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WHATCOM COUNTY COUNCIL  
**Special County Council**

December 8, 2009

Council Chair Seth Fleetwood called the meeting to order at 9:00 a.m. in the Council Chambers, 311 Grand Avenue, Bellingham, Washington.

**ROLL CALL**

**Present:** Seth Fleetwood, L. Ward Nelson and Carl Weimer  
**Absent:** Barbara Brenner, Laurie Caskey-Schreiber  
**Also Present:** Sam Crawford

**PUBLIC HEARING**

**1. RESOLUTION APPROVING RECOMMENDATIONS ON SEVEN APPLICATIONS FOR CLASSIFICATION, RECLASSIFICATION, OR AMENDING EXISTING APPLICATIONS FOR OPEN SPACE CURRENT USE ASSESSMENTS FOR LANDS LOCATED WITHIN THE CITY OF BELLINGHAM (AB2009-455)**

*(Clerk's Note: Pursuant to RCW 84.34.037(1), three members of the Whatcom County Council will hold a special public hearing and take action on this item.)*

Erin Osborn, Planning and Development Services Department, discussed the Revised Code of Washington (RCW) statute and this process. She submitted and read from a presentation (*on file*) and gave a staff report.

The following people answered questions:

- Tim Wahl, City of Bellingham Parks and Recreation Department, stated the City will assign this item to it's City Council Parks Committee, which will make a recommendation to the full City Council.
- J. Bruce Smith, Clark Family Attorney, answered questions about developable home sites on the property.

Discussion included how three councilmembers are authorized to make the decision on behalf of the Council; making a recommendation to the full Council; coordinating this decision with the City of Bellingham; how the definition of public access is interpreted; linking different properties through trails; available parking at Ludtke-Pacific Trucking location; determining the highest and best use of a property, and; development on the Clark family property.

***Nelson moved*** to make a condition to clarify specifically the parking location and access points for the Ludtke-Pacific Trucking application.

Wahl stated the City plans to provide for access on the State Department of Natural Resources (DNR) property off the Mt. Baker Highway and possibly the western site. They would not put parking at this location. This corridor would be passive use and wildlife corridor, possibly wetland mitigation or boardwalk. That is a long-term plan. The City is 30 years away from it's Greenway program. This is about preserving the opportunity now.

***Nelson withdrew*** his motion.

1  
2 Fleetwood opened the public hearing on the Ludkte application and, hearing no one,  
3 closed the public hearing

4  
5 **Nelson moved** to approve the recommendation regarding the Ludtke-Pacific  
6 Trucking, Inc. application.

7  
8 The motion carried by the following vote:

9 **Ayes:** Weimer, Fleetwood, and Nelson (3)

10 **Nays:** None (0)

11  
12 Fleetwood opened the public hearing on the Ing application and, hearing no one,  
13 closed the public hearing.

14  
15 **Weimer moved** to approve the recommendation regarding the Ing application.

16  
17 The motion carried by the following vote:

18 **Ayes:** Weimer, Fleetwood, and Nelson (3)

19 **Nays:** None (0)

20  
21 Fleetwood opened the public hearing on the Ing/Alder application and, hearing no  
22 one, closed the public hearing.

23  
24 **Nelson moved** to approve the recommendation regarding the Ing/Alder application.

25  
26 The motion carried by the following vote:

27 **Ayes:** Weimer, Fleetwood, and Nelson (3)

28 **Nays:** None (0)

29  
30 Fleetwood opened the public hearing on the Harris application and, hearing no one,  
31 closed the public hearing.

32  
33 **Weimer moved** to approve the recommendation regarding the Harris application.

34  
35 The motion carried by the following vote:

36 **Ayes:** Weimer, Fleetwood, and Nelson (3)

37 **Nays:** None (0)

38  
39 Fleetwood opened the public hearing on the Clark Family application and the  
40 following person spoke:

41  
42 J. Bruce Smith, Clark Family Attorney, submitted and read from a letter (*on file*).

43  
44 Hearing no one else, Fleetwood closed the public hearing.

45  
46 **Nelson moved** to approve the recommendation regarding the Douglas and Margaret  
47 Clark Family LLC application. He asked how they changed the access points when there has  
48 been an agreement. He asked by what authority the City used to change the public access.  
49 Wahl stated the biggest problem was that the City didn't think through how to manage the  
50 issues. He described the trail.

51  
52 Smith stated the conservation easement didn't address public access. When the  
53 public access changed, no one thought formally about changing the open space agreement.

1  
2 Nelson asked if the land should still have public access technically. He asked how  
3 the original public access agreement occurred. Smith stated public access was originally  
4 granted in the 1977 open space agreement. The 1985 open space agreement amended  
5 that access.  
6

7 Weimer asked who has access to shorelines according to State law. Wahl stated that  
8 was a platted harbor area, so the Clarks own the tidelands.  
9

10 Nelson asked why they would allow only non-motorized watercraft. Olson stated  
11 they want to avoid noise from motorized boats.  
12

13 Fleetwood stated he is against the motion. This doesn't constitute meaningful public  
14 access. The amenities described will be preserved whether or not there is a public trail  
15 system. This is primarily an enforceability issue. The people who cause problems on the  
16 property are probably not aware there is an open space agreement, and the problems will  
17 continue.  
18

19 Nelson stated his problem with this application is that it doesn't provide meaningful  
20 public access. Kayakers are the only ones allowed. It limits the area to those who are  
21 physically able to get there. It's not a benefit. If they want to prevent access, just remove  
22 the area from open space. If they don't want the benefit and to control the land, they need  
23 to remove the open space designation. That's how it works. Otherwise, they must work  
24 with the City to provide controlled access.  
25

26 Weimer stated he would have liked to have a joint discussion with the City. He also  
27 has concerns about development near public access. However, the beach is a great place,  
28 and it is a benefit. He understands both views. Wahl stated the motorboat access is there  
29 now. The cove is a shoal area that a motorized boat can't go through.  
30

31 Olson stated that if the proposal isn't approved, it goes back to the 1985 agreement.  
32 When this was evaluated, they were give 25 percent marks out of 40 percent total for public  
33 access. There is a variety of different criteria used to evaluate the application. It's just one  
34 criteria.  
35

36 Weimer asked if the City and County will have to have a discussion if the City wants  
37 to approve this. Olson stated they will.  
38

39 The motion failed by the following vote:

40 **Ayes:** Weimer, (1)

41 **Nays:** Fleetwood, and Nelson (2)  
42

43 Fleetwood opened the public hearing on the Bridgeview Ventures application, and the  
44 following person spoke:  
45

46 Fred Wagner, Bridgeview Ventures, stated the site is urban and adjacent to critical  
47 habitat. Development is currently restricted, but conditions can be amended or changed  
48 through a public process. It's also restricted by the City's wetland ordinance. They have no  
49 place to do anything with this property, and it's better served to be in the public realm.  
50 There is a deer trail through the property. The property is one-quarter of the entire site,  
51 with an assessment of approximately \$70,000.  
52

53 Hearing no one else, Fleetwood closed the public hearing.

1  
2        **Weimer moved** to approve the recommendation regarding the Bridgeview  
3 Ventures, LLC application. He asked if any of it is jurisdiction of the City's shoreline master  
4 plan. He asked the criteria for being able to apply for this designation.

5  
6        Fleetwood stated a potential trail linkage is a huge public benefit.

7  
8        Nelson stated he disagrees. The trail already exists. Trail access exists. Wahl  
9 stated the trail is on the opposite side of the creek. This would be another trail. It would go  
10 along the north side of the creek, and tie together the businesses along that area. If there  
11 were access, there would be access to a place where one could cross the creek. This access  
12 would be closest to the Fairhaven business district.

13  
14        Nelson stated he's concerned about a trend of putting required buffers in open  
15 space. Restrictions could change, but the owner could also remove the property from the  
16 open space designation. There's no reason to change the taxation level.

17  
18        The motion failed by the following vote:

19        **Ayes:** Fleetwood (1)

20        **Nays:** Weimer and Nelson (2)

21  
22        Fleetwood opened the public hearing on the Nelson application and the following  
23 person spoke:

24  
25        Jeff Nelson, owner, stated the easement would be available for a minimum of 15  
26 years.

27  
28        Crawford asked why they should provide yet more access to an already-developed  
29 trail system. Wahl stated this is to provide a trail to the loop around the developed trail.  
30 It's a different approach to Chuckanut Mountain.

31  
32        **Nelson moved** to approve the recommendation regarding the Nelson application.  
33 It's more appropriate for the urban area.

34  
35        Fleetwood asked how far into the property will the public access trail go. Wahl  
36 stated there will be public access just along the Nelson south boundary. The buffer is very  
37 valuable. There isn't a view of the entire property. The value is to the south side of the  
38 property.

39  
40        Fleetwood stated he would like to see a trail to the portion of the field property  
41 surrounded by trees at the northwest corner of the property. Jeff Nelson stated he will  
42 provide access to the field and around the pond.

43  
44        Wahl stated this arrangement is a good deal for the public for 15 years. However,  
45 the public is not going to invest sums of money in temporary access arrangements. That's  
46 what happened also at Clark's Point. The City can't spend money on private property.  
47 These big ideas about public access are good, but there isn't a mechanism to support  
48 investment of public funds in these properties without a perpetual arrangement.

49  
50        The motion carried by the following vote:

51        **Ayes:** Weimer, Fleetwood, and Nelson (3)

52        **Nays:** None (0)

1 Weimer suggested a staff update on the process and tax implication of these  
2 applications in the first quarter of 2010.

3  
4 **ADJOURN**

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6 The meeting adjourned at 10:50 a.m.

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11 Jill Nixon, Minutes Transcription

12 The Council approved these minutes on January 26, 2010.

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Please contact the Council Office to obtain an  
official, signed copy:  
360-676-6690 or council@co.whatcom.wa.us