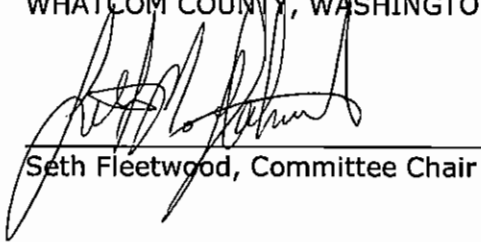
The meeting adjourned at 4:07 p.m.



Jill Nixon, Minutes Transcription



WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON



Seth Fleetwood, Committee Chair