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4 WHATCOM COUNTY COUNCIL  
5 **Planning and Development Committee**  
6

7 March 16, 2010  
8  
9

10 **CALL TO ORDER**

11  
12 Committee Chair Bill Knutzen called the meeting to order at 3:00 p.m. in the Council  
13 Chambers, 311 Grand Avenue, Bellingham, Washington.  
14

15  
16 **ROLL CALL**

17  
18 **Present:** Ken Mann, Bill Knutzen and Barbara Brenner  
19 **Absent:** None  
20 **Also Present:** Kathy Kershner, Carl Weimer and Sam Crawford  
21

22  
23 **OTHER BUSINESS**

24  
25 Knutzen stated the Council will schedule an April 12 or April 15 meeting of all urban  
26 growth area (UGA) parties.  
27

28 Crawford stated the purpose of the meeting is to talk about the timeframe issue and  
29 the details of what the County needs to get done to have a defensible position on another  
30 look at the UGA's. They will have a talk about what the appellants want and what the  
31 Council's concerns are. They will do this in a very public process. The folks in the  
32 community made it clear there is too much at stake to work on deals quietly. The venue  
33 will allow everyone to sit at the table.  
34

35 Dominique Zervas, Ferndale, Sumas, Nooksack, and Caitac attorney, asked if this is  
36 characterized as a public hearing or just a meeting.  
37

38 Crawford stated it is not a public hearing so far, but the Council would like an  
39 opportunity to talk about County concerns, issues, and priorities to develop the best  
40 outcome possible, and also allow time for the appellants to state their cases, with the idea  
41 of creating a dialog. They have been granted an extension of time to work toward some  
42 kind of resolution. He hopes to allow appellants to attend, present, and dialog. He doesn't  
43 know if there will be a back-and-forth discussion.  
44

45 Brenner asked if Ms. Zervas represents Caitac collectively with Ferndale, Sumas, and  
46 Nooksack. Zervas stated there are about 20 parties in this matter. The petition for Caitac  
47 is separate from the petitions from the cities. Everyone has different interests, and need to  
48 be represented separately.  
49

50 Weimer asked who would run this meeting. He asked if they need an independent,  
51 third party to run the meeting.  
52

1 Crawford stated he has an appointment with a professional facilitator to talk about  
2 that issue. One of the challenges of a facilitated meeting is all the history. The level of  
3 complexity of these issues will make it difficult for a facilitator to have the good judgment to  
4 direct conversation.  
5

6 Brenner stated the County councilmembers are as diverse as it can get, and can run  
7 the meeting, rather than have someone else run it.  
8

9 Crawford stated it will be advertised and run as some kind of Council meeting.  
10

11 Jack Petree, citizen, asked that the meeting be held sooner. Anything that goes to  
12 settlement after April 1 has a 60-day review by the Department of Commerce. They will  
13 already be past the 90-day extension. The law allows a board member from another  
14 Hearings Board to facilitate.  
15

16 Crawford stated let staff look into that issue, and don't decide it today. On another  
17 issue, the City of Bellingham has extended time limits for plat approval. The County Council  
18 is requested to do the same. He submitted information (*on file*). In two weeks, introduce  
19 an ordinance, and have a hearing in four weeks. He read the title of the proposed  
20 ordinance.  
21

## 22 **COMMITTEE DISCUSSION AND RECOMMENDATIONS TO COUNCIL**

### 23 **1. CONSIDERATION OF HEARING EXAMINER'S RECOMMENDED APPROVAL OF A** 24 **PLANNED UNIT DEVELOPMENT, FILED BY MAYFLOWER EQUITIES, INC. FOR** 25 **"MONTEREY HEIGHTS" (PUD2007-0001), PRELIMINARY LONG** 26 **SUBDIVISION (LSS2005-0004) (AB2010-122)** 27 28 29

30 *Brenner moved* to recommend approval to the full Council.  
31

32 The motion carried by the following vote:

33 **Ayes:** Mann, Knutzen and Brenner (3)

34 **Nays:** None (0)  
35

### 36 **2. RESOLUTION INITIATING COMPREHENSIVE PLAN AND ZONING** 37 **AMENDMENTS FOR 2010 (AB2010-113A)** 38

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

41 The following person answered questions:

- 42 • David Stalheim, Planning and Development Services Department Director  
43

44 Discussion included whether they can do this before the rural element; staff time;  
45 adding items to the docket; allowing the Planning Director to submit changes at any time of  
46 the year; the rationale used to rezone some folks near Birch Bay from urban residential,  
47 four units per acre (UR4) to rural, one unit per ten acres (R10A); the affect of adding items  
48 to the docket list on staff time and effects to other existing work items in the department;  
49 not working on the agricultural program update, item 2008-G; alternatives to help the  
50 agricultural community; staff hours allocated to the agricultural program update; whether  
51 the process allows the Council from changing the existing docket; whether the County loses  
52 any funding by removing the Parks component in the plan; staff hours allocated to the Parks  
53 amendment; whether or not the areas in the UGA petitions should be included on the

1 docket; staff time allocated to PLN 2010-00005; the number and types of private  
2 applications to the docket; the requirement to review mineral resource lands (MRLs) in  
3 2011; whether docket items 2009-G and 2008-M were done when the Council made the  
4 UGA decision last year, and if they are supposed to have concurrency in place; docketing  
5 settlement issues whether or not they are settled; working on items regardless of whether  
6 they are docketed; whether it is appropriate to docket the UGA petition applicants; whether  
7 there is water and sewer service at Vista Malloy;

8  
9 **Brenner moved** to amend to add the two items on the top of Council packet page  
10 288 to the docket: the Council Initiation of zoning amendments and Rezone R10A to R5A in  
11 Birch Bay. If they need to make room on the staff's workload, don't do lot consolidation  
12 and the Parks amendment this year. Delay them until later.

13  
14 The motion to amend carried by the following vote:

15 **Ayes:** Mann, Knutzen and Brenner (3)

16 **Nays:** None (0)

17  
18 **Brenner moved** to amend to remove lot consolidation item 2009-H from the list.

19  
20 The motion to amend carried by the following vote:

21 **Ayes:** Knutzen and Brenner (2)

22 **Nays:** Mann (1)

23  
24 **Brenner moved** to amend the agricultural program update description on Council  
25 packet page 294 to delete the entire description except the last sentence.

26  
27 The motion to amend carried by the following vote:

28 **Ayes:** Mann, Knutzen and Brenner (3)

29 **Nays:** None (0)

30  
31 **Mann moved** to amend the docket to delete docket #PLN2010-00005, a rezone  
32 from agriculture to rural, applied by Gerard/Stoner.

33  
34 The motion to amend failed by the following vote:

35 **Ayes:** Mann (1)

36 **Nays:** Knutzen and Brenner (2)

37  
38 The following people spoke:

- 39 • Lisa Starkenburg-Kroontje, Attorney, spoke on an MRL application.
- 40 • Cal Leenstra, 514 S. State Street, stated docket the Yew Street UGA.
- 41 • Dominique Zervas, 709 Dupont Street, stated docket Vista Malloy in Ferndale  
42 and Caitac.
- 43 • Jack Swanson, Beachmont Representative, stated docket the Beachmont  
44 application.

45  
46 Kershner stated they could add these UGA requests to a provisional docket.

47  
48 **Brenner moved** to amend to docket Ferndale UGA-Vista Malloy, PLN 2010-00011.

49  
50  
51 Rebecca Craven, Council Policy Analyst, stated she is concerned about structuring a  
52 provisional docket. The Council needs to decide at what point settlement succeeds or fails.  
53 If settlement fails, the Council would have to decide at what point Caitac would pay for the

1 now-docketed application, unless the Council is saying that the application is only docketed  
2 for consideration in the context of settlement. If that is the case, the applicant would not  
3 pay Comprehensive Plan amendment application fees. She is concerned that, absent some  
4 bright line, it will get fuzzy in terms of when private applicants settle and when there is a  
5 full Comprehensive Plan amendment docket item.

6  
7 The motion to amend failed by the following vote:

8 **Ayes:** Brenner (1)

9 **Nays:** Mann and Knutzen (2)

10  
11 The motion to recommend approval of the resolution as amended carried by the  
12 following vote:

13 **Ayes:** Mann, Knutzen and Brenner (3)

14 **Nays:** None (0)

15  
16  
17 **COMMITTEE DISCUSSION**

18  
19 **1. ORDINANCE AMENDING THE WHATCOM COUNTY CODE, TITLE 20, TO**  
20 **CLARIFY AND REVISE THE DEFINITION AND STANDARDS OF HOME**  
21 **OCCUPATIONS (AB2010-047)**

22  
23 ***Brenner moved*** to recommend approval and ***moved*** to amend 20.84.150(5) on  
24 Council packet page 308, "~~There shall be no external display or storage of materials,~~  
25 ~~merchandise, or equipment.~~ There shall be no change ...."

26  
27 The motion to amend carried by the following vote:

28 **Ayes:** Mann, Knutzen and Brenner (3)

29 **Nays:** None (0)

30  
31 Discussion included the differences between a home occupation and people living  
32 their normal lives in the home; differentiating between number of employees and number of  
33 full-time equivalent (FTE) employees; balancing neighbor concerns versus allowing business  
34 owners to work; square feet limitations; a potential inconsistency of the threshold between  
35 home occupation and cottage industry; creating a proposal for a fee structure for the  
36 second tier administrative review for cottage industries, rather than changing this  
37 ordinance; lot sizes in the rural residential and rural residential, island zones; making  
38 exceptions to preserve older buildings; setting standards for exceptions, and; whether  
39 three-phase motors are only used on an industrial scale.

40  
41 The following people answered questions:

- 42
- 43 • Wain Harrison, Planning and Development Services Department
  - 44 • Tyler Schroeder, Planning and Development Services Department

45 ***Knutzen moved*** to amend 20.84.150(2) on Council packet page 307, "No more  
46 than two people **at one time**, other than household members...."

47  
48 The motion to amend carried by the following vote:

49 **Ayes:** Mann, Knutzen and Brenner (3)

50 **Nays:** None (0)

51  
52 The following people spoke:

- 1           • Bob Wiesen, 3314 Douglas Road, Ferndale, stated square footage shouldn't  
2 matter. The impact comes from the employees. He likes the idea of  
3 specifying the employee FTE number. Set the gross weight at 105,500  
4 pounds to accommodate a logging truck or large equipment operators.  
5 Encourage that kind of thing. They are talking about rural areas. Don't  
6 specify between two-phase and three-phase motors. He agrees with  
7 comments from Richard Gilda.
- 8           • Roger Almskaar, 233 S. State Street, stated the changes so far are good. He  
9 asked why one can't have a home occupation as a permitted use in certain  
10 zones. Remove reference to the rural residential zone and rural residential,  
11 island zone out of 20.84.150(4). A lot of land in those zones are larger than  
12 five acres. Also change the gross vehicle weight as Mr. Wiesen  
13 recommended. Don't apply a vehicle size limit to the rural residential and  
14 rural residential, island zones. Amend language in 20.84.150(7)(1)(b and c),  
15 "...nominal five acres..."
- 16           • Dan Watkins, citizen, answered questions about the gross weight of a dump  
17 truck and other heavy equipment.

18  
19 **Brenner moved** to amend 20.84.150(7)(1):

- 20           • Amend subsection (a), "(a) On a lot of record one acre or less in the RR, RR-I,  
21 EI, UR, URM, and URMX; two vehicles, each of which shall not exceed 60,000  
22 lbs. gvw, and which may include heavy equipment."  
23           • Add a new subsection in the place of subsection (b) "(b) On a lot of record  
24 which is one acre or greater in the RR or RR-I zone, two vehicles which may  
25 include heavy equipment regardless of weight."  
26           • Renumber all the existing subsections (b-d) from smaller to larger lot sizes.

27  
28 The motion to amend carried by the following vote:

29 **Ayes:** Mann, Knutzen and Brenner (3)

30 **Nays:** None (0)

31  
32 **Brenner moved** to amend 20.84.150(4), "In all zones except...home occupations  
33 shall not exceed a total of 1250 square feet of buildings or floor area, whether located in the  
34 dwelling, accessory structure(s) or combinations thereof. Exceptions shall be made in cases  
35 where buildings existed before 1975. In the RR, RR-I...."

36  
37 Harrison stated Dick Gilda suggests the exception is for accessory buildings only, not  
38 the residential building. This puts staff in a position of making capricious decisions. There  
39 are no standards or limits for those exceptions. There is still an inconsistency.

40  
41 **Brenner amended her motion and moved** to amend 20.84.150(4), "In all zones  
42 except...home occupations shall not exceed a total of 1250 square feet of buildings or floor  
43 area, whether located in the dwelling, accessory structure(s) or combinations thereof.  
44 Accessory buildings up to 8,000 square feet, if they were constructed before 1975, would  
45 still be considered a home occupation. In the RR, RR-I...." Let the staff craft the exact  
46 language.

47  
48 The motion to amend carried by the following vote:

49 **Ayes:** Mann, Knutzen and Brenner (3)

50 **Nays:** None (0)

51  
52 Knutzen stated that staff can incorporate these amendments into an updated  
53 version, and bring it back to the committee in two weeks.

