

**MINUTES**  
**Ferndale City Council Meeting**  
**Held Monday, April 19, 2004**  
**City Hall Annex Building – 5694 Second Avenue**  
**7:00 p.m.**

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**PRESENT BY ROLL CALL:**

<b>Councilmember Steve Oliver</b>	<b>Councilmember Mel Hansen</b>
<b>Councilmember Mike Reilly</b>	<b>Councilmember Marianne Elgart</b>
<b>Councilmember Susan Cole</b>	<b>Councilmember Carol Brumet</b>

**ABSENT:** Councilmember Ron Wilson (Excused)

**STAFF:** City Clerk Linda Knutson Planning Director Tom Black  
City Attorney Dick Langabeer

Mayor Jerry Landcastle Presiding

**CALL TO ORDER**

Mayor Landcastle called the meeting to order at 7 p.m.

**CONSENT AGENDA**

***The following consent agenda was moved for approval by Councilmember Brumet and seconded by Councilmember Hansen:***

1. Approval of Minutes of 04/07/2004 Council Meeting
2. Approval of Payroll of 04/05//04; Auto-Deposit Amount: \$28.88; Checks #22175 - #22177 Amount: \$185.12; Total Payroll: \$214.00 (to correct error on Payroll Run of 4/02/04)
3. Approval of Payroll of 04/16//04; Auto-Deposit Amount: \$93,688.74; Checks #22179 - #22189 Amount: \$32,297.42; Total Payroll: \$125,986.16
4. Approval of Claims Run for April, 2004; Checks #41253- #41404 Check #41160-Void-paid by Citizens Against Drugs, Check #40216-Void-Vendor lost check, Check #39051-Void-Vendor lost check; Total claims: \$1,017,250.37

***Motion passed unanimously.***

**PUBLIC COMMENT**

No one spoke.

**LEGISLATIVE UPDATE – COG TRANSPORTATION SPECIALIST TOM PARKER**

Whatcom County Council of Governments Transportation Specialist Tom Parker updated the Council on the latest legislative session in Olympia. Of major importance is the five-cent gas tax, which is funding the top ten transportation projects in Whatcom County. Because of the Olympic Games will be held in Canada in 2010, and because of the extra traffic they will generate, the Guide Meridian project will be accelerated. Mr. Parker further stated that the Whatcom County delegation remains very focused on transportation issues. This includes looking towards becoming less of a donor County and more of a recipient in the gas tax distribution formula.

**PUBLIC HEARING – SHORELINE MORATORIUM**

Mayor Landcastle reviewed the protocol involving public hearings. Director Black was introduced to provide the staff report regarding the Shoreline Moratorium.

Director Black reviewed that in February of this year, the City Council adopted a moratorium on the submittal of applications for Shoreline development permits that involved impacts to wetlands located within the 100-year floodplain. The city had proposed a “focused” amendment to the existing Shoreline Master Program map in order to resolve a technical issue that was precluding a permit applicant from completing the review process.

The Department of Ecology agreed to give favorable consideration to the city’s focused amendment provided that the city agreed to 1) continue working with the department to resolve the outstanding issues surrounding the approval of the city’s re-write of the Shoreline Master Program; and 2) adopt a moratorium that would preclude other potential applicants in the same circumstances from submitting applications until the new Shoreline Master Program is approved by DOE.

Upon adopting a moratorium, the city is required to hold a public hearing within 60 days to solicit testimony with regard to the moratorium, and to decide whether to continue the moratorium.

The city is continuing to meet with the DOE and progress is being made on reaching an agreement relative to the contents of the city’s new SMP. The city has approved the “focused” amendment to the SMP map, and that amendment is currently being reviewed by DOE. The city anticipates a quick turn-around, and approval of the amendment by DOE. Thirty (30) days following approval of the amendment by DOE, the Nicholson shoreline permit application can move forward. In the meantime, the moratorium is in effect, and no applications are being accepted for shoreline permits that involve the same circumstances as the Nicholson application.

Staff recommends that the City Council approve continuation of the moratorium for the remainder of the 6-month moratorium period.

#### **Mayor Landcastle opened the Public Hearing**

No one spoke

#### **The Public Hearing was closed**

#### **Motion**

***It was moved by Councilmember Hansen and seconded by Councilmember Elgart to sustain the imposed Shoreline Moratorium to its conclusion.***

#### **Council Discussion**

Councilmember Reilly stated he would not support continuing the moratorium, as he had voted against it originally.

#### **Vote**

***Motion passed four-to-two, with Councilmembers Reilly and Oliver voting no.***

#### **PUBLIC HEARING – JOEL DOUGLAS APPEAL**

Mayor Landcastle noted that the protocol governing public hearings was again in effect. Director Black was introduced to provide the staff report on the Joel Douglas appeal of administrative decision. In January of this year, Joel Douglas submitted a Site Plan Review Application and a SEPA Checklist in conjunction with a proposed motel project at 6445 Portal Way. A month earlier, the city granted conditional approval of a 2-lot Short Plat the purpose of which was to segregate the existing house on the property from the portion to be developed as a motel.

The SEPA review was completed, a formal review by the Technical Review Committee was conducted, and a Site Plan Review Response letter conditionally approving the site plan was sent to the Appellant on February 25, 2004.

The Appellant objected to several conditions of approval associated with both the Short Plat and the Site Plan approvals, some of which were duplicated in the two letters of conditional approval. In correspondence with the Appellant's attorney, it was agreed that some of the requirements the Appellant wished to appeal, specifically having to do with zoning requirements, would be dealt with through a Variance procedure. The remainder of the items would be dealt with through this Appeal of Administrative decision.

The Appellant's Notice of Appeal lists the items being appealed, and specifically requests that each of these conditions of approval be removed. The appellant's issues and arguments are contained in the Notice of Appeal as well.

The Notice of Appeal has been difficult to interpret. For example, not all of the issues being appealed are clearly identified; some of the appellant's numbered appeal items contain separate issues. In addition, the Notice of Appeal contains statements that comment on various statutes, rules, or ordinances, and/or their application, but do not indicate whether the appellant challenges them, and if he does, on what grounds he does so and what relief he seeks.

Staff will not attempt to organize, clarify, or interpret the Appellant's arguments. For the sake of clarity, however, staff has prepared a summary of the issues being appealed in the order they appear in the Notice of Appeal:

<u>ITEM</u>	<u>DESCRIPTION</u>
1.	Removal of condition to decommission the on-site well.
2a.	Removal of condition for road frontage improvements.
2b.	Removal of condition for traffic mitigation fees.
2c.	Removal of condition for storm sewer mitigation fees.
2d.	Removal of condition for payment of fees prior to issuance of Building Permits.
3.	Removal of condition for payment or partition of outstanding LID assessment ( <i>related to associated Short Plat which the appellant believes is not required to divide the property</i> ).
4. – 6.	<i>Zoning issues Variance to be heard by Board of Adjustment.</i>
7.	Removal of condition that a landscape plan be submitted prior to issuance of Building Permits.
8.	Removal of condition to have construction drawings approved by an architect.
9.	Removal of condition that the proposed use be operated as a motel.
10.	Removal of condition pertaining to associated Short Plat of subject property.

Upon reviewing the Appellant's Notice of Appeal, the City Council will find that many of the items involve objections to city development requirements, rather than the way in which they were applied or interpreted by city staff. This is not the appropriate subject of an appeal of an administrative action or decision.

When considering appeals to administrative actions, the Council's responsibility is to determine if the action being appealed was rendered in error or not. Decisions or requirements that were imposed by ordinance are not subject to interpretation, and in those cases the Council is constrained to uphold the administrative decision. In cases where a requirement was imposed on a different basis (e.g. sound planning/engineering principles, past practice, etc.), the Council must determine that the decision was unreasonable, inaccurate, or arbitrary in order to find error and support an appeal.

## **Staff Response to Item 1**

### *Removal of the condition to decommission the on-site well*

Wells are an open conduit to the groundwater supply, and as such represent a potential source of pollution of that resource. They also represent a potential threat to the city water supply through inadvertent cross-connection.

According to state law (WAC 173-160-381), wells that are abandoned or in a condition such that they represent a health hazard are to be decommissioned. In order to protect both groundwater and the city water system from contamination, it has been the past practice of the city to require such decommissioning of wells when development of a property includes connection to city water and sewer. In this case, the Public Works Department required decommissioning of an “abandoned” on-site well as a condition of approval of a Short Plat and a site plan for a motel project.

Whether or not the well was “abandoned” seems to be mostly a matter of semantics. What is known is that the use of the well as a residential water supply ceased at some point prior to 1994 when the existing single-family house was connected to city water. It is not known if the well was used for any purpose subsequent to that time, and there is no way to know if the current condition of the well represents a “public health hazard” without inspection of the well by the County Health Department.

The appellant has indicated a desire to use the well for irrigation of landscaping, and the Public Works Department has on rare occasions in the past allowed a well to remain on-site for that purpose. However, in all such cases, the installation of one or more Reduced Pressure Backflow Assembly (RPBA) has been required to eliminate the threat of contamination of the city water system by inadvertent cross-connection of the two systems.

As an apparently abandoned well of unknown status, the Public Works Department acted appropriately and in the public interest in requiring that the well be de-commissioned.

Staff recommends that Council uphold Public Works Department condition to decommission the on-site well.

*Note: If the City Council finds justification for allowing the well to remain, it should do so ONLY if 1) the well is inspected and approved by the County Health Department, and 2) RPBA devices are installed at appropriate locations and to the satisfaction of the Public Works Department.*

## **Staff Response to Item 2a**

### *Removal of the condition for road frontage improvements*

The Appellant proposes to construct a new motel on commercial property on Portal Way. The road frontage adjacent to the subject property is unimproved.

As a condition of approval of the initial Short Plat, and of the Site Plan Review Response, the Public Works Department required the construction of standard road frontage improvements.<sup>1</sup> Such improvements are required of all commercial land developers by Section 12.12.040 of the Ferndale Municipal Code (FMC).

The city recognizes that there are some disadvantages in constructing road frontage improvements in a piecemeal fashion as individual properties develop. Further, the city has investigated the possibility of crafting an “agreement for future improvements” that would allow improvements to be constructed in a

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<sup>1</sup> See Exhibit 3, Condition #1; and Exhibit 5, Public Works Condition #1

more coordinated manner at a future date. Unfortunately, legal counsel has determined that, practically speaking, such agreements are unenforceable. Consequently, if road frontage improvements are to be provided, they must be constructed and paid for at the time of development by the property owner, or they will be paid for by the citizens of Ferndale at a later date.

Given that road frontage improvements to city standards are required by ordinance, the Public Works Department appropriately required such requirements in conjunction with the proposed commercial project.

Since this condition is required by ordinance, the Council should uphold the administrative decision.

### **Staff Response to Item 2b**

#### *Removal of the condition for payment of Traffic Mitigation fees*

The Appellant's proposed project consists of a new 26-unit motel on commercial property located on Portal Way. As a condition of approval noted in the Site Plan Review Response letter, the Planning Department required the payment of traffic mitigation fees in the amount of \$14,069.19.

Section 15.44 of the FMC requires that all developers mitigate the impact of their development on the city transportation system. Section 15.44 also specifies how project impacts are to be determined, and how mitigation fees are calculated. This section of the FMC was developed by a transportation engineering consultant and utilizes type of use, scope of use, and location on the city transportation grid to determine case-specific transportation impacts and associated mitigation fees.

Given that traffic mitigation fees are established by ordinance, and the method for calculating said fees is included in the code, the Planning Department acted appropriately in requiring the payment of \$14,069.16 in traffic mitigation fees for the proposed motel project.

Since this condition is required by ordinance, the Council should uphold the administrative decision.

### **Staff Response to Item 2c**

#### *Removal of the condition for payment of Storm Sewer mitigation fees*

The appellant proposes to develop a commercial project on Portal Way. As a condition of approval noted in the Site Plan Review Response letter, the Planning Department required the payment of storm sewer mitigation fees in the amount of \$1,574.<sup>2</sup>

Section 13.24.070 of the FMC requires the payment of storm sewer mitigation fees based on the amount of impermeable surface being created.<sup>3</sup> Section 13.24.070 was recently modified by action of the Council (Ordinance #1311) which raised the amount of storm sewer mitigation fees.

Storm sewer mitigation fees are established by ordinance, and as such, the Planning Department acted appropriately in requiring the payment of \$1,574 in

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<sup>2</sup> See Exhibit 5, Planning Department Condition #17.

<sup>3</sup> The mitigation fee calculated for the development did not include a fee based on division of land, since the Appellant indicated that he did not wish to pursue his Short Plat. If the parcel is divided an additional fee will be imposed.

storm sewer mitigation fees in conjunction with the proposed commercial project.

Since this condition is required by ordinance, the Council should uphold the administrative decision.

### **Staff Response to Item 2d**

#### *Removal of the requirement to pay development fees prior to issuance of Building Permits*

The wording in the Site Plan Review Response letter speaks to payment of fees “prior to issuance of Building Permits”.<sup>4</sup> In other words, one must pay their fees before the city will issue a permit. This is standard procedure throughout the county, and consistent with long-standing past practice in Ferndale.

**CONCLUSION:** Consistent with past practice, Planning Department acted appropriately in noting that the payment of development fees must occur prior to issuance of Building Permits.

Staff recommends that Council uphold the Planning Department condition to require payment of development fees prior to issuance of Building Permits.

### **Staff Response to Item 3**

#### *Removal of condition for payment or partition of outstanding LID assessment*

The first application submitted by the Appellant was for a 2-lot Short Plat to separate the existing house at 6441 Portal Way from the remainder of the 6 acre parcel where the motel is planned. The Short Plat was conditionally approved, and included a condition related to the outstanding ULID#7 assessment.<sup>5</sup> That condition stated that when the parcel is divided, the outstanding ULID assessment must be paid off, or the Appellant could submit a request to Council to segregate the outstanding payment, prorated for each newly created parcel. This process is consistent with past practice and Ordinance #1156, which provides for the segregation procedure.

The Appellant has stated that he is no longer pursuing the Short Plat, which would have the effect of eliminating the requirement for pay-off or segregation of the assessment. It should be noted, however, that the Appellant is representing that he does not need to complete the Short Plat to divide the property, an assertion with which the city disagrees (see response to Item 10 below).

**CONCLUSION:** Consistent with past practice and Ordinance #1156, the Planning Department acted appropriately in placing a condition on the Short Plat approval requiring the Appellant to either pay off the ULID assessment or apply to have the outstanding assessment segregated.

Staff recommends that the Council uphold the Planning Department’s condition to require segregation or payment in full of the outstanding ULID assessment in conjunction with the Short Plat.

### **Item 7**

#### *Removal of condition for submittal of a Landscape Plan prior to issuance of Building Permits*

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<sup>4</sup> See Exhibit 5, Planning Conditions #14–17.

<sup>5</sup> See Exhibit 3, Condition #5; and Exhibit 5, Planning Department Condition #18.

The Appellant submitted a Site Plan Review Application in conjunction with a proposed motel project on Portal Way. In granting conditional approval of the site plan, the Planning Department included a condition that a landscape plan be submitted prior to issuance of Building Permits.<sup>6</sup>

Section 15.14 of the FMC describes the site plan review process and specifies the items of information that must be submitted with the application. Among the items listed is a landscape plan. The Planning Department understands that it is more logical to develop a landscape plan after a site plan is approved so the plans will be consistent. With that in mind, the Planning Department has consistently allowed applicants to defer submittal of the landscape plan until later in the process--- specifically, after the site plan has been approved, but before Building Permits have been issued. The landscape plan need only be submitted, not approved, by that point in time.

**CONCLUSION:** Consistent with Section 15.14 of the FMC and past practice, the Planning Department acted appropriately in requiring the submittal of a landscape plan prior to issuance of Building Permits.

Staff recommends that the Council uphold the Planning Department's condition to require submittal of a landscape plan prior to issuance of Building Permits.

### **Item 8**

*Removal of condition for construction drawings to be approved by an architect*

The Appellant received conditional approval of a site plan for a motel project on Portal Way. The Building Department included a condition of approval which requires that the construction drawings, when submitted, be approved (stamped) by a licensed architect.<sup>7</sup>

State law (RCW 18.08.410) requires that construction plans be approved by a licensed architect if the project involves the construction of more than 4 residential units. Although the proposed project is a motel (a commercial use) the construction type is residential, specifically R1. The Appellant is proposing units with full kitchen, bath, and living quarters, in separate buildings containing 6 units per building.

The 1997 Uniform Building Code grants the Building Official the authority to administer and enforce the provisions of the Building Code. Decisions of the Building Official may be appealed to the Board of Appeals (in Ferndale the City Council), except for administrative requirements, such as the requirement for plans to be approved by an architect.

**CONCLUSION:** Consistent with state law, the Uniform Building Code, and past practice, the Building Department acted appropriately in requiring that construction drawings be approved by a licensed architect. Per code, the Council does not have the authority to waive or modify administrative requirements of the Building Code.

Staff recommends that the Council uphold the Building Department's condition to require that construction drawings to be approved by a licensed architect.

### **Item 9**

*Removal of condition/comment that the proposed use be operated as a motel*

The Appellant received conditional approval of a site plan for a motel project on Portal Way. Because of contradictory terminology used by the Appellant in numerous correspondence with the city to describe

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<sup>6</sup> See Exhibit 5, Planning Department Condition #12.

<sup>7</sup> See Exhibit 5, Building Department Condition #3.

his intended use, the Planning Department added an “informational” condition/comment reminding the Appellant that while a motel is a permitted use in the Highway Commercial zone, apartments are not. As such, the Appellant was reminded that he would be expected to operate his business as a motel, not an apartment.<sup>8</sup>

**CONCLUSION:** The informational condition/comment added to the conditional approval of the project by the Planning Department was appropriate. Since the condition is informational, whether it remains or is removed changes nothing with regard to requirements of the zone. Staff feels the condition/comment should remain as a record that the Appellant was informed regarding the requirements of the zone, in case there is any confusion in this regard in the future.

Staff recommends that the Planning Department’s condition/comment regarding the permitted use of the property remain in the record.

### **Item 10**

#### *Removal of condition pertaining to associated Short Plat recording*

The Appellant submitted a 2-lot Short Plat Application to segregate the existing house at 6441 Portal Way from the remainder of the property, addressed as 6445 Portal Way. Conditional approval was granted, but the appellant objected to several conditions of approval.

When the Site Plan was submitted it showed property boundaries consistent with the conditionally approved Short Plat. The Planning Department conditionally approved the Site Plan and included a condition that required a reciprocal access easement be recorded between the two lots to provide access to the existing house. Conversely, it was noted that if the Short Plat was not recorded, the site plan would have to be redrawn to reflect one parcel instead of two.<sup>9</sup>

The Appellant represents that he is no longer pursuing the Short Plat because he has accomplished the land division by other means. The information contained in the Notice of Appeal regarding this matter is unclear, but it would appear that the appellant has created two tax parcels, but not two legal lots of record. In the city of Ferndale, division of land is accomplished through a Plat or Short Plat. Section 17.04.060 of the FMC lists types of land divisions that are exempt from the provisions of the subdivision ordinance, none of which apply to this circumstance.

**CONCLUSION:** Consistent with state law, the Ferndale Municipal Code, and past practice, the Planning Department acted appropriately in requiring that an easement be recorded if the Short Plat were recorded, or that the site plan be redrawn if it was not recorded.

Staff recommends that the Council uphold the Planning Department’s condition that an access easement be recorded if the Short Plat is recorded, or if not, that the site plan be re-drawn.

### **Conclusion of Staff Report**

Mr. Douglas has taken issue with a whole host of laws, rules, and development requirements of the city of Ferndale. The contents of his appeal demonstrate this fact very clearly. He requests that the Council “remove” many Conditions of Approval related to his proposed land division and development, but offers little in the way of justification. Most of the requirements to which Mr. Douglas objects are grounded in

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<sup>8</sup> See Exhibit 5, Planning Department Condition #22.

<sup>9</sup> See Exhibit 5, Planning Department Condition #19.

state and local law and are routinely imposed. Those that are not are based on sound planning or engineering principles, long-standing past practice, and common sense.

If Mr. Douglas wishes to see the rules changed in the city, this kind of appeal is the wrong approach. It would be more productive for Mr. Douglas to directly address the laws and rules he finds objectionable by proposing amendments or revisions to those laws and rules.

Staff believes that the city has acted reasonably and appropriately in its decision-making relative to Mr. Douglas' proposed land division and motel project. Conversely, staff believes that Mr. Douglas has clearly failed to support his assertions or error on the part of staff, or justify his requests for removal of what are common conditions of development.

Based on the preceding report, staff recommends that the City Council DENY each and every element of Mr. Douglas' appeal.

### **Appellant Response**

Attorney William Pardee, representing appellant Joel Douglas, defended the various points in Douglas' Notice of Appeal.

Point Number One: Pardee stated that the well is a legal asset to the property that Douglas wishes to utilized for landscape irrigation only. The well is in use and not abandoned as defined by state law, and will not be disturbed by the project proposed.

Point Number Two: Pardee contended that the City had not provided the formula for traffic mitigation fees was flawed, and not provided to the appellant. He also quoted state law that states that no fees prior to the issuance of a building permit.

Point Number Three: Pardee again asked what authority allowed to City to impose payment or segregation of LID fees prior to the issuance of building permits.

Point Number Seven: Pardee related that his client felt a landscaping plan was wasteful.

Point Number Eight: Pardee contended that the building department's requirement for an architect's stamp was not supported by state law.

Point Number Nine: Pardee contended that the City's definition of transient lodging was flawed as well as being difficult to enforce.

Point Number Ten: Pardee contended that a short plat was not necessary.

### **Public Hearing Opened**

No one signed up to speak.

### **Public Hearing Closed.**

### **Council Discussion**

Councilmember Elgart stated that it was her belief that Mr. Douglas and Mr. Pardee should have been more pro-active in the traffic mitigation process, as it is based on a complex and scientifically sound formula. She also was concerned about the well on the property and the effects of accidental or intentional contamination to the City's water supply.

Councilmember Reilly asked if Mr. Pardee should meet with City Attorney Langabeer to settle these issues. City Attorney Langabeer responded that he had worked closely with staff during this process in laying out the legal arguments contained in the staff report.

## **Council Vote on Appeal Items**

### **Appeal Item Number One:**

***It was moved by Councilmember Hansen and seconded by Councilmember Reilly to uphold the staff recommendation regarding the removal of the condition for the de-commission of the well unless a RPBA is installed for irrigation is installed.***

***Motion passed four-to-three, with Councilmembers Reilly, Hansen, and Oliver voting yes and Councilmembers Elgart, Cole, and Brumet voting no. Mayor Landcastle voted yes in a tie-breaker. APPEAL DENIED***

### **Appeal Item Number Two-a:**

***It was moved by Councilmember Hansen and seconded by Councilmember Brumet to uphold the staff recommendation regarding the removal of the condition for road frontage improvements.***

***Motion passed unanimously. APPEAL DENIED***

### **Appeal Item Number Two-b:**

***It was moved by Councilmember Reilly and seconded by Councilmember Elgart to uphold the staff recommendation regarding the removal of the condition of traffic mitigation fees.***

***Motion passed unanimously. APPEAL DENIED***

### **Appeal Item Number Two-c:**

***It was moved by Councilmember Reilly and seconded by Councilmember Oliver to uphold the staff recommendation regarding the removal of the condition of storm sewer mitigation fees.***

***Motion passed unanimously. APPEAL DENIED***

### **Appeal Item Number Two-d:**

***It was moved by Councilmember Reilly and seconded by Councilmember Brumet to uphold the staff recommendation regarding the removal of the condition of payment of fees prior to issuance of building permit.***

***Motion passed unanimously. APPEAL DENIED***

### **Appeal Item Number Three:**

***It was moved by Councilmember Reilly and seconded by Councilmember Brumet to uphold the staff recommendation regarding the removal of the condition for payment or partition of outstanding LID assessment.***

***Motion passed unanimously. APPEAL DENIED***

### **Appeal Item Number Seven:**

***It was moved by Councilmember Reilly and seconded by Councilmember Elgart to uphold the staff recommendation regarding the removal of the condition that a landscape plan be submitted prior to issuance of building permits.***

***Motion passed unanimously. APPEAL DENIED***

**Appeal Item Number Eight:**

***It was moved by Councilmember Reilly and seconded by Councilmember Brumet to uphold the staff recommendation regarding the removal of the condition to have construction drawings approved by an architect.***

***Motion passed unanimously. APPEAL DENIED***

**Appeal Item Number Nine:**

***It was moved by Councilmember Reilly and seconded by Councilmember Oliver to uphold the staff recommendation regarding the removal of the condition that the proposed use be operated as a motel.***

***Motion passed unanimously. APPEAL DENIED***

**Appeal Item Number Ten:**

***It was moved by Councilmember Reilly and seconded by Councilmember Oliver to uphold the staff recommendation regarding the removal of the condition pertaining to associated Short Plat of subject property.***

***Motion passed unanimously. APPEAL DENIED***

**LETTER OF INTENT TO ANNEX – BLOOMQUIST TRUST**

Planning Director Black noted that the Bloomquist Trust has resubmitted a Letter of Intent to Annex. The area in question is slightly modified from the previously submitted area, and lies south of Thornton Road, adjacent to and west of the current City limits. The total property includes four parcels owned by three owners and encompasses approximately 97.8 acres. One-hundred percent of the property owners have signed the Letter of Intent.

Mayor Landcastle indicated that the proponents would have five minutes to present information regarding the annexation, and then he would give opponents five minutes to present information regarding such opposition.

Craig Parkinson of David Evans and Associates, is representing the Bloomquists in this annexation request. He reviewed the history of the property as a working farm that has been in the Bloomquist family for many years. The property is no longer farmable, and the Bloomquists would like to sell the property and retire. Since the City's proposed CPA was not docketed by the County recently, the Bloomquists felt it was reasonable to again file a Letter of Intent to Annex with the City.

Tim Dougherty, who owns property near the Bloomquists, was opposed to the annexation because not enough planning for the western UGA has been accomplished. He felt it would make sense for the City to try again to alter their UGA to the east of the City, and leave the rural character to the west. Also, the Growth Management Act discourages island and panhandle type annexations, he said. He felt that the area needed time to formulate a long-term plan, including schools, traffic, infrastructure, and safety issues.

A gentleman whose name was unavailable to the Clerk, who lives at 2801 Thornton, stated that he was opposed to the annexation because pending development in the area would force him to pay for adjacent road improvements. He also said the Bloomquist property "zigzags" around his property, and

he would not like to be surrounded by high-density development. He felt the City should consider and evaluate the long-term affects of traffic impacts on Thornton.

Larry Bloomquist said that his family can no longer farm the property, and the proposed development is up-scale with large lots and would be a nice fit to the surrounding area. He also felt that with the nearby schools, this move makes sense.

Jacquie Langabeer stated that the neighbors have begun talks regarding planning for the area, and have engaged a land-use consultant for this purpose. She is concerned that an acceptance by the city of the intent to annex would start the development process without regard to concerned neighbors. It is her hope that the area to the west is considered in a well-thought out plan that preserves and enhances the beauty of the area.

Bob Kramer says that his property will touch a corner of the proposed annexation. He moved from Seattle's Pioneer Square to get away from the "urban crunch" and is opposed to a development that would be contrary to the rural character he now enjoys on the Storr Road. He pointed out that the City has done a "tremendous job" with the Main Street project and improving the looks and character of the downtown, , and would like that same kind of consideration for the planning of the west UGA.

### **Council Discussion**

Councilmember Reilly questioned whether any of the opponents had attended Planning Commission meeting in 1996 when the UGA was being determined. He felt that owners of properties in urban growth areas have a responsibility to attend such meetings, knowing that their properties may eventually be included in the City.

Councilmember Brumet agreed, adding that she was on the Planning Commission in 1996 and would have appreciated any input at that time.

Councilmember Hansen noted that the Council was looking at only the annexation request and not at any potential development. But he also felt that the area should have some time to plan its own future.

There was a lengthy discussion regarding delaying the annexation process to accommodate planning efforts by area residents, perhaps by accepting the Letter of Intent with an effective date of early next year.

### **Motion**

***It was moved by Councilmember Reilly and seconded by Councilmember Hansen to accept the Letter of Intent to Annex effective January 3, 2005.***

***Motion failed three-to four, with Councilmembers Hansen, Reilly, and Brumet voting yes, and Councilmembers Oliver, Elgart, and Cole voting no. Mayor Landcastle broke the tie by voting no.***

**TEN MINUTE BREAK: 9:30 TO 9:40 P.M.**

**The Council Meeting was reconvened at 9:40 p.m. by Mayor Landcastle**

### **MOTION FOR RECONSIDERATION OF LETTER OF INTENT FOR ANNEXATION**

As a member of the prevailing side of the previous question, Mayor Landcastle made the following motion:

***"I move reconsideration of the Letter of Intent to Annex." This was seconded by Councilmember Reilly.***

***Motion passed six-to-one, with Councilmember Elgart voting no.***

***It was then moved by Councilmember Reilly and seconded by Councilmember Brumet to accept the Letter of Intent to Annex as of this date.***

## **Discussion**

Councilmember Hansen stated he would have preferred to delay to January of 2005 because it would have been a strong motivator to the area residents to work towards a sound plan. He felt that he would eventually support this annexation, but not at this meeting.

Director Black stated that this annexation process could be completed by mid-summer, once the process is initiated. Mr. Bloomquist stated that it would probably take the proponents ninety days to get started.

Councilmember Oliver felt that the residents of the UGA should have an opportunity to look at area planning.

Councilmembers Cole and Elgart agreed that the entire area needs the opportunity to determine impacts of being in the City UGA.

## **EXTENSION OF COUNCIL MEETING**

***At 10:05 p.m., it was moved by Councilmember Reilly and seconded by Councilmember Brumet to extend the Council meeting an additional 25 minutes, to 10:30 p.m. Motion passed unanimously.***

## **Discussion Continued**

Councilmember Reilly felt that approving the Letter of Intent would motivate all of the area residents to work together through this process.

Councilmember Brumet agreed, saying people need to have faith in the system.

## **Vote**

***Motion failed three-to-four, with Councilmembers Hansen, Cole, Elgart, and Oliver voting no.***

## **CHAMBER OF COMMERCE CONTRACT**

### **Planning and Judicial Committee Action Item**

This contract between the City of Ferndale and the Chamber of Commerce deals mainly with tourism promotion and the city-owned visitor center building.

***It was moved by Councilmember Elgart and seconded by Councilmember Brumet to approve the contract between the City of Ferndale and the Chamber of Commerce.***

***Motion passed unanimously.***

## **REQUEST FOR FUNDING – RECOMMENDATION BY THE LODGING TAX ADVISORY BOARD**

Councilmember Cole related that the LTAC had met on April 15<sup>th</sup> to consider the grant request by the Chamber of Commerce for Street Festival funding. The Chamber is requesting \$10,000 which, if approved, would come from the Hotel Motel Tax Fund. Councilmember Cole stated that the Board's recommendation is for \$7,500 now, and an additional \$2,500 in August. The event is scheduled for August 28<sup>th</sup>.

***It was moved by Councilmember Cole and seconded Councilmember Elgart to approve the grant request by the chamber of Commerce for \$7,500 immediately and an additional \$2,500 in August.***

## **Discussion**

Councilmember Brumet stated that she would like to review a detailed budget for this event, and recommended that it move to the Planning and Judicial Committee.

Councilmember Oliver wondered how many people were aware that grant monies were available. Councilmember Cole responded that it was advertised.

Councilmember Reilly said he would support this expenditure, and he hoped the festival would finally be held on Main Street.

***Councilmember Elgart moved to table this item and send it to Planning and Judicial for more information. Councilmember Brumet seconded. Motion passed four-to-three, with Councilmembers Elgart, Brumet, and Oliver voting yes and Councilmember Cole, Reilly, and Hansen voting no. Mayor Landcastle broke the tie by voting yes.***

**MAIN STREET CHANGE ORDER**

***It was moved by Councilmember Hansen and seconded by Councilmember Brumet to send the Main Street Change Order request to the Streets and Utilities Committee. Motion passed unanimously.***

**MOTION FOR RECONSIDERATION**

***It was moved by Councilmember Hansen that the Council be able to reconsider the Engineer Ordinance at the next scheduled meeting, due to the late hour. This was seconded by Councilmember Brumet. Motion passed five-to-one, with Councilmember Reilly voting no.***

**ADJOURNMENT**

There being no further scheduled City business, the meeting was adjourned at 10:35.

**ATTEST:**

\_\_\_\_\_  
Jerry Landcastle, Mayor

\_\_\_\_\_  
Linda Knutson, City Clerk