SULTAN CITY COUNCIL

AGENDA ITEM COVER SHEET

ITEM NO: C-9

DATE: August 14, 2008

SUBJECT: Sultan Municipal Code (SMC) Amendments Section 21.04

CONTACT PERSON: Robert Martin, Community Development Director D.Bright

ISSUE:

1. Set a Public Hearing Date for Hearing on Amendments to 21.04, "Conditional Use Permits".

STAFF RECOMMENDATION:

1. Set August 28th regular Council Meeting as the date for a Public Hearing to take public comment on the Planning Board's Recommendation to amend Sultan Municipal Code 21.04 to:

    a. Remove the $850.00 fee set in the Code and provide for the fee to be set by Resolution through the annual Fee Schedule adopted by the City Council.

    b. Change references in SMC 21.04 from "Planning Commission" to "Hearing Examiner" to be consistent with SMC 2.26 and SMC 16.120.

    c. Remove the Planning Commission (Planning Board) from the following processes, and invest these authorities in the City Council to be consistent with SMC 2.26 and SMC 16.120:
        i. 21.04.070; Revocation or modification of conditional uses
        ii. 21.04.080; Acting on performance bonds and securities
        iii. 21.04.090; Accepting resubmittal of applications for conditional uses

BACKGROUND:

For Comprehensive Plan and Development Regulation Amendments, the statutes (RCW 35A.63.073 and 35A.63.070) require at least one Public Hearing. Notice is to be given as provided by Ordinance and published at least ten days prior to the Hearing. If continued Hearings are held, no additional notices need be published.

The Planning Board discussed SMC 21.04 at its February 19, 2008 meeting. On April 1, 2008 the Planning Board set the Public Hearing for April 15, 2008. City Staff missed the 10-day notice period for the April 15, 2008 meeting. The notice was sent out on

April 22, 2008 and published in the Everett Herald on April 25, 2008 to hold a Public Hearing on May 6, 2008.

The Washington State Department of Community Trade and Economic Development (CTED) have reviewed this proposed amendment.

The Planning Board held a Public Hearing on May 6, 2008. There was no public comment, and the Board voted unanimously to recommend the proposed amendment to the City Council.

Council held a Public Hearing on July 10, 2008. Since the Council held its Hearing, the City Attorney recognized conflicts with the Planning Board (Commission) taking action on revocation, bonding, and resubmittal of Conditional Use Applications.

Staff review prior to forwarding to Council indicated several additional items needing amendment. To provide abundant opportunity for public involvement, the notices were run again, and the Planning Board conducted Public Hearings on the new versions of these Amendments at the regular meeting of August 5, 2008.

SUMMARY:
The City is looking to place the Conditional Use application fee in the Fee Schedule along with other land use processing fees, and to clarify roles of the Hearing Examiner, and City Council in processing of such applications, and to remove the Planning Commission (Board) from the process for these quasi-judicial procedures.

To provide for ample public input opportunity, council is requested to conduct another Public Hearing to review additional changes that were brought to the fore by the City Attorney since the last Hearing.

RECOMMENDATION:
Set August 28, 2008 date for Public Hearing to:

1. Amend the Sultan Municipal Code 21.04.030 by removing the $850.00 required filing fee for Conditional Use Permits and move the fee to the Fee Schedule, and clarify Hearing Examiner, City Council, and Planning Board (Commission) roles in Conditional Use processes.

ATTACHMENTS:
Planning Board Minutes of August 5, 2008 Public Hearing (pertinent part)

AUGUST 5, 2008 PLANNING BOARD MEETING MINUTES

MEETING CALLED TO ORDER AT 7:04 PM

PLANNING BOARD MEMBERS PRESENT:
FRANK LINTH
STEVE HARRIS
PAUL MCBRIDE

CITY STAFF:
ROBERT MARTIN, DCD

CYD DONK, SECRETARY

NOT PRESENT:
KEITH ARNDT
SCOTT ZAFFRAM

CALL TO ORDER
Meeting called to Order at 7:04 p.m.

PUBLIC COMMENTS

Ron Wiediger, 209 Date Avenue, Sultan. Thanks the members for taking on the positions before them. It is a thankless job and thanks them for making the commitment.

CHANGES TO THE AGENDA

Martin excuses the absences of PB Zaffram & PB Arndt.

Planning Board Minutes for 6.17.08 cannot be approved until PB Zaffram is present since he is the only one from the past Board that can approve the minutes. Defer to next meeting.

Defer Item A-2 Appointment to Term Rotation and defer D-1 Planning Board Education.

Frank Linth accepts the temporary position as Chair.

Moved by PB Harris and seconded by PB McBride. All Ayes to Changes to the Agenda.

PUBLIC HEARING:

SMC 21.04. Martin explains the changes to the SMC Code Sections.

SMC 21.04 Ordinance 938-08 Martin goes over the changes in the CUP Chapter 21.04 included in the packet.

PB Linth opens the Public Hearing. Defers the reading of the Public Hearing process.

Gerry Gibson, 1102 Dyer Road, Sultan, WA 98294 comments that he does not understand all the details of the proposal. It is mind-boggling. Common sense should prevail. Does not know where to start. Obviously "I am not prepared". (Gets his notes). This is regarding the Hearings Examiner, right? I was a proponent of...

Attachment A

PB Linth interrupts Gerry and states that this Hearing is for the CUP and the H.E. is the next one.

Staff asks Gerry to gather his notes and hold them to the next Hearing in regards to the H.E. Gerry agrees.

Motion to close Public Hearing PB Harris and seconded by PB McBride. All Ayes.

PB Linth opens the Public Hearing for SMC 2.26.

Hand out from Deborah Knight showing key points and proposed changes. Martin goes over the H.E. SMC Section 2.26. Changes as noted in Deborah's hand out:

Proposed Changes:

2.26.090 Duties of the Examiner

2.26.120 Examiner's Decision

2.26.140 Appeals from Examiner's Decision

2.26.150 Council Consideration

2.26.160 Effect of Council Decision

Sections 2.26.140, 2.26.150, and 2.26.160 have been removed from the SMC 2.26. 1 Section has been added: 2.26.190 Variance Criteria.

No Section 2.26.170 seen in the Ordinance (this may have been repealed in the past and will remain empty/blank).

PB Harris has a question on SMC 2.26.070 Conflict of interest. How do you know if it is a conflict of interest? Martin states that it is in his role as H.E. to disclose himself if there is/will be a conflict of interest. PB Linth also agrees that the conflict of interest should be addressed in more detail.

PB Harris 2.26.120 questions the 10-working day notice requirement. What happens if it is on the 11th day. Martin discusses scenarios of missing the 10-day requirement.

PB Linth states that Martin with discussion on Ordinance XXX-08. PB Linth goes over the rules and procedures to open the Hearing. Floor is now open for comments from the audience.

Gerry Gibson, 1102 Dyer Road, Sultan. Came from the Night Out in Gold Bar. Is 100% behind accepting the Hearings Examiner's Decisions? Most of Gerry's concerns were with the LOS for Police. He believes we need a local police department. Retired Federal Law Enforcement Officer. Block Watch Captain and promotes this atmosphere

and that's why he was up in Gold Bar. Gerry goes over his versions of the H.E. recommendation being ignored by the City Council. Gerry said the City breaks their own laws. He agrees with the changes to the H.E. SMC . He urges the PB to read the yearly recommendation made by the H.E. to the City Council. Gerry states that the H.E. expresses his concerns about the continuity of the SMC Codes made in the H.E. Yearly report. Please read it.

No added comments from the public.

PB Harris states that the H.E. should go by the laws and codes.

PB McBride thanks Gerry for coming and looks forward to reading the H.E. Yearly Report that he mentioned.

PB Linth states to the audience that they are doing the housekeeping on the Code.

Gerry Gibson believes the H,E. process is legitimate. He believes that Councilman Slawson (?) went to a conference where they should follow what the H.E. Recommends, but Gerry's recollection of the H.E. is that the H.E. bends to what the Council wants. The H.E. does not stand on his own decision.

PB Harris motions to close the Hearing PB McBride seconds. All Ayes.

PB Linth proposal to amend SMC21.04 PB Harris moves to forward to the Council for recommendations. PB McBride seconds the motion. All Ayes.

PB Linth proposal to forward recommendations to City Council. PB Harris moves to forward to the Council for recommendations. PB McBride seconds. All Ayes.

PB Linth asks if they should motion to excuse the 2 members absent. Clerk notes it was taken care of in the beginning of the meeting.

ACTION ITEMS:

A-1 and A-2 have been deferred to the next Meeting of 8.19.08

DISCUSSION ITEMS:

Moves to Item D-2 Comp Plan Docket. Martin goes over the Docket Agenda with the PB Members.

Mayor Eslick interrupts the meeting to welcome and thank the members for coming.

Item 1 - 2 areas on the City Zoning Map appear to have not been zoned.. "unzoned properties". The City needs to make a Public Ownership Zone. Parks and school districts should be included in these zones.

Item 2 – Economic Development perspectives – still living on the docket. Has not been addressed to date due to the GHMB findings. This is being put back on the list of things to do.

Item 3 – Formatting of the Plan. Goals, Inventories, Analysis, Goal s, Objectives, and Policies. The Sultan Comprehensive Plan has the Goals woven throughout the Plan. The Plan is not easy to read. It should be reformatted to make it easier to understand.

This is a short list, there will be a bigger list that goes to the Council. The docketing discussion will go to the Council on the August 14th Council Meeting.

PB Linth has a question. He understands why the Comp Plan needs to be addressed yearly. Martin states that if someone wanted to bring up an issue in September it would have to roll over to the next year docketing plan. By State Law the City can only update the Comp Plan 1 time a year. PB Linth asks about the start and stop dates. Martin will get that information to him tomorrow. There is a mandatory update cycle in 2011. It opens up the plan again and really looks at the policies again.

No more questions from the Board.

PUBLIC COMMENTS ON AGENDA ITEMS ONLY

Gerry Gibson, Comp Plan Docket is very near and dear to his heart. Gerry explains his attachment to the Comp plan Docket. Gerry gives the history about the petition for the Dyer/Skywall Connection. It took 2-1/2 years to get this petition through.

PB Harris asks that Gerry did not want the connection of the two roads. Gerry states no he did not and the plan has been deleted from the Comp Plan.

PLANNING BOARD COMMENTS

PB Harris believes that they can keep moving forward.

PB McBride agrees with Harris.

Councilman Wiediger thanks the PB Members for being here and that it will be a pleasure to work with them all.

PB Linth thanks Ron and states that he understands that the PB will not be shaving their heads....

PB Linth asks Martin if there is anything he wants to add to this meeting before we close.

PB Harris asks when do we need comments to him regarding the Comp Plan docket. Martin says we need them now. PB Harris asks about rezones, if that is the one that is still alive. Martin states that it has been discussed that the Highway corridor be rezoned

and some sort of incentive given to developers for developing along the highway. Martin discusses the proposals.

Gerry Gibson. Bart Dalmasso's first amendment to the Comp Plan. Nothing has ever happened with Bart's request. PB Linth states that we should bring it up to the City and see what happened with Bart's request.

PB Harris code inconsistencies and code clean up should be made.

ADJOURNMENT

On a motion by PB Harris to adjourn, seconded by PB McBride the meeting was adjourned at 8:25 p.m. All Ayes.