

SULTAN CITY COUNCIL AGENDA ITEM COVER SHEET

ITEM NO: A-3
Second Reading of Ordinance 955-07 Amending Sultan
Municipal Code Title 16 Chapter 16.18 Nonconformances

DATE: September 27, 2007

CONTACT PERSON: Rick Cisar, Director of Community Development

SUBJECT:
Consideration of proposed revisions, as recommended by the Planning Board, to the Sultan Unified Development Code Title 16 Chapter 16.18 Nonconformances Section 16.18.060, Extension or Enlargement of Nonconforming Situations.

ISSUE:
The issue before the City Council is the Approval on Second Reading of Ordinance Number 955-07 (Exhibit A) revising the Sultan Unified Development Code Chapter 16.18 Nonconformances as Recommended by the Planning Board and passing it on to Second Reading.

PLANNING BOARD RECOMMENDATION AND SUMMARY:
The Sultan Planning Board conducted a Public Hearing on May 1, 2007 to consider the code change and thereafter held additional discussions at the May 15, 2007, June 5, 2007, and June 26, 2007 meetings to consider additional amendments to the Ordinance in preparing its Final Recommendation to the City Council. The minutes of the Planning Board meetings on May 1, May 15, June 5, and June 26th for this Code Amendment are included as attachments.

The Planning Board's Recommendation as proposed in Ordinance 955-07 would change Sections 16.18.060 Extension or Enlargements of Nonconforming situations and Section 16.18.070 Repair, Maintenance, and Construction to allow expansion of nonconforming uses.

STAFF RECOMMENDATION:
Approval of Ordinance Number 955-07 on Second Reading.

BACKGROUND:
The City Council on August 23, 2007 conducted a Public Hearing on proposed revisions to the Sultan Unified Development Code Chapter 16.18 Nonconformances as Recommended by the Planning Board. After closing the Public Hearing and considering the testimony and information presented at the the Public Hearing, Council directed City Staff to schedule the First Reading of Ordinance Number 955-07 revising Chapter 16.18 as recommended by the Planning Board for the next City Council Meeting.

A summary of the Meetings and Hearings conducted in regards to this code revision were:

- Planning Board Meetings May 1, May 15, June 5 and June 26, 2007
- Public Hearing(s) Planning Board May 1, 2007 and City Council August 23, 2007
- First Reading, September 13, 2007

SUMMARY:

The proposed change would affect for example, two auto-oriented businesses in the downtown Urban Center (UC Zone) and all other nonconforming situations throughout the community generally constructed prior to the adoption of the Unified Development Code in 1995. The nature and extent of these nonconforming situations primarily involve existing single-family residential uses in the Urban Center, Highway-Oriented Development, and Economic Development Zoning Districts. Other nonconforming situations involve building setbacks and parking. Nonconforming businesses in the above Zoning Districts would be allowed to expand by 50%. For example, a 2,000 sq. ft. building could expand an additional 1,000 sq. ft. if all other code provisions, such as parking and setbacks are met.

The proposed change would also allow damaged nonconforming uses to be rebuilt to their same size and square footage. The overall impact is to assist business owners who want to remain in their current nonconforming location. The off setting benefit to the community is property improvement, business retention, and job creation.

DISCUSSION:

CURRENT CODE REQUIREMENTS:

Under the SMC 16.18.060, Non-conforming single family detached residences may be enlarged or replaced with a similar structure of a larger size providing the enlargement does not increase the extent of the existing nonconformities with respect to setbacks and parking. All other non-conforming uses (e.g. commercial, industrial, etc.) may not be enlarged or replaced with a similar structure of a larger size.

PROPOSED REVISIONS TO CURRENT CODE REQUIREMENTS:

The proposed code amendment to Section 16.18.060 would treat single-family nonconforming uses and other non-conforming uses equally under the code by (1) allowing other nonconforming uses to enlarge the structure with a limitation on the increase of the size of structure by not more than 50% of the size of the existing building and (2) require all other code provisions such as setbacks and parking be met.

The proposed change to Section 16.18.070 Repair, Maintenance, and Construction affect only commercial uses. This change would allow a damaged nonconforming structure to be repaired or replaced to the existing square footage and size of the existing structure prior to the damage.

COMPREHENSIVE PLAN GOALS:

The Comprehensive Plan does not specifically address the issue of Nonconforming Uses, Section 3 Implementation Task 62:, page 67 recommends the following implementing measure: Designate downtown Sultan-for mixed-use office, commercial, and residential uses to maximize local services and the historical pedestrian-oriented village center.

SUPPORT FOR CHANGE:

The Hearing Records for the proposed Amendments before the Planning Board and City Council contain both written and oral testimony for the Business Community in support of this change.

ALTERNATIVES:

City Council in consideration of Ordinance Number 955-07 and the proposed Amendment providing for the expansion of nonconforming uses may:

1. Approve the Ordinance as Recommended by the Planning Board; or
2. Modify the Ordinance as Recommended by the Planning Board; or
3. Refer the Ordinance back to the Planning Board to address any concerns of the City Council; or
4. Reject the Ordinance and Amendmnets to Nonconforming Uses as Recommended by the Planning Board.

RECOMMENDED MOTION:

Move to Approve Ordinance Number 955-07 on Second Reading.

ATTACHMENTS:

- Exhibit A** Ordinance 955-07 providing for expansion of Nonconforming Uses as Recommended by the Planning Board
- Exhibit B** Legislative Mark-up version of Ordinance 955-07
- Exhibit C** Minutes of Planning Board Meetings May 1, May 15, and June 5

COUNCIL ACTION:

DATE:

CITY OF SULTAN
ORDINANCE NO. 955-07

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5 **AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON ADDRESSING**
6 **NONCONFORMANCES BY AMENDING CHAPTER 16.18 NONCONFORMANCES**
7 **SECTION 16.80.060 EXTENSION OR ENLARGEMENT OF NONCONFORMING**
8 **SITUATIONS BY PROVIDING FOR THE EXTENSION OR ENLARGEMENT OF A**
9 **NONCONFORMING SITUATIONS BY NOT MORE THAN 50% OF THE TOTAL SPACE**
10 **DEVOTED TO A NONCONFORMING USE AND ESTABLISHING EVALUATION**
11 **CRITERIA FOR EXTENSIONS OR ENLARGEMENTS AND SECTION 16.18.070**
12 **NONCONFORMANCES—REPAIR, MAINTENANCE, AND CONSTRUCTION,**
13 **SUBSECTION B BY ALLOWING A DAMAGED NONCONFORMING STRUCTURE TO**
14 **BE REPLACED TO ITS EXISTING SIZE AND SQUARE FOOTAGE AND BY**
15 **REPEALING SMC 21.04.020 B**

16
17 **WHEREAS**, the City of Sultan has received a request to amend SMC Chapter 16.18
18 Nonconformances to provide for the enlargement of a commercial use in the Urban
19 Center (UC) zoning district; and

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21 **WHEREAS**, SMC Chapter 16.18.060 E provides for the enlargement of Single-Family
22 uses within all zoning districts of Sultan, and

23
24 **WHEREAS**, SMC 21.04.020 currently subjects expanding nonconforming uses to the
25 conditional use permits requirements of Chapter 21.04 SMC;

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27 **WHEREAS**, the proposed amendment would allow the City to regulate the
28 enlargement of nonconforming uses in all zones under similar provisions and
29 requirements to those established for nonconforming single-family uses within the City
30 and consolidate provisions to deal with expanding nonconforming uses.

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33 **NOW, THEREFORE, IT IS ORDAINED BY THE CITY COUNCIL OF THE CITY OF**
34 **SULTAN AS FOLLOWS:**

35
36 **Section 1.** SMC Chapter 16.18 NONCONFORMANCES, Section 16.18.060, Extension or
37 Enlargement of Non-Conforming Situations, is hereby amended to read as follows:
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39 **16.18.060 Extension or enlargement of nonconforming situations.**

40 A. Except as specifically provided in this section, no person may engage in any activity
41 that causes an increase in the extent of nonconformity of a nonconforming situation. In
42 particular, physical alteration of structures or the placement of new structures on open
43 land is unlawful if such activity results in:

Exhibit A

1 1. More than a 50% increase in the total amount of space devoted to a
2 nonconforming use; or

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4 2. Greater nonconformity with respect to dimensional restrictions such as setback
5 requirements, height limitations, density requirements, or other regulations such as
6 parking requirements.

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8 B. Subject to subsection (D) and (E) of this section, a nonconforming use may be
9 extended throughout any portion of a completed building that, when the use was made
10 nonconforming by this unified development code, was manifestly designed or arranged to
11 accommodate such use. However, a nonconforming use may not be extended to
12 additional buildings or to land outside the original building if the result would be more than
13 a 50% increase in the size of the total amount of space devoted to the nonconforming use
14 at the time it became non-conforming.

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16 C. Subject to subsection (D) of this section, a nonconforming use of open land may not
17 be extended to cover more land than 150% of the land that was occupied by that use
18 when it became nonconforming.

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20 D. The Director of Community Development in considering an application for any
21 extension or expansion of a nonconforming use under subsections B or C shall process
22 the application as provided for in Exhibit A and consider the following additional criteria
23 when evaluating the application to determine if an application can meet the criteria and be
24 approved and mitigate potential impacts on surrounding properties. :

25 1. The impact of traffic generated by the proposed use on the surrounding area,
26 pedestrian circulation and public safety, and the proposal's ability to mitigate potential
27 impacts.

28 2. The site has sufficient area to provide for off-street parking, landscaping and screening
29 from adjacent uses.

30 3. The adequacy of streets, sidewalks, utilities, and public services to accommodate the
31 proposed use.

32 4. The landscaping, buffering and screening of parking, loading, and storage areas
33 mitigates the impacts on surrounding properties.

34 5. The generation of nuisance irritants such as noise, smoke, odor, glare visual blight or
35 other undesirable environmental impacts.

36 6. Consistent with the Design Guidelines and standards, and community vision as
37 expressed in the City's Comprehensive Plan

38 Application of these criteria shall be an administrative determination of the Director of
39 Community Development subject to a right of appeal to the Hearing Examiner.

1 E.. The volume, intensity, or frequency of use of property where a nonconforming
2 situation exists may be increased, and the equipment or processes used at a location
3 where a nonconforming situation exists may be changed, if these or similar changes
4 amount only to changes in the degree of activity rather than changes in kind and no
5 violations of other requirements of this section occur.
6

7 F. Notwithstanding subsection (A) of this section, any structure used for single-family
8 detached residential purposes and maintained as a nonconforming use may be enlarged
9 or replaced with a similar structure of a larger size, so long as the enlargement or
10 replacement does not create new nonconformities or increase the extent of existing
11 nonconformities with respect to such matters as setback and parking requirements.
12

13 G. Notwithstanding subsection (A) of this section, whenever: (1) there exists a lot with
14 one or more structures on it; and (2) a change in use that does not involve any
15 enlargement of a structure is proposed for such lot; and (3) the off-street parking or
16 loading requirements of this code that would be applicable as a result of the proposed
17 change cannot be satisfied on such lot because there is not sufficient area available on
18 the lot that can practicably be used for off-street parking or loading, then the proposed use
19 shall not be regarded as resulting in an impermissible extension or enlargement of a
20 nonconforming situation. However, the applicant shall be required to comply with all
21 applicable off-street parking and loading requirements that can be satisfied without
22 acquiring additional land, and shall also be required to obtain satellite off-street parking if:
23 (1) parking requirements cannot be satisfied on the lot with respect to which the permit is
24 required; and (2) such off-street satellite parking is available within 500 feet of the site said
25 satellite parking area is intended to serve, measured from property line to property line. If
26 such off-street satellite parking is not reasonably available at the time the permit is
27 granted, then the permit recipient shall be required to obtain it if and when it does become
28 reasonably available. This requirement shall be a continuing condition of the permit.
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30 **Section 2.** SMC CHAPTER 16.18 NONCONFORMANCES, Section 16.18.070,
31 Nonconformances--Repair, maintenance and construction, subsection (B.) is hereby
32 amended to read as follows:
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34 B. If a structure located on a lot where a nonconforming situation exists is damaged the
35 damaged structure may be repaired or replaced only in accordance with a permit issued
36 pursuant to this unified development code. However, the repaired or replaced structure
37 shall not exceed the square footage or size of the existing structure prior being damaged.
38 This section does not apply to structures used for single-family detached residential
39 purposes, which structures may be reconstructed pursuant to a permit just as they may be
40 enlarged or replaced.
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42 **Section 3.** SMC 21.04.020 B is hereby repealed.
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44 **Section 3 Repealer:** Any and all other Ordinance or parts of Ordinances of the City of
45 Sultan inconsistent with the provisions of this Ordinance are hereby repealed to the extent
46 of such inconsistency.
47

1 **Section 4 Severability:** If any provisions of this Ordinance or its application to any person
2 or circumstance are held invalid, the remainder of the Ordinance or applications of the
3 provisions of the Ordinance to other person or circumstances is not affected.
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5 **Section 5. Effective Date:** This ordinance shall be in full force and effect five days
6 after publication as required by law.
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8 Passed by the City Council and approved by the Mayor this _____ day of
9 _____, 2007.

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11 City of Sultan
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14 By: _____
15 Benjamin Tolson, Mayor
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17 Attest:

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19 By: _____
20 Laura Koenig, City Clerk
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23 Approved as to form:

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25 By: _____
26 Thom H. Graafstra, City Attorney
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EXHIBIT A
ORDINANCE NO. 955-07
ADMINISTRATIVE REVIEW PROCESS
EXPANSION OF NONCONFORMING USES

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1. Pre-Application Meeting with City Staff
 2. Design Review Board (DRB) Meeting(s) on preliminary concept
 3. Approval of Design Review Board
 4. Submit complete Master Land Use Application
 5. Letter of Completeness on Application
 6. Notice of Application Published in Everett Herald, posted at City Hall and Post Office, posted on City Web Site, e-mail to Parties of Interest, posted on Public Access Channel 21, mailed to all property owners within 300-feet and property. Post with Land Use Signs and Notice of Application. (Note: 2-weeks are allowed for comments on Application)
 7. Application information file provided at City Hall and Sno-Isle Library for public review
 8. SEPA Checklist reviewed and Determination made on Application. (If applicable) Determination posted in same manner as Notice of Application. (Note: 2-week comment period)
 9. Application reviewed for compliance with regulations and evaluation criteria
 10. Public Comments on Application and Environmental Determination, if any, reviewed
 11. City Staff Report prepared based on Application information, evaluation criteria, and comments received
 12. City Staff Recommendation to Approve, Approve with Conditions, or Deny Application
 13. City Staff Decision published in Everett Herald, posted at City Hall and Post Office, posted on City Website, e-mailed to Parties of Interest, posted on Public Access Channel, placed in Application information files at City Hall and Sno-Isle Library and mailed to all parties commenting on Application. (Decision of City Staff is final 14-days after publication unless Appealed to Hearing Examiner)

CITY OF SULTAN
ORDINANCE NO. 955 -07

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5 AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON
6 ADDRESSING NONCONFORMANCES BY AMENDING CHAPTER 16.18
7 NONCONFORMANCES SECTION 16.80.060 _ EXTENSION OR
8 ENLARGEMENT OF NON-CONFORMING SITUATIONS SUBSECTION (A)
9 (1.), (B.) AND (C.) BY PROVIDING FOR THE EXTENSION OR
10 ENLARGEMENT OF A NONCONFORMING SITUATIONS BY NOT MORE
11 THAN 50% OF THE TOTAL SPACE DEVOTED TO A NON-
12 CONFORMING USE AND ESTABLISHING EVALUATION CRITERIA FOR
13 EXTENSIONS OR ENLARGEMENTS AND SECTION 16.18.070
14 NONCONFORMANCES—REPAIR, MAINTENANCE AND
15 CONSTRUCTION, SUBSECTION (B.) BY ALLOWING A DAMAGED
16 NONCONFORMING STRUCTURE TO BE REPLACED TO ITS EXISTING
17 SIZE AND SQUARE FOOTAGE INCREASING THE DAMAGE OR
18 REPAIR OR REPLACEMENT COST TO A STRUCTURE FROM 25% TO
19 75% OF THE APPRAISED VALUATION OF THE DAMAGED
20 STRUCTURE AND BY REPEALING SMC 21.04.020 B..7
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23 **WHEREAS**, the City of Sultan has received a request to amend SMC Chapter 16.18
24 Nonconformances to provide for the enlargement of a commercial use in the Urban
25 Center (UC) zoning district; and
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27 **WHEREAS**, SMC Chapter 16.18.060 E provides for the enlargement of Single-Family
28 uses within all zoning districts ~~WITHIN THE~~ City of Sultan, and
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31 conditional use permits requirements of Chapter 21.04 SMC;
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33 **WHEREAS**, the proposed amendment would allow the City to regulate the
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41 **NOW, THEREFORE, IT IS ORDAINED BY THE CITY COUNCIL OF THE CITY OF**
42 **SULTAN AS FOLLOWS:**
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1 **Section 1.** SMC Chapter 16.18 NONCONFORMANCES, Section 16.18.060, Extension or
2 Enlargement of Non-Conforming Situations, is Subsection (A.) (1.), (B.) and (C.) is hereby
3 amended to read as follows:
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6 **16.18.060 Extension or enlargement of nonconforming situations.**

7 A. Except as specifically provided in this section, no person may engage in any activity
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10 land is unlawful if such activity results in:

11 1. More than ~~a~~ ~~A~~ 50% increase in the total amount of space devoted to a
12 nonconforming use; or

13 2. Greater nonconformity with respect to dimensional restrictions such as setback
14 requirements, height limitations, density requirements, or other regulations such as
15 parking requirements.

16 B. Subject to subsection (D) and (E) of this section, a nonconforming use may be
17 extended throughout any portion of a completed building that, when the use was made
18 nonconforming by this unified development code, was manifestly designed or arranged to
19 accommodate such use. However, a nonconforming use may not be extended to
20 additional buildings or to land outside the original building if the result would be more than
21 a 50% increase in the size of the total amount of space devoted to the nonconforming use
22 at the time it became non-conforming.

23 C. Subject to subsection (D) of this section, a nonconforming use of open land may not
24 be extended to cover more land than 150% of the land that was occupied by that use
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31 approved and mitigate potential impacts on surrounding properties. :

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33 pedestrian circulation and public safety, and the proposal's ability to mitigate potential
34 impacts.

35 2. The site has sufficient area to provide for off-street parking, landscaping and screening
36 from adjacent uses.

37 3. The adequacy of streets, sidewalks, utilities, and public services to accommodate the
38 proposed use.

39 4. The landscaping, buffering and screening of parking, loading, and storage areas
40 mitigates the impacts on surrounding properties.

41 5. The generation of nuisance irritants such as noise, smoke, odor, glare visual blight or
42 other undesirable environmental impacts.

1 6. Consistent with the Design Guidelines and standards, and community vision as
2 expressed in the City's Comprehensive Plan

3 Application of these criteria shall be an administrative determination of the Director of
4 Community Development subject to a right of appeal to the Hearing Examiner.

5 E.D. The volume, intensity, or frequency of use of property where a nonconforming
6 situation exists may be increased, and the equipment or processes used at a location
7 where a nonconforming situation exists may be changed, if these or similar changes
8 amount only to changes in the degree of activity rather than changes in kind and no
9 violations of other requirements of this section occur.

10 FE. Notwithstanding subsection (A) of this section, any structure used for single-family
11 detached residential purposes and maintained as a nonconforming use may be enlarged
12 or replaced with a similar structure of a larger size, so long as the enlargement or
13 replacement does not create new nonconformities or increase the extent of existing
14 nonconformities with respect to such matters as setback and parking requirements.

15 GF. Notwithstanding subsection (A) of this section, whenever: (1) there exists a lot with
16 one or more structures on it; and (2) a change in use that does not involve any
17 enlargement of a structure is proposed for such lot; and (3) the off-street parking or
18 loading requirements of this code that would be applicable as a result of the proposed
19 change cannot be satisfied on such lot because there is not sufficient area available on
20 the lot that can practicably be used for off-street parking or loading, then the proposed use
21 shall not be regarded as resulting in an impermissible extension or enlargement of a
22 nonconforming situation. However, the applicant shall be required to comply with all
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25 (1) parking requirements cannot be satisfied on the lot with respect to which the permit is
26 required; and (2) such off-street satellite parking is available within 500 feet of the site said
27 satellite parking area is intended to serve, measured from property line to property line. If
28 such off-street satellite parking is not reasonably available at the time the permit is
29 granted, then the permit recipient shall be required to obtain it if and when it does become
30 reasonably available. This requirement shall be a continuing condition of the permit. (Ord.
31 715-00; Ord. 630 § 2 [16.06.160(F)], 1995)

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33
34 **Section 2.** SMC CHAPTER 16.18 NONCONFORMANCES, Section 16.18.070,
35 Nonconformances--Repair, maintenance and construction, subsection (B.) is hereby
36 amended to read as follows:

37
38 B. If a structure located on a lot where a nonconforming situation exists is damaged to
39 ~~an extent that the costs of repair or replacement would exceed 25-75 percent of the~~
40 ~~appraised valuation of the damaged structure, then the damaged structure~~ may be
41 repaired or replaced only in accordance with a permit issued pursuant to this unified
42 development code. However, the repaired or replaced structure shall not exceed the
43 square footage or size of the existing structure prior being damaged. This section does
44 not apply to structures used for single-family detached residential purposes, which
45 structures may be reconstructed pursuant to a permit just as they may be enlarged or
46 replaced.

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3 **Section 3--** SMC 21.04.020 B is hereby repealed.
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8 **Section 3-3 Repealer:** Any and all other ordinance or parts of ordinances of the City of
9 Sultan inconsistent with the provisions or this ordinance are hereby repealed to the extent
10 of such inconsistency.
11

12 **Section 43- Severability:** If any provisions of this ordinance or its application to any
13 person or circumstance are held invalid, the remainder of the ordinance or applications of
14 the provisions of the ordinance to other person or circumstances is not affected.
15

16 **Section 55--** Effective Date: This ordinance shall be in full force and effect five
17 days after publication as required by law.
18

19 Passed by the City Council and approved by the Mayor this _____ day of
20 _____, 2007.
21

22 City of Sultan
23

24
25 By: _____
26 Benjamin Tolson, Mayor
27

28 Attest:

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30 By: _____
31 Laura Koenig, City Clerk
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34 Approved as to form:

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36 By: _____
37 Thom H. Graafstra, City Attorney
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42 EXHIBIT A
43 ORDINANCE NO. 955-07
44 ADMINISTRATIVE REVIEW PROCESS
45 EXPANSION OF NONCONFORMING USES
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- 48 1. Pre-application meeting with staff.
49 2. Design Review Board (DRB) Meeting (S) on preliminary concept
50 3. Approval of Design Review Board
51 4. Submit complete master application.

- 1 5. Letter of completeness on application
- 2 6. Notice of Application Published in Everett Herald, Posted at City Hall and Post Office, Posted on City Web
- 3 Site, E-mail to Parties of Interest Posted on Public Access Channel 21, Mailed to all property owners within
- 4 300 feet and Property Post with Land Use signs and Notice of application. (Note 2 weeks are allowed for
- 5 comments on application)
- 6 7. Application information file provided at City Hall and Sno-isle library fro Public review.
- 7 8. SEPA Checklist reviewed and determination made on application. (If applicable) Determination posted in
- 8 same manner as Notice of Application. (Note 2 week comment period)
- 9 9. Application reviewed for compliance with regulations and evaluation criteria.
- 10 10. Public Comments on Application and Environmental Determination, if any, reviewed.
- 11 11. Staff report prepared based on application information, evaluation criteria, and comments received.
- 12 12. Staff Recommendation to Approve, Approve with conditions, or Deny application.
- 13 13. Staff Decision published in Everett Herald, Posted at city Hall and Post Office, Posted on city Web site, E-
- 14 mailed to Parties of Interest, Posted on Public access channel, placed in application information files at City
- 15 Hall and Sno Isle library and mailed to all parties commenting on application. (Decision of staff is final 14
- 16 days after publication unless appeal to Hearing Examiner)
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Sultan Planning Board Meeting

May 1, 2007

The meeting was called to order at 7:04 p.m. by Chairperson Latimore

Planning Board members Present: Kurt Latimore, Sarah Davenport Smith, Charles Van Pelt, Jeff Cofer, George Schmidt.

Staff Present: City Administrator Deborah Knight, Community Development Director Rick Cisar, Public Works Director Connie Dunn, and Planning Commission Secretary Tami Pevey.

Public Comment

Josie Fallgatter, 13231 Trout Farm Rd, Sultan – Questioned if the public hearing meeting was canceled tonight; felt the board was on the verge of becoming irrelevant or as dysfunctional as the prior commission was and finds that troubling. Encouraged the board to make what you want out of this board, not just rubber stamp what is given.

Regarding SMC16, asked if the notice to cancel was requested by the applicant, and requesting confirmation if the applicant has paid.

Asking to make it clear to public for Shoreline Master Plan update on what the changes are. Four drafts were done prior to this point and the only way to track changes in the past was to lay each copy out and perform a line by line review. Asking that the board provide a matrix of the changes proposed.

Jeff Kirkman, 210 Woodwind Pl., Sultan – Questioned a proposed to change development code; thought in the process of updating the comprehensive plan and asking why they are changing development codes before the comp plan is in place.

Loretta Storm, 30220 115th St SE – Item at last council meeting to revise final decision authority regarding quasi judicial, prefers the final decision to stay with the council. Problem with one of the revisions to change the approval process for PUD plats to make it an administrative decision by the city planner. Find that troubling due to recent history. Believes this issue will come before the Planning Commission, so giving them a head start on it.

Changes to Agenda

Public hearing on SMP 16.18 has been deferred to May 15th.

Committee Reports and Staff Presentations

1. Shoreline Master Program (SMP) Update – Roger Wagoner BHC Consultant

Rick Cisar introduced Roger Wagoner with a brief review and update as to the history on the SMP update thus far. The board will be reviewing Chapters 5 & 6 with the highlighted changes in green. Mr. Wagoner will be walking the commission thru those changes.

Roger Wagoner advised the board that the changes being reviewed tonight are from the last SMP draft brought before the board prior to this evening. Mr. Wagoner explained that the State Department of Ecology adopts the Shoreline Master Program and that it is not official until the DOE adopts the plan. The Attorney General reviewed the program several times and required the changes that are now before the board. The bulk of the changes are in regards to the shoreline environment and how the city regulates it. The problem is the critical areas are managed under the Growth management Act requirements. The Shoreline Master Program regulations are under the State Department of Ecology. During the latest round of guidelines set by the state they required that the critical regulations have to include a chapter, verse, adoption date for each critical regulation that applies to the SMP. There are appendixes of entire critical areas regulations provided in the back of the document before the board.

Changes made in Ch 5, Shoreline Environments Chapter changes were made to further clarify environment descriptions. Pg 14 Ch 5 was inserted to add additional information regarding buffers and setbacks.

In chapter 6 are the majority of the changes, to include cross referencing between the shoreline development regulations and the critical area regulations. Additional language placed in to further affirm items. A lot of work was completed by wetland scientists early in the process to identify and define the critical areas. The city will manage any shoreline in their jurisdiction so there is no net loss. Chapter 6 has two elements: One is policies which are general guidance for the way in which the city regulates, and then the regulations. Mr. Wagoner gave page 12 as an example, as well as further changes addressed in the packet provided to the board members.

Mr. Wagoner further explained that each of the critical areas are broken down with different regulations and includes the type of development. It also includes sites where the shoreline could be restored. There is no obligation to commit to any of those, but it still addresses it. Public access areas are also pointed out.

Commissioner Van Pelt stated it is suggested now; will it be mandatory next year?

Mr. Wagoner didn't think so; he explained the problem with restoration guidelines adopted by DOE would be so detailed to get to the specific details for local restoration. For the state to define exactly what has to be done would have been more than they could do. It is also too difficult to estimate the costs. Most jurisdictions fold the restoration program into a parks plan or flood mitigation plan to bring back some of the shoreline conditions.

Commissioner Van Pelt questioned if anyone has challenged these activities or requirements?

Mr. Wagoner explained the City of Everett was challenged in that its restoration plan was inadequate. DOE participated in that case, but never came into agreement; Everett proceeded to do restoration work along the rivers and saltwater areas as well. Arlington and Port Townsend are the only ones to have been completely adopted.

Mr. Wagoner referred to page 22 as the start of specific policies and regulations for activities and a list is provided. Each section following is policies, then regulations to develop. Any development in the shoreline area is reviewed by the city and then gives recommendations, but DOE makes the final approval of a permit in any shoreline area. Furthermore appeals are done by the State Shorelines Hearing Board.

Went on to explain there are very few undeveloped parcels in the area that are in the shorelines area as mostly developed so many things addressed he felt were not likely to occur within the city. He then walked the commission through different shoreline developments that in his opinion were likely and not likely to occur.

Furthermore Mr. Wagoner explained the changes addressed are only being done for the Department of Ecology to adequately address the overlaps between the critical area regulations and the shoreline regulations.

Commissioner Van Pelt asked in regards to shoreline modifications if properties were in danger how would they be treated.

Mr. Wagoner explained the applicant and the city would need to show the necessity for the application in question. The City would review it and make recommendations, but DOE would make the final decision.

Commissioner Van Pelt travels up and down the Ben Howard Road on the south side and is aware that the river continually moves back and forth and could possibly take some of the homes along it away. There should be some way to protect those homes.

Mr. Wagoner explained it is an emotional issue. The city has flood insurance from FEMA which has a rating system that establishes the premiums that are paid to have insurance against flood damage. If someone does receive damage in a flood situation FEMA will pay what it takes to restore your house. In the last ten years FEMA is trying to minimize the repetitive damage and has now begun to encourage local governments and state agencies to look toward buying those properties and remove the houses because they are never going to be able to control the rivers. There is no way to ultimately keep the rivers stabilized. If there is an old system of levies, based on how well the levies have been maintained you can gauge a pretty good predictability regarding stabilization but many creative ideas are occurring.

Commissioner Latimore explained this is a new board from the one that oversaw the original development of the SMP. Asked if the ecology comments, clarifications and applications maintain the original intent of the SMP or were there any instances where the language takes the SMP further?

Mr. Wagoner stated no, he didn't think it takes it further. DOE was involved in this process since 2002 when it was started; Ecology reviewed all the work and make corrections as necessary. During the course of the work their reviews are informal. They are not complete until the city Council adopts the plan as it existed then. Then the Attorney General kicks in for a final review. Department of Ecology will have their own public hearing. When the board completes their hearings and meetings then the city will get a letter from Jay Manning, Director of Ecology approving it.

Commissioner Latimore stated without any ecological net loss it would appear that the city could not propose any flood control measure that would result.

Mr. Wagoner – Very true, flood management plan are also children of DOE. They have a set of rules in relation to that and if the city were to say propose a levy, in that case the levy would be first discussed on a conceptual level with DOE, FEMA, and probably the Corp of Engineers. From what he knows, everyone would seek some possible alternative than to build a levy, if no alternative than it would build. No known situation where a new levy has been built.

Commissioner Latimore asked if the flood control plan being subordinate to master plan sent to DOE as well.

Mr. Wagoner – No, in earlier drafts there were no references to flood management provisions. The implication is that if a project were necessary for flood control it would need to receive a shoreline substantial development grant from the city thru ecology and he feels that is pretty straight forward, but DOE

and the Attorney General decided it needed specific references to other codes in this document.

Commissioner Latimore asked if it takes language further and would it require any changes to the land use map or current zoning.

Mr. Wagoner – No, just defines it. The Shoreline jurisdiction mapping and the environment designations and regulations are an overlay to the existing SMP.

Commissioner Davenport Smith stated that with all the updates being done wanted to make sure it was becoming concurrent with all of them.

Mr. Wagoner – The comp plan is suppose to have a shoreline element, which is the goals and policies from the SMP, but the shoreline regulations stand alone in the code.

Rick Cisar stated it was proposed, once all elements get adopted it will be incorporated.

Commissioner Schmidt clarified the recommendation is to review and respond to comments.

Rick Cisar – At this point in time, yes. The purpose of the workshop on May 10th is to update the city council on these changes. The intent is to conduct the workshop, have another discussion with city council, then start the adoption of the actual document in the form of an ordinance at a first and second reading.

Commissioner Schmidt – Questioned if the public workshop is where interested parties can get copies of the information before the board.

Rick Cisar – Copies are available in the library as of last Friday when it was sent to the board members, as well as upstairs in City Hall.

Deborah Knight – stated it is also on the city website including the press release about the SMP and where you can get copies of it.

Rick Cisar – The city council will receive the same documentation.

Mr. Wagoner – DOE will have its own public hearing with public notice for public to comment at their event.

Commissioner Davenport-Smith – Do you expect that to be this summer?

Mr. Wagoner – Hopes so.

Rick Cisar – Will have a representative from DOE at the workshop.

Commissioner Latimore clarified the copies for review is an identical set to what was before board members this evening.

Rick Cisar – Yes. What is in binders is on web.

2. Transportation Improvement Program (TIP) Update – Public Works Director, Connie Dunn

Deborah Knight, City Administrator, stated this is an opportunity to take a look at the proposed project list for the 20 year plan, question staff, and direct as they see fit. Out of this list they will compile the 6 year TIP that is due to be turned in to DOT by August 1st. Mrs. Knight explained the breakdown and how it applies to other areas of the city. Eric Ireland will be back in front of the board on May 15th, as well as an open house the same evening for the public to give input into the list.

Mrs. Knight explained the numbering system and how it came about. The council subcommittee had an opportunity to review and gave three projects they recommend be added to the list: Extension of 124th Avenue (#T65); second crossing of Snohomish river (T64); and extension of industrial park to sultan Basin Rd (T26).

TIP currently includes 41 projects; with the added recommendations by the city council subcommittee brings the list up to 44 projects. Gave an explanation of layout provided on pg 6 in packets. The criterion needs to go to council to be approved, and then the planning board will review the project list to narrow it down and meet the August deadline.

The staff proposal to delete four projects because they are no longer feasible or are duplicative of another project. Six projects are considered to be joint projects with other agencies. It may be outside of cities current view, but feel they want to keep an option for long term transportation goals.

Stated there is a recommendation to review project T-28, the Dyer/Skywall connection. The community is not all that excited about it. One of the purposes of the TIP is to ensure there is sufficient emergency ingress and egress in that community. Community currently floods and members now cross private property and over railroad access to exit during flooding. Staff does not want to delete any projects off the list, but there is a problem in that neighborhood with emergency access. One option is to take a look and determine whether or not you can for example improve a culvert and raise the roadway a bit. There is a policy question on this project and the board needs to understand the pros and cons before a decision on the project is made.

Commissioner Latimore questioned does the T28 project lie within the SMP jurisdiction for proposed culvert and roadway?

Rick Cisar – No. Culvert and roadway could be pretty close.

Commissioner Latimore - so we could not introduce any change that had a net ecological impact?

Deborah Knight – that would be the case, probably doesn't meet best management practices. Probably would have to do some habitat enhancements in adjacent to that, but it is an active community so you could make it into a volunteer event.

Commissioner Latimore – is it on an active restoration plan?

Deborah Knight – none at this point, but will be at future meetings in storm water utility discussions.

Commissioner Davenport-Smith – Inquired what would be involved in an emergency access project versus a regular road project. How is that different from a typical roads project?

Deborah Knight – Concern was direct access between two neighborhoods might invite cut thru traffic from Hwy 2. Emergency access would actually be wide enough to accommodate emergency vehicles with a gate or bollards to remove in an emergency. Private property access available today, but no guarantee for the future. This is opportunity to prepare for it and think about it.

Commissioner Cofer – Worth mentioning also that aside from restricted access opposed by flood waters, each of these communities served by one rail crossing; a lot of things go up and down the rail line and it's not beyond possibility that one of those crossings could be blocked for a long time if a rail accident were to happen.

Deborah Knight – Excellent point and hadn't considered train.

Commissioner Cofer – Also a catastrophic event at the Romac Foundry could restrict access from Skywall.

Rick Cisar – Explained the private property that is used for emergency access is currently under one owner and if it is subdivided this would be part of that element and a requirement could be made at that time. In looking at the property it is just two cul-de-sacs that could include bollards or a gate that would only be open during flood emergency. Trying to get a grant for rail crossing by Romac; attempting to get another grant from the Transportation Commission to

get a grant for the other crossing and the rail engineer came out and would support an application for both crossings.

Commissioner Van Pelt – T26, does that extend clear down into old town, or just Sultan Basin Rd?

Deborah Knight – extends all the way to Pine.

Commissioner Van Pelt – Since the subcommittee recommended three projects, are they high on the priority list.

Deborah Knight – Don't believe high on priority list, just projects that the subcommittee noticed as gaps in the transportation system. No additional priority placed on them by council.

Commissioner Van Pelt – Is the subcommittee's wisdom put forward high priority.

Deborah Knight – Staff proposed to prioritize list, then present to planning board for review and approval, then a recommendation to city council.

Commissioner Van Pelt – And you anticipate that when?

Deborah Knight – completed by August 1, come back first meeting in June with the prioritized list looking for the board to forward that on to the council at your second meeting in June.

Commissioner Cofer – Prior to the open house, think it would be good idea to draw in Sultan Basin Road alignment and include Phase 3 intersection improvements. The map looks great but feels it is not complete.

Deborah Knight – Consider it under construction, so not under review for evaluation. She understands and will make that change.

Commissioner Cofer – Felt that from a public viewpoint it would lend a positive note to say what is done, what is under construction, and what is proposed.

Deborah Knight – We have a lot of projects we currently working on and make a great point to add a map of current projects as well.

Commissioner Cofer – a phrase he heard was, "Don't tell me what you're going to do, show me what you've done" and feels it needs to be reflected in this map.

Commissioner Davenport-Smith – Quick edit, project T65 on the map the road is labeled as 125th, but on page 2 it says it is an extension of 124th in description. She asked which one needs to be changed.

Connie Dunn – At the time of construction we may need to re-label a road, but it jogs down and needs to be clarified.

Deborah Knight – Asked if referring to the project description.

Connie Dunn – yes.

Commissioner Latimore – T39 is pavement overlays and he thought the maintenance items were not part of the TIP.

Deborah Knight – Ordinary maintenance which are the things that you need to be doing year to year; major maintenance such as road overlays are not considered ordinary maintenance and can be included. Ms. Fallgatter was also inquiring about other major maintenance issues. I need to go back and clarify that in the definition.

Commissioner Cofer – pg 2 of 6; recommend amending that to state not the waste water treatment plan.

Deborah Knight – Realized it is a major error and was glad it was caught before it went to the city council.

Commissioner Latimore – incorporation of these changes would require another revision to the Capital facilities element.

Deborah Knight – Absolutely, and staff has been discussing how they want to handle the capital facilities element and the project list. The question is do we want to include all of these project lists in your Capital facilities element of your comprehensive plan, or just refer to the 20 year plan and just do a 6 year plan in the capital facilities element. Staff leaning to the latter as the only place would need to change in the future would be in the transportation element and keeps it simple for staff.

Commissioner Latimore – Done by August to send on to DOT, or could we send it independent.

Deborah Knight – yes, can do it independent. Key is to make sure TIP list of projects is incorporated into the CIP list of projects, otherwise you have to amend the TIP.

Commissioner Latimore – As Eric finishes his work, he is basing his analysis without the last three or four recommended changes.

Deborah Knight – No, met with Eric today so he has seen this, any changes would be forwarding to him. Keeping him completely in the loop on where we are at with these projects.

Commissioner Van Pelt – how realistic is project 64, the bridge, a good idea but a major expense?

Deborah Knight – probably will be major expense, but at the same time looking at what would we like to accomplish. Imagine won't rank very high on the list, but if something were to happen the project is listed. Other agencies look at the list first before they will get involved. The boards can chose to remove it.

Commissioner Cofer – How old is that Hwy 2 Bridge and how much longer do they expect that old dinosaur to survive there and does it lend any more urgency to an alternate route out?

Deborah Knight – referred to Connie Dunn as she is closer to that project.

Connie Dunn – We have been participating with US 2 route development plan, and the bridge has been a topic. Discussing temporary bridge across river and build a four lane bridge, or build a twin and have a bridge for each direction. They do realize a capacity issue; city is looking remove sewer and water mains off the bridge and put them under the river. First Street becomes a key part of entering our downtown and our city. Idea is to do a separated interchange with First Street and highway 2. Overpass/underpass exit onto first street and into downtown; May be a way to mitigate and answer a long range question.

Commissioner Latimore – Where was T25 originally?

Deborah Knight – in planning agenda attachment C1 and look at proposed roadways, T25 listed there just N of US 2 and Rice Road.

Connie Dunn – Was considered an unnecessary road considering 138th developed, industrial park, and developments.

Commissioner Latimore – Current development makes project unfeasible?

Deborah Knight – Yes, developments have cut off feasibility and other projects such as T26 would carry that same traffic.

Commissioner Latimore – So T25 has been in the comp plan and the capital facilities element for a long time?

Deborah Knight – yes, and staff recommendation to delete it, but up to board to decide.

Commissioner Cofer – How current of a map do we have access to?

Deborah Knight – Define map.

Commissioner Cofer – An Ariel photo.

Rick Cisar – 2003.

Commissioner Cofer – T26, Where is that in relation to Timber ridge, and in relation to Sky Harbor.

Rick Cisar – T26 is below Timber ridge to the South side and T25 going through the Hammer property.

Commissioner Cofer – Clarification on the bulkhead or retaining wall building at bottom end of Timber ridge is not proposed to be a roadway, strictly a geo-tech feature to hold the hillside?

Rick Cisar – on the south side?

Commissioner Cofer – Yeah, where they are bringing all the gravel in and compacting it down.

Connie Dunn – I believe we should get the plans and bring them back to the next planning board meeting so you can look at them and determine for yourself and get clarification at that time.

Deborah Knight stated that it was to create the footings for the wall, and there are no intentions to create a road for that, but agrees with Ms. Dunn that we can come back and address those questions.

Commissioner Cofer – looks like a road.

Commissioner Latimore – It would seem to me that the work Eric is doing we need to see the different scenarios; proposed deletions and effects; proposed additions and impact to accurately gauge the merits.

Deborah Knight – I think what we're proposing this evening that if there is projects that don't make sense, or if there are projects that should be on the list that we haven't considered letting us know so we can add them and bring them back at the next meeting so you can see effects of change.

Commissioner Latimore – It would be great to see the baseline and then the proposed affect, rather than one analysis with a net impact that has several additions and deletions. Some deletions seem straightforward in regards to staff deletions, but some of the others could have changes to traffic flow and circulation.

Connie Dunn – The baseline in attachment C is what we started with, and it has evolved into the picture in the packet, then the next evolution is the one handed out. Seeing it, but not all lumped together in a precise picture.

Commissioner Latimore – If he has a traffic model, and then he adds a different solution for the way the grid operates. Some changes may have very little or isolated effect.

Deborah Knight – What we are seeing as we talk with Eric, for the most part the changes are relatively small, but the council suggestion of the extension of 124th would route a little more traffic into town versus going down onto the highway but no classification changes. It's interesting that First Street and Trout Farm Road turns into a major traffic area, whereas today it carries very little traffic flow. Once you begin to make the grid connections those roads picks up significantly.

Commissioner Latimore – When Eric presents he would be able to field questions?

Deborah Knight – absolutely. Recommendations made today will be sure to be addressed when Eric returns at the next meeting.

Commissioner Latimore – Jeff's comments about the crossings would be an idea of the plan that should be added.

Deborah Knight – in agreement.

Commissioner Davenport-Smith – Tonight we can either say this list looks good, or wait for the public feedback on the 15th.

Deborah Knight – seems to be the boards' pleasure to receive the update with Eric Ireland before making a decision and moving forward. Staff will bring it back before the board on at the first meeting in June.

Commissioner Davenport-Smith – would that push back the prioritized list that was expected at the first meeting in June?

Deborah Knight – We could direct staff to prioritize the list that is before the board today, and then if there are any recommendations, they would go through the prioritization list and be placed into the plan or removed. A 20 year prioritized list could be brought back and the board could decide from there. Cost analysis would be done and could be added to the list as well by then.

The board was in agreement on that decision.

3. Storm water Utility Formation Update – Public Works Director, Connie Dunn

Connie Dunn presented Leanne Acker to give update. Reviewed attachments and advised is still in a draft format as work in progress.

Leanne Acker gave an update on citizen advisory board progress regarding storm water utility formation. Gave power point presentation reviewing the reason and need for a storm water utility and background history to date. Equivalent Residential unit average for Sultan is 4,519 square feet. 1,246 residential; 920 commercial, 75 multifamily, 2,241 total ERU's in Sultan. Total cost divided by ERU's creates the fee. Budget presented; 2008 higher then drops considerably over 5 years. Lot of work goes into prep and research the first year. Added 5% increase annually to ERU's for development. Reviewed the different fee options with the board and how that would impact the budget. Reviewed other sources of funding to consider; rate adjustment appeals, credits. Community outreach and public involvement projects in the process to inform the public and make them aware of importance.

Commissioner Cofer – the project revenue is concurrent with the Capital facilities plan.

Deborah Knight – Water quality plan done in 2002, Capital facilities plan short as doesn't include projects and there is a need to do another study to look at the 7 year plan and the need to raise fee, lower fee, or keep same.

Commissioner Van Pelt – how does fee compare to other cities?

Leanne Acker – During the phone survey it is about the third highest of the 10 to 15 they obtained fees from, so it falls in the ballpark.

Commissioner Latimore – so the flat rate approach tentative fee is \$13.10 a month?

Leanne Acker - \$12.75

Deborah Knight – Referred the board to an appendix, then realized it wasn't included in the packet. Will make available to board so can see calculations of ERU's to different properties. Romac highest number of ERU's at approximately \$1500 per year in fees for storm water. Citizen group looking at providing a credit and how other cities handle the issue and that will be brought to the board for a

decision. It should be coming forward to the board at last meeting in May or first meeting in June.

Commissioner Latimore – Referred to Table 2 on appendix a, pg 4 rough comparison ERU fees, not all those ERU's are the same?

Leanne Acker – Very different, and the reason is because it is based on your cities need.

Commissioner Latimore – Isn't apples to apples?

Leanne Acker – No, the actual numbers can ever come from anyone else as development determines what your city needs. ERU's and fees vary to each city's need. They can use methods which were found thru the phone survey and provided general principles.

Commissioner Latimore – Asking for recommendation from board? Prefer flat rate method.

Commissioner Cofer – Agree.

Leanne Acker – Low to high, nobody?

Commissioner Davenport-Smith – Asking why nobody into the low to high rate.

Commissioner Latimore – I think a storm water utility is a new cost to residents and an annual escalation may be reminder each year that they don't appreciate it. It follows the cost more closely than low to high.

Commissioner Schmidt – Keep it simple.

Commissioner Latimore – 5% Escalation, we have a population projection in comp plan, perhaps can use that instead as it is best to tie everything together.

Leanne Acker – yes, absolutely. Can still do that if the board wants; these are the challenges the citizen advisory board faces.

Commissioner Latimore – Flat fee recommendation and guess a comparison for council will be needed in the recommendation as well.

Leanne Acker – Will make sure they explore that.

Commissioner Cofer – Application for credit or appeal should be simplified as much as possible. Make it appear it is an achievable goal to encourage people to make an effort to pursue.

Commissioner Latimore – Great presentation.

ACTION – APPROVAL

Approval of the April 17, 2007 Minutes.

Commissioner Latimore – one correction, pg 3, item 3, nonconforming use amendment, 1st paragraph, 2nd sentence. "Legal non conforming use" versus "illegal non conforming use"

Commissioner Schmidt – pg 8 comment "appreciated comments" insert "and" into first sentence, second sentence doesn't make sense, strike.

Commissioner Van Pelt moved to accept the minutes with revisions as noted, Commissioner Davenport-Smith seconded; all in favor.

The second agenda item was removed and rescheduled for May 15th meeting.

PUBLIC COMMENT ON AGENDA ITEMS ONLY

Loretta Storm – Feels the TIP is the most urgent and important of the three items reviewed tonight. Strongly urge all members to tour the streets on the map. Makes such a difference when you are there and the reality comes home to you. Gave example of Dyer Road, and updated board as to reason why Dyer Road citizens not happy with road extension expansion plans. The transportation map is a great improvement, however in addition to current work needs to be a pink line that will indicate improvement to existing county roads as some citizens think certain roads are in the city already. Some of the proposed roads, questioned if property owners are aware of city plans. Map is a great improvement, however needs to be an indication these are improvements to existing county roads.

Deborah Knight – As a line on a map, this is a note that a road maybe needed in this general vicinity.

Loretta Storm – "just a line on the map" occurred during the 2004 comp plan. Timber Ridge looks like a road and has no problem with a road there, but has a problem with the process. No plat changes for that; and is being built largely inside the buffer, especially on the eastern side.

_____ (WHO, prior gentleman on board?) Great to see the board in action and asking questions. On the TIP, besides the roads being indicated, is there a study being performed of what the population that will be served by these roads.

Deborah Knight – yes, in process.

_____ (SAME WHO) Storm water utility, is there a plan on how future development is going to happen? Will they go through the homeowners associations, or will it become a function of the city?

Deborah Knight – talked a little bit about it as small work group, and still considering.

Josie Fallgatter – Great meeting and appreciated discussion; regarding the shorelines would encourage to look at language using “should” versus “shall”. Need to make sure it is a useable, workable program. Unclear if mining was a permitted use? Was it taken out of the Shoreline Master Plan? In the aquatic zone it was a permitted or conditional use, and in the original draft of the SMP it was allowed for commercial uses, and that carries special requirements. If it hasn't been taken out, please take it out. On the SMP, Will any of the maps designate any of the parcels that are subject to the shoreline regulations?

Commissioner Davenport-Smith – Referred to map on display.

Josie – But parcel specific, don't know if different parcels are exempt even if they are in a shoreline designated area, but will the city be enforcing permits in the shoreline designated areas? Regarding the TIP echoed Loretta's comments about Trout Farm Road residents, and while you're changing road designations that the amount of development for the Morris property requires that those roads go in. Keep in mind, look at TIP, and look at housing projects as well. Referred to 600 homes on Morris property on Trout Farm Road, will need other roads; as well as Scott's Hill off Trout Farm Road opposed to road going through.

Commissioner Van Pelt – confirming in the county still.

Josie – yes, everything out Trout Farm Road is still in the county but it will be annexed, inevitable. Like to see it happen with infrastructure needs in regards to the amount of development that will go on out there.

PLANNING BOARD COMMENTS

Commissioner Davenport-Smith – appreciates public and staff. See mining element still in SMP, pg 39 refers to mining environment specific regulations in aquatic environment mining are permitted as shoreline conditional use. I

noticed the "should" versus "shall" on pg 56 & 57 have the storm water management policies versus the storm water management regulations.

Deborah Knight – asked for #'s again.

Commissioner Davenport-Smith – pg 56 states should & pg 57 #2 says shall.

Commissioner Van Pelt – agree with Commissioner Davenport-Smith in thanking participants and consultants.

Commissioner Cofer – nice to see our public is back; want to see current aerial photo as board proceeds. Especially for public open house for current landmarks and current public roads updated as much as possible.

Deborah Knight – one possibility is we have a map that shows development, can add names with development if we can't get aerial photos.

Rick Cisar – probably the most accurate one we have. Received it from the county and waiting for them to complete another one.

Brief discussion between board and staff regarding aerial photo update.

Commissioner Latimore – I wonder if it would be helpful to post development notice boards at the approximate locations for different projects to catch the eye of travelers passing by.

Rick Cisar – in the past they have sent out a two page notice that gave a summary for review. Can be done again this time; as well as on the web page and in the newspapers to get public notice the best we can.

Commissioner Latimore – thinking similar to land use board which may catch attention of public.

Rick Cisar – Can look at it and consider that option.

Commissioner Davenport-Smith – Likes the idea.

Deborah Knight & Rick Cisar in agreement that they will do some brainstorming on how to get the attention of the public.

Commissioner Cofer moved to adjourn, seconded by Commissioner Schmidt. All in favor.

Planning Board meeting ended at 9:42 p.m.

Sultan Planning Board Meeting

May 15, 2007

The meeting was called to order at 7:01 pm by Chairperson Van Pelt.

Planning Board members Present: Sarah Davenport-Smith, Jeff Cofer, and Charles Van Pelt.

Staff Present: Community Development Director Rick Cisar, Public Works Director Connie Dunn, City Administrator Deborah Knight, and Planning Commission Secretary Tami Pevey.

Public Comment

Debbie Kopple – Requesting overview of information regarding public hearing.

Josie Fallgatter – Thank you to Perteet and Eric Irelan for work done on transportation plan. Good start to needs, hoping for same with costs.

Changes to Agenda

Commissioner Latimore requested switching the agenda order to have the public hearing first. Commissioner Latimore moved to accept the change, seconded by Commissioner Davenport Smith; all board members in favor.

PUBLIC HEARING:

Commissioner Latimore read procedural remarks to crowd for public hearing – No objections from citizens regarding board members involvement. Commissioner Cofer stated no conflicts directly. No objections from crowd. All board members were in agreement to stay objective.

Rick Cisar placed an affidavit of publication, rescheduled notice, staff report, and agenda into record. He then gave an overhead presentation reviewing items based on the agenda item cover sheet. Single family attached uses being addressed in regards to commercial, industrial, multi family uses. Reviewed the action options with the planning board; reviewed the background history regarding the request. All review requirements completed with no comments from outside agencies. Recommendation to change replacement cost in non conforming uses in Urban Center Zone from 25% to 75% from the petitioner. Building Official advised doesn't affect many businesses, rare. The Building Official is also recommending expanding 50% of square footage.

Code comparison completed in regards to other cities and facts included in staff report. Reviewed various cities to include Everett, Marysville, & Mount Vernon as these cities require evaluation criteria be met. While reviewing the current comp Mr. Cisar stated the plan does not address non conforming uses except for Section 3 implementation. He reviewed the Urban Center Zone ideal intent and explained the requirements address several issues, but does not address the issue of non conforming use expansions.

He gave alternative options to the planning board as addressed in the staff report.

Commissioner Schmidt – asked how the changes would be addressed in Sultan; administrative role for compliance?

Rick Cisar – Could be staff administrative review; could be required to be hearing examiner process. Not done now; administratively for single family uses.

Commissioner Cofer – currently expansion of non conforming use is not allowed.

Rick Cisar – yes, for single family, but not commercial industrial.

Deborah Knight – could have both processes; should non conforming uses have same process as conforming, or different uses?

Commissioner Latimore opened the floor to public comment.

Gary Branstedder – author of letter in packet; Apologized to public who attended two weeks ago as continued due to unknown date and had previous engagement. Allow or disallow, establish criteria if allowed, and set up process for non conforming uses administratively or through hearing examiner. He is here to address that Mr. Jerden cannot explain at all as it is not allowed. Suggesting that expansion on some level should be allows. He reviewed his letter in regards to reasons for regulating expansion, but allowing. Gave example of Everett south of courthouse transitioning; explained situation of business owner with no current options. 50% the norm; two cities allow 100%; suggestion 75% is more realistic.

Warren Jerden – owner of Sky Valley Automotive; bought property 15 years ago. He bought the property next door 9 years ago to expand. Attempted to expand, but not allowed. Picture provided to show how it changes and cleans building; gives false front to get cars off street and repairs done inside. The business has been operating for 38 years since prior owner Swanson's. Able for citizens to get cars fixed and shop in town while waiting.

Debbie Kopple, 13722 Roesler Rd, Sultan – represent the chamber of commerce, also placing emails into record from other chamber members approving the expansion. Don't feel at this time that town is business friendly. She explained that in an

automobile society, Sultan in independent transportation dependent. Bulk of population does not reside in downtown. Need to be able to address issues in town locally. Need to focus on what we want to keep in, not just what we want to keep out. Stated was very confused by non conforming legal issues. Her perspective needs to help people like Mr. Jerden who has invested time, business, and money in our community. Meeting needs of community or wouldn't be able to expand. Want to support the process and procedures, but make it aesthetically pleasing to design review board. Need to increase sales tax base and encourage business, but also meet needs of population. Referred to Monroe Main Street and downtown restructuring process. Not welcoming to businesses, need to make it explainable to businesses.

Josie Fallgatter, 13231 Trout Farm Rd – Last meeting initial hearing postponed, has applicant paid for this to be brought before you. What are you here for? Here to plan for how city is going to grow. Pedestrian friendly downtown, automotive uses restricted. She asked if Larry's Auto was a conditional use that was non-conforming as well. Suggest going back to comp plan and amend first. Then look at design review standards to see if it implements comp plan. City has not done that yet. They lost a legal battle and are currently under remand to review regulations. Design Review board has no "teeth". She is confused by Brandstander's letter regarding 150% and how to regulate it. Suggest looking at Hearing examiner role in development regulations. Suggest not administrative, hearing examiner role. Strong qualifications and feel he should be left with that task. Mr. Jerden is a nice man; board is not here to pick and choose. What is downtown vision plan? Is it pedestrian friendly? Job is to look at Policy and vision of city and implement those.

Kate Roesler – current business owner; board has larger picture than that. Need to fill empty Main Street before pedestrian friendly. Anchor store in other cities as automotive when changed to pedestrian friendly.....

Bart Dalmasso – local business owner and resident; and sees this as a possible punishment to a successful businessman as he is being denied the right to expand his business. Consensus of opinion among business owners is city doesn't care. Choice is to expand or move business out of town. If there were more businesses here the city wouldn't be facing an increase in utility fees. Downtown will cease to exist as business center as flooding and not conducive to expansion. Will move east and up on the hill. In favor of proposed changes to ensure business stays as need the tax dollars.

Brian Kopple; owner of Sultan Chiropractic Center – feels needs to be shades of gray here; Went from no comp plan to "village Sultan" view. Has to be common sense brought to this and simplification brought to this so it can be developed. Best interest of community as well as business people.

Commissioner Latimore requested additional staff comments.

Cisar responded to questions as follows: yes the fees have been paid by the applicant; we do have design standards that have been adopted and utilized. Not specific to sky Valley automotive, but broader than that affecting all zones; option available.

Commissioner Davenport-Smith was wondering with changes to comp plan would we be able to incorporate changes that would apply to situation like this.

Rick Cisar – Silent to comp plan addressing non conforming uses.

Commissioner Davenport-Smith – Something would not be pedestrian friendly, but interpretation.

Deborah Knight – criteria come into play here; if you want to move forward with looking at non-conforming uses but in compliance with comp plan need criteria. 3rd staff alternative, talk in general about where you want to look at. Explained this is more than a one touch item. Can give general direction tonight, but there may be 3 to 5 meetings before a recommendation is reached. Fallgatter correct and need to review all, but will take time

Commissioner Van Pelt – seems almost tragic that this gentleman is being dragged through this process. Couldn't we do it any quicker?

Rick Cisar – Process wise staff could come back with modifications to draft ordinance and apply criteria and process for review if direction board wants to take.

Commissioner Latimore – advised there would be an opportunity to add discussion and questions.

Pat Fox, 13908 339th Av SE - Making changes to the code encourage other non conforming uses, permit other non-conforming, or just address current. Do percentages have something to do with discouraging rebuilding?

Rick Cisar – reconstruction exceed 25%, have to conform. Encourage reconstruction you place it higher. Letter from building inspector (exhibit e) foresees no significant changes.

Josie Fallgatter – On 75% of assessed value not requiring a permit; would they not pay fees and have inspection? Also like to know code sight in SMC for design review standards.

Donna Marshall, 11724 trout farm rd, mgr of coastal community bank – what does pedestrian friendly mean? If car breaks down, walk to car to get it fixed isn't that pedestrian friendly?

Gary Branstedder – non-conforming use legal when built, but zone changes make it illegal; won't create more non-conforming uses. Value is percentage of assessed

value. Assessed values are not actual values; 10% or more than assessed value to sell. 100,000 assessed, more than 25,000 in repairs puts business out of place; Suggests 75% as in between average and 100%. Think that Cisar correct looking at comp plan doesn't say you can't have expansion or repair of non conforming uses. Not in violation of comp plan. Suggestion or proposal already went through state with no objections.

Cisar – correct.

Gary Branstedder – I don't think it needs to be quite a big a process as DK suggests. Needs a process he can apply under. Staff has done a tremendous job setting up the criteria to pick from.

Josie Fallgatter – Re-ask questions; 75% of assessed value not requiring a permit, will they be allowed to build without a permit, will they exempt from impact fees and inspections? She explained that the nuisance ordinance was before the board earlier. If they can catch while being built they don't need to go back and address it later. 150% lot coverage; area is being covered, not the value. Where in the SMC is the design review standards codified.

_____ (WHO) Settle the issue before us quickly, then go back to comp plan and make changes. Suggest a variance or something else quickly. Don't see how having auto parts store isn't pedestrian friendly. Maybe need to review inception of ideas.

Bart – allowing expansion would be pedestrian friendly would get cars off sidewalk. 25% to 50% could go to legal battle as taking away without just cause; comp plan can only be revised once a year.

_____ (WHO) something immediate future, instead of comp plan changes.

Gary Branstedder – can't do that, not legal.

Commissioner Cofer made a motion to close the public hearing; seconded by Commissioner Latimore. Public hearing closed.

STAFF DISCUSSION

Commissioner Latimore – Two parts: maintenance and repair; expansion.

Commissioner Cofer – thinks 75% valuation for maintenance and repair more acceptable. Lean toward 50% as board member, but as property owner 75% is more functional. Don't have luxury yet of picking and choosing what businesses occupy our downtown corridor. As we travel towards our goals both personally and as a community. Anticipate obstacles as we evolve as a city. Legal non conformance with planning board and council allowed once per business. 75% permitted by special

permission, criteria with review by design review board. This business meets aesthetic appeal, and meets criteria.

Commissioner Davenport-Smith – agree with Commissioner Cofer; I'm not married to 50% or 75%, not enough education yet to make decision. Whether or not in compliance with plan, but "pedestrian friendly" rub; is it defined in code?

Rick Cisar – Not defined.

Commissioner Davenport-Smith – could define what it means to ensure expansion of non conforming use; would we still have issue?

Rick Cisar – comp plan silent; can develop criteria defining what pedestrian friendly means. Everett and Marysville criteria could work.

Commissioner Van Pelt – do talk of pedestrian friendly?

Rick Cisar – mitigate impacts based on developed in hand. Downtown area still has automobiles; Horse in stable years ago; Taking car to stable for repair, almost same type of use.

Deborah Knight – pedestrian friendly; you may still get a petition in front of GMA board. Comp plan addresses pedestrian friendly, but doesn't address non-conforming; criteria to advance desire to pedestrian friendly. Can you make change today quickly, and then change comp plan. No; everything grows from comp plan. Looking at review to comp plan to address business not welcome look. State law is written this way.

Commissioner Latimore – Think Everett has it right in regards to repair. If substantially destroyed, should be allowed to repair. Building codes much tighter now; Feels reasonable to allow; 100% with code driven costs that would exceed that. Expansion of uses, Title 21 of code, 21.04.020 (b) addresses expansion. Is that obsolete?

Rick Cisar – current code provision.

Commissioner Latimore – this code places it down to criteria board puts in place. Don't feel need further criteria other than what's in place. Conditional use permit process has element of non conforming uses wishes to expand. Just need to establish criteria.

Deborah Knight – can issue conditional use permit for non-conforming use if there is criteria in place. They would add an additional section for non conforming use expansion. Need to describe pedestrian friendly element. Need to be careful about taking straight across from other cities as based on their comp plan.

Commissioner Latimore – Maintenance and repair, expand. Maintenance repair, okay.

Commissioner Van Pelt – 75% or 100%, open.

Commissioner Schmidt – 100% repair; 75% expand. Criteria needed on pedestrian friendly.

Commissioner Cofer - # of vehicles per \$ amount generated; Separates high traffic volume retail, from lower traffic volume.

Commissioner Schmidt – too complicated.

Warren Jerden – liquor store pedestrian friendly based on traffic.

Rick Cisar – direct staff to repairs 100%; expansion 50% to equal 150%; define pedestrian friendly; criteria for non-conforming.

Commissioner Schmidt – outline of sequence of events to keep everything in place.

Commissioner Latimore opened the floor again to public comment.

Donna Marshall – A jiffy lube is coming into town back to back, what's the difference?

Rick Cisar – allowed.

Donna Marshall – back to back?

Rick Cisar – ingress from main, but no egress.

5 minute break approved by commissioners

Resume at 8:59 p.m.

Committee Reports and Staff Presentations

Transportation Plan Update –

Rick Cisar introduced Eric Irelan with Perteet giving third update. Public meeting and open house held today. Most important is to develop understanding of impacts. Graph summarizes development. 1500 employees in city currently; 500 employees in growth. Population growth projected as bedroom community. Estimates that 2400 homes built until 2025. City divided into 23 transportation analysis zones to include UGA. Growth between 2000-2006 via building permits. Traffic forecast model developed. 2007 average week day traffic volumes reviewed via map H-3. Highest volume street is 4th street; 3200 vehicles 10% p.m. peak; Sultan Basin Rd, then 8th Street. Level of service and rating from A to F; just A, B right now. Question posed is how long it takes to get from one point to another. Traffic congestion major complaint. Provided traffic trip

times and break down of level of service time frames. Reviewed classification of streets and currently shows very dependent on Hwy 2. 1 mile arterials; ½ mile minor arterials to build a grid. Designed arterial map recommendation provided in packet; and reviewed with the board.

Traffic forecast with no action creates high volume on Sultan Basin Rd is 18,000 vehicles with one point of access making the road unacceptably congested. US 2 is actually higher in this model as Sultan residents forced to use Hwy 2 to get in and around Sultan. Compared to traffic forecast with recommended model spreads the traffic around, takes pressure off Hwy 2 and gives people choices increasing level of service.

Commissioner Van Pelt – On 132nd extended west to Trout Farm Rd; how much of a problem is it to get it punched through?

Topographical because of hillside; alignment suggested appears to be the best route based on topographical map. Exact alignment as yet to be determined, but feel can be done at this point.

LOS standard, current standard B – with recommended will improve with modest improvements. Pointed out recommended map includes hwy 2 going to 4 lanes. Implications to LOS, peer review of neighbor cities did show no other city at LOS B. Consider point to point travel times when looking at LOS. Explained that LOS B means anyone can drive anywhere they want to without delays; that is not realistic. LOS D more realistic. Referred to map referencing # of lanes and suggestions on capacity for restraints in city.

Connie brought forth project to take advantage of bridge expansion in conjunction with hwy 2 widening and is recommending; gave reasons for recommendation. Transit service and people willing to work ¼ mile. Good transit in downtown; but majority of development to occur is no public transit. Recommend extra pad and concrete where bus stop can go making it easy for transit to expand. Arterial provides transit way to get around; providing 95% of city access. Map in packet for non motorized transportation; reviewed current access and future recommendations as listed on this map.

Commissioner Cofer – noticed in review, practical at some point to get park and ride on north side of road where houses and development planned.

Eric Ireland - Where would be a good location?

Commissioner Cofer – Where Sultan Basin used to intersect.

Rick Cisar – Agreement on Wold property is vacating right of way, so probably be developed or parking lot there.

Commissioner Cofer – no easy access to park and ride; really want to use the bus if you are located in Sultan Basin area.

Rick Cisar – currently looking at development on basin rd, requesting transit to place bus stop there with a turn around.

Eric Irelan – Reviewed that concern and designated a bike route; also recommendation on pedestrian over crossing to accommodate more ways to cross the highway. When there are enough bus routes, they can get a point to point transfer later in the future. Community Transit coming to Middle School tomorrow and are interested in Sultan's comp plan.

What implements this system is arterial classifications and design standards. Currently 60' right of way required in design review board. Recommendations laid out design standards to complement.

Commissioner Van Pelt – currently 60 ft; not imposing on land.

Rick Cisar – 66 ft; developer gets credit for this in fees.

Eric Irelan – continues to review map and elements; # on map corresponds to table which represents a project and gives project description. Some have cost estimates, but many do not. Perfeet currently working on those now, combined with revenue forecast will be brought back to board in June. Comments from public north collector aligned with 140th to eliminate dogleg. Non-motorized existing calls for trail on Fir Street to provide safe access to elementary; did provide calming effects on 4th Street.

Council next week to present same info to them, then next month with board again.

Commissioner Latimore – LOS for arterial road sections silent in transportation plan.

Deborah Knight – LOS pg 74

Commissioner Latimore – nothing in that matrix; are we designating LOS for service never classified?

Eric Irelan – Confusing information in existing transportation element; good time to clean up.

Commissioner Latimore – is there an existing LOS for arterials?

Deborah Knight – staff will need to research and get back.

Commissioner Latimore – 4th street classified collector/arterial.

Eric Irelan – gave his view of existing and referred to 3rd column states LOS B; gives him the impression would cover collector as well as minor arterial.

Commissioner Latimore – still think it would be interesting to run a scenario for Sunday afternoon with traffic coming east to west; with proposed road grid how does it respond to Sunday afternoon condition?

Eric Irelan – good question, called traffic diversion. When he looks at arterials they are so far away.

Commissioner Van Pelt – Suggest Ben Howard Rd connecting to Mann Rd and on running east.

US 2 route development plan includes weekend traffic shows Sultan Basin Rd, 5th, 3rd, and Old Owen. Draft out now for review.

Eric Irelan – Diversion for your city only; don't expect many to use.

Commissioner Cofer – Uses Kellogg Lake Road as a diversion to Hwy 2; asked if those routes would be developed with diversion for accident traffic under certain circumstances?

Eric Irelan – Will look into; doesn't know state's policy on deciding; there are things that can be done to calm diversion down.

Commissioner Van Pelt – Another stop light at rice road, correct?

Eric Irelan – yes, we are recommending a signal at 330th and Rice.

Commissioner Latimore – Sultan Basin Rd proposing 66ft right of way; someday he can see a lot of cars wanting to head north from dead center Sultan. Ponder merits of bigger right of way that's largely undeveloped for many years. If can develop right of way while it's there, feels we should do that.

Rick Cisar – modifies road sections and requires dedication.

Eric Irelan – Working with public works to monitor how traffic develops to modify as it goes.

Commissioner Latimore – Pain and suffering around bypass in relation to Monroe; good time to think about that now versus center of Monroe next to the river.

Eric Irelan – Beyond 2025 looking to place bridge across river where old red bridge used to be; recommended by staff and public.

Commissioner Latimore – Analysis doing is marvelous, exceeded expectations and fantastic to work with.

Commissioner Cofer – clear, legible, easy to understand and follow. Public can look at and really understand; Marked improvement.

Commissioner Latimore – Particular interest in Dyers connection (T28) whether there is a thru fare connecting those?

Eric Irelan – wasn't a facility they looked at; major mover NO, circulation needs to be discussed so placed in there.

Commissioner Latimore – How many ADT's there? Is that extensive?

Eric Irelan – yes, but could do with this or another project if interested in.

Deborah Knight – Her sense is that the community there is not open to any change.

Commissioner Davenport-Smith – Impressed with report and work that has evolved. Look forward to next one at June 5th meeting and future cost estimates; in agreement with Commissioner Cofer.

Donna Marshall – do think people will find arterials when they come available.

ACTION – APPROVAL

Approval of 050107 Minutes – held off until fully completed.

PLANNING BOARD COMMENTS

Commissioner Cofer – meetings getting longer and longer; need to keep it down. Hold off on approval of minutes due to lateness of meeting.

Commissioner Latimore – can address and keep short.

Deborah Knight – Feel 10 o'clock meetings will be the norm for a while.

Commissioner Cofer – Good tonight with public present.

Commissioner Cofer made a motion to adjourn, seconded by all. The Planning Board meeting adjourned at 10:09 p.m.

SULTAN PLANNING BOARD MEETING
City of Sultan, Council Chambers – 319 Main Street

MINUTES
June 5, 2007

CALL TO ORDER

The meeting was called to order at 7:02 ½ p.m. by Chairperson Latimore.

Planning Board members Present: Kurt Latimore, Sarah Davenport Smith, Charles Van Pelt, Jeff Cofer, and George Schmidt.

Staff Present: City Administrator Deborah Knight, Community Development Director Rick Cisar, Public Works Director Connie Dunn, and Planning Commission Secretary Tami Pevey.

PUBLIC COMMENTS

No public comment.

CHANGES TO THE AGENDA

No changes to agenda

COMMITTEE REPORTS AND STAFF PRESENTATIONS

None at this time

ACTION ITEMS:

Approval of the May 1, 2007 and May 15, 2007 Minutes

Commissioner Schmidt abstains as he didn't receive packet until last night; requesting a week in advance since the minutes are long.

Commissioner Latimore tabled approval of minutes until later in the meeting.

Recommended Amendments to SMC Title 16, Chapter 16.18 Nonconformance, Section 16.18.060 Extension or Enlargement of Nonconforming situations and Section 16.18.070 Nonconformance – Repair, Maintenance, and Construction

Community Development Director Rick Cisar reviewed comments given by City Attorney addressed in a two page document handed to the planning commissioners before the meeting.

The City Attorney advised the members that the conditional use process would cause conceptual and legal problems and significant code revisions. The code would need to provide for a conditional use, which it currently does not. His recommendation was an administrative process with an appeal to the hearing examiner.

Mr. Cisar also reviewed the City of Everett policy and gave recommendations as outlined in a two page document. He then reviewed Exhibit A, Administrative review and public notice process as well as Exhibit B, conditional use review process, as provided in the agenda packet.

He then reviewed the seven issues before the board this evening as provided and the four staff recommendations on how to proceed.

COMMISSIONER COFER: Requested an opportunity to read the packet in detail and fully understand before making a decision.

COMMISSIONER SCHMIDT: also requesting more time to read and unclear on city attorney's recommendations.

RICK CISAR: Only change is administrative process versus conditional use ..

COMMISSIONER DAVENPORT-SMITH: Exhibit A is that the process Thom Graafstra recommending.

RICK CISAR: Administrative review.

COMMISSIONER DAVENPORT-SMITH: Right now?

RICK CISAR: No, this is a suggestion with a few additional steps compared to a short plat process; we attempted to gain consistency to other administrative processes.

DEBORAH KNIGHT: Two options: Send non-conforming use applications through staff process; staff presentation tonight includes appeal to the hearing examiner. The second process would send the process straight to the hearing examiner and the hearing examiner would make the decision or recommendation to forward to the city council. The city attorney is recommending not using the tool of a conditional use as many issues and problems spring forward with this issue.

COMMISSIONER VAN PELT: What do most small cities use?

RICK CISAR: City of Everett uses both processes; 25% administrative, over 25% hearing examiner. Our current process allows single family attached administratively with no public notice.

DEBORAH KNIGHT: Difference between administrative and hearing examiner removes it from the political process as hearing examiner acts a neutral third party. Hearing examiner also removes some authority from the planning board to give recommendations.

COMMISSIONER LATIMORE: Last meeting suggested conditional use process as it seemed to fit. Administrative process presented this evening makes sense.

COMMISSIONER COFER: The administrative process would allow some more timely interaction so that corrections or revisions can be made.

RICK CISAR: Hearing examiner would review staff report and from applicant to make determination.

COMMISSIONER VAN PELT: Applicant or public has the opportunity to appeal?

RICK CISAR: Both.

COMMISSIONER COFER: Multiple opportunities.

RICK CISAR: Appeals after hearing examiner, and after council can go to superior court.

COMMISSIONER LATIMORE: Administrative process makes sense personally. 16.18 B, cost of repair or replacement exceeds 100%. Permit issued pursuant to UDC; don't feel that is clear enough; In accordance with Section 1.D instead.

RICK CISAR: Rebuild would go back through administrative process?

COMMISSIONER LATIMORE: if exceeded 100%.

COMMISSIONER COFER: If total loss should go back through administrative process to allow public opportunity to review non conforming use.

UNKNOWN: questioning basis of valuation.

COMMISSIONER LATIMORE: Reviewed valuation versus square footage. If building requires repairs, destroyed, they do so subject to normal permitting. It's only if they need to go beyond 100%. There are often code driven changes that are different now that could be easy to exceed that threshold. Discussed costs associated with code increases were discussed in the past. Process doesn't restrict timely demolition to make the area safe. Don't want to bar cleanup of the site due to the process.

RICK CISAR: Insurance prevents changes until determination of damage and cost to repair; would exercise precautions to make it safe.

COMMISSIONER LATIMORE: This process wouldn't prevent that?

RICK CISAR: No.

COMMISSIONER LATIMORE: Statement added as timely exercise of this decision, can't wait 12 years.

RICK CISAR: Current standard 12 months.

COMMISSIONER LATIMORE: Would maintain non conforming status for 12 months or as extended by permits. Would Snohomish County Assessor appraisal be used?

RICK CISAR: Private appraisal.

UNKNOWN: Assessor, traditionally basis used.

RICK CISAR: Current code allows county assessor or private appraisal.

COMMISSIONER COFER: Should be read as administrative process in play when improvements would exceed 100% of valuation at time of loss.

UNKNOWN: Should allow for code updates.

COMMISSIONER COFER: Leaning toward square foot formula to consider costs as they can be extraordinary to original value.

UNKNOWN:

COMMISSIONER COFER: Good point.

COMMISSIONER LATIMORE: Can increase setbacks.

RICK CISAR: Read appraisal process currently listed in current code.

DEBORAH KNIGHT: Which section?

RICK CISAR: 16.18.070, non conforming repair maintenance or construction.

COMMISSIONER LATIMORE: Square footage is good; requesting thought from Rick Cisar.

RICK CISAR: Can modify that section.

COMMISSIONER LATIMORE: works for him.

COMMISSIONER DAVENPORT-SMITH: If we use square footage in this section and don't use it in other parts of code, would that conflict?

RICK CISAR: The only time we use this section is on non-conformance issues.

COMMISSIONER LATIMORE: Input from board?

COMMISSIONER COFER: Looking at going with administrative process for permitting the expansion of non-conforming use up to 150% of the original square footage. On repair and maintenance the rebuilding of a total loss non-conforming uses up to 100% of the tax value of the property.

COMMISSIONER COFER: How can you assess loss of square footage?

Jeff Kirkman: Deals with condominium repair; state law states exceed 5% of the property must have a permit and value comes from the assessor. Assessed value does not go on the cost. The assessed value is based on land, current conditions, and current economic conditions. The assessed value is very close to market value.

UNKNOWN: Not true, sell more than assessed value.

Debate among citizens and board members present at meeting on how to figure 100% valuation.

COMMISSIONER COFER: Replacement of a total non conforming use is allowed regardless of value.

COMMISSIONER LATIMORE: Could exceed 100% of the number. Another scenario is repair and maintenance which would allow it to refresh and spruce up forever.

COMMISSIONER COFER: Wonder what the valuation really has to do with this.

COMMISSIONER LATIMORE: It's just seeking to control the extent; if you have a total loss it's removing the non-conforming use.

COMMISSIONER COFER: Decided to not disallow the use based on loss or replacement value.

RICK CISAR: Not relevant anymore up to it to 100%; if lower to 25% then would force applicant to explain anything higher.

COMMISSIONER LATIMORE: I am hearing administrative process; that we're not sure on how to deal with the repair piece. Sounded like expansion was okay; and on repairs it may just be based on square footage or language about replacing. I think we need to come back to that next time.

COMMISSIONER VAN PELT: Think it needs to be carefully looked at. If you don't know what the base structure is worth, 100% tips the scale.

COMMISSIONER LATIMORE: Want to allow a wholly damaged building to reconstruct; allow staff to come back with recommendations. Form of administrative process where that is used.

RICK CISAR: Will also add language of 12 months on a rebuild as discussed.

All board members in agreement.

MINUTE REVIEW:

Tabled to next meeting.

COMMISSIONER LATIMORE: Requesting emailed out ahead of agenda for more time to review.

DISCUSSION:

Annual Comprehensive Plan Docket

Rick Cisar reviewed docket as presented in packet first referring to Exhibit 1-1; Went on to review the history as well leading up to today's discussion; Reviewed Exhibit 4-1, which are two comprehensive plan amendment petitions in the agenda. Explained exhibit 2-1 gives the docket codes and the current process Sultan currently has. Exhibit 7 is staff recommendations for 2008 and 2009. Exhibit 8 is the current

Will give the board time to review the information and come back to this issue at later meetings.

COMMISSIONER SCHMIDT: Want to establish timelines?

RICK CISAR: earliest convenience of staff; petitioner needs to know how long that would take. Take applications in end of June so budget can expand dollars; council will docket for budget to allow.

DEBORAH KNIGHT: Petitioner – Dyer/Skywall gave petition to take consideration of this proposal; Application to amend comprehensive plan are submitted but have not been completed yet; Asking board to amend docket time as comp plan amendments are not completed yet. Dyer/Skywall addresses capital facilities element so the board needs to wait until the capital facilities plan is completed. Feels issues was included in board's materials creates confusion on Dyer/Skywall citizens as to the status of the petition. Advised the board that her plan is to send a letter to those citizens and let them know. Phased growth strategy currently causes problems and needs to be addressed.

COMMISSIONER VAN PELT: By growth strategy, percent of growth each year?

DEBORAH KNIGHT: No, the current comp plan states Sultan will grow from the downtown and move slowly to the outskirts. It currently only allows water/sewer connections and other facilities as we move; no leapfrogging to the outskirts of town. Comp plan also states you will encourage retail development before residential development and discourage residential development before retail development. This causes issues to go to the hearing commissioner and it needs to be reviewed as that is currently what is happening.

COMMISSIONER VAN PELT: Sounds like something from King County referencing in town development.

DEBORAH KNIGHT: You can do that, but not happening that way.

COMMISSIONER LATIMORE: Homework assignment.

PUBLIC COMMENTS ON AGENDA ITEMS ONLY

Jeff Kirkman, 210 Woodwind Place – clarification on valuation; correct that you should do be able to rebuild if complete loss; valuation is dangerous; need to put a standard; state goes with assessed value. Recommend rebuilding what was there and not go with valuation. Great summary from DEBORAH KNIGHT in reference to current process: Docketing process needs to be implemented, as doesn't think it has been used in the city.

Jerry Gibson, 1102 Dyer Road – Do have comments in regards to Dyer/Skywall petition. Originally a neighborhood meeting was held with Connie Dunn, Rick Cisar, and approximately 68 citizens. City recommended amendment following procedure given at the time. Invited board members to see area and get a better understanding. Reference agenda item cover sheet, pg 3 references petition. The property owner is refusing any change; Flooding occurs in one spot approximately 2 feet deep for a day; no problem getting in and out. Real problem with flooding is on Skywall. Only way out is by boat. He is recommending changing the grading of the road on Dyer Road for flooding on Dyer. The sewer system is the other element of petition. Third issue is a pump station recommended there, residents don't want it and requesting removal of it from the neighborhood. Councilman Flower has sponsored the amendment.

COMMISSIONER LATIMORE: What's the zoning in that area?

RICK CISAR: Residential.

COMMISSIONER LATIMORE: Intensity?

RICK CISAR: Medium density; Ramirez low density. The road would be required at the time of development.

PLANNING BOARD COMMENTS

DEBORAH KNIGHT: One issue at previous meeting regarding Timber Ridge trail; information in packet; Asking if Ms. Storm or board members wanted to address that? Site plan clarifies that it is a trail, and not intended as road. Mr. Albers from Timber Ridge is present to answer questions.

Loretta Storm: Never seen such care, time, expense spent building anything in sultan. Why so much care and effort on a trail.

Tim Albers: That is backyards. Lots 1-26 include retaining wall for flat backyard to homes. The trail is on the bottom side of wall as a 5 foot path. There will be a chain link fence on the top of it.

DEBORAH KNIGHT: How wide is trail?

Tim Albers: 5 foot wide path almost completed.

Discussion between Storm and Albers on location.

Tim Albers: Top is back yard with fence upon completion; trail is at the bottom winding up to the development.

Clarification on houses in relation to back yard.

COMMISSIONER LATIMORE: Close of business Friday for minutes – email sooner if completed.

COMMISSIONER DAVENPORT-SMITH: Regarding the emergency access, the proposed road for Dyer/Skywall; access has city considered raising the grade.

RICK CISAR: Yes, in process.

DEBORAH KNIGHT: Staff recommendation to eliminate T-28 and access road; review under Sewer Plan.

COMMISSIONER DAVENPORT-SMITH: Discussing with citizen; one concern about sewer line is forced to be hooked up to sewer due to the expense. Thanked the public for coming out and Mr. Albers for the explanation of the Timber Ridge development. Asked how much trail?

Tim Albers: Close to a mile.

COMMISSIONER COFER: Thanked Mr. Albers for clarification on Timber Ridge Development. On the repair/replacement issue, we allow for repair or replacement regardless of cost as long as it doesn't exceed existing square footage; hearing examiner would address expansion. Obligated as a board member to speak to Dyer/Skywall extension; for some reason if there was a catastrophic event and residents were trapped with no exit plan the public outcry would be enormous and from a public safety and practical standpoint to completely dismiss this seems reckless. His personal opinion and would be affected if in his backyard.

Jerry Gibson: Suggested to members that they come and take a look.

Loretta Storm: Asked if he had been down there?

COMMISSIONER COFER: Years ago; should still have more than one way out. If train blocks access, how would they get out?

Gibson: Can't get out, just the way it is. Several ways to get out, neighbor helping neighbor; real problem is on Skywall, and need to concentrate efforts there.

COMMISSIONER COFER: Not saying we put a road there this week, but shouldn't be eliminated as a possibility in next 20 years ago.

COMMISSIONER LATIMORE: Think as a planning board would be helpful to differentiate points; city emergency plan to take recommendations on what capital facilities are necessary to accomplish that. Internal consistency; moderate density; may be a zoning question. Planning board also needs to focus on issues that will come up later to include emergency points that the city brings to the attention of the board. In shoreline jurisdiction just put in place so need to look at recommendations there.

ADJOURNMENT

Commissioner Davenport Smith moved to adjourn the meeting, seconded by Commissioner Van Pelt; all board members in favor.

Planning Board meeting adjourned at 8:42 p.m.