

SULTAN CITY COUNCIL
AGENDA ITEM COVER SHEET

ITEM NO: Consent C 2

DATE: March 22, 2007

SUBJECT: Council Minutes

CONTACT PERSON: Laura Koenig, City Clerk

SUMMARY: Attached are the minutes of the March 8, 2007 public hearing on Ordinance 947-07 as on file in the office of the City Clerk.

FISCAL IMPACT:

RECOMMENDED ACTION: Approve as submitted.

COUNCIL ACTION:

DATE:

CITY OF SULTAN PUBLIC HEARING – March 8, 2007

The Public Hearing on Ordinance 947-07, Critical Areas Regulations, was called to order in the Sultan Community Center by Mayor Tolson. Councilmembers present: Champeaux, Wiediger, Seehuus, Flower, Blair and Boyd.

There were no objections to the Council participation.

Staff Report:

Rick Cisar, Director of Community Development, presented the following staff report:

On October 26, 2006 the City Council adopted a new Municipal Code Chapter 16.80 to be known as the City of Sultan's Critical Areas Regulations (CAR). The proposed amendment to the CAR is scheduled for a Public Hearing and First reading of the Ordinance this evening, March 8th and second reading of the Ordinance on March 22, 2007 as agreed by the Hearing Board, Petitioners and City on February 5, 2007.

On February 20, 2007 the Planning Board conducted a Public Hearing to consider the proposed amendments to Section 16.80.110 deleting the word Stream in three subsections.

The Planning Board, after closing the Public Hearing and Board discussion, voted unanimously to approve the amendment as recommended by Staff.

Public comments during the public hearing were in favor of the change. No one spoke in opposition of removing the word Stream from the identified sections.

On December 27, 2006 a Petition for Review was filed before the Central Puget Sound Growth Management Hearings Board (CPSGMHB) that had two issues with the new Critical Areas Regulations. (1) The petition cited specific examples of language that combined regulations for streams and wetlands under the heading of Small Wetland Regulations SMC 16.80.110 (page 10). The petitioners contend that the inclusion of the language regulating streams in this Section creates confusion, ambiguity and inconsistency.

(2) Petitioners contest the regulatory 35 ft minimum wetland buffers per 16.80.110 (C) (1) (c) and (2) (d) on the basis of adequacy and the lack of Best Available Science (BAS).

In consideration of council's previous direction, a hearing has been scheduled with CPSGMHB to defend the reduced buffers widths as supported by the Department of Ecology (DOE).

Proposed Amendment to the Critical Areas Ordinance**Section 16.80.110 Regulation of Small Wetlands**

After reviewing the current code and past versions of the code that have been generated over the past year, the city found the source of the word "stream" in the section referring to small wetlands less than 4,000 square feet.

In the original Sultan CAO there was a section called "Allowed Development Activities in Wetlands, Streams, and Buffers" under 16.80.080 C(1)(c) Buffer Averaging and C(2)(d) Buffer Reductions where the buffer will not be less than 50% of the required buffer or 25 feet, whichever is greater.

In the January 31, 2006 version of the code, this section was split into two sections - one for allowed development activities in streams and another for allowed development activities in wetlands, and these particular sub-sections on averaging and reducing wetlands buffers was deleted from "Allowed activities in wetlands" and moved to the new section on "Regulation of Small Wetlands" which had not previously existed. When the section was split in two and part of it was moved, the language contained in the body of the code was not changed to reflect the new section which only applies to small wetlands, and is separate from streams.

This new section (Section 16.80.110) is intended only for small wetlands and not streams, so the minimum standard stream buffer allowed would be 50 feet as found in 16.80.150 A(4) and (5). since Section 16.80.110 does apply to small wetlands, buffer reductions would be allowed down to 35 feet under very specific criteria.

In a letter from the Department of Ecology dated April 13, 2006, they supported buffer reductions in small category III and IV wetlands (less than 4,000 square feet) that meet certain criteria such as not decreasing the functional values of the wetland. This letter from the Department of Ecology is attached.

On February 5, 2007 a pre-hearing conference was held with the Central Puget Sound Growth Management Hearings Board, the Petitioners and the City of Sultan. The City advised the Hearings Board at this Pre-Hearing Conference the reference to Streams in Section 16.80.110 was an editing error and the Ordinance (Number 947-07) would be amended by the end of March, 2007. The Petitioners and Board concurred with the amendment and schedule.

The schedule to amend the Critical Areas Ordinance contemplates a Public Hearing before the Planning Board on February 20, 2007, a Public Hearing before the City Council on March 8, 2007. The first Reading of the Amending Ordinance Number 947-07 will be on March 8, 2007, and the second Reading of Ordinance Number 947-07 will be on March 22, 2007. Publication of the Ordinance in the Everett Herald is scheduled for March 26, 2007.

Public Comments:

No public comments

Councilmembers:

Brief discussion was held regarding the set backs, language clarification and advertisement of the hearing.

On a motion by Councilmember Weidiger, seconded by Councilmember Flower, the meeting was closed.

Benjamin Tolson, Mayor

Laura J. Koenig, City Clerk