

**SULTAN CITY COUNCIL
AGENDA ITEM COVER SHEET**

ITEM NO: C-3

DATE: November 18, 2010

SUBJECT: Second Reading of Ordinance 1093-10:
An Ordinance repealing the Industrial Park Master Plan (IPMP) Sub-Area Plan of the City of Sultan Comprehensive Plan as provided in Comprehensive Plan Amendment Docket Item #1 (2010).

CONTACT PERSON: Robert Martin, Community Development Director

ISSUE:

Conduct Second Reading of Ordinance 1093-10, an Ordinance repealing the Sultan Industrial Park Master Plan, a Sub-Area Plan Appendix of the 2004 (Revised 2008) Sultan Comprehensive Plan.

PLANNING BOARD RECOMMENDATION:

Approve repeal of the IPMP with no need for additional Public Hearing at the City Council level as provided by SMC 16.134.050 J.

STAFF RECOMMENDATION:

Based on the findings reviewed and accepted at the meeting of October 28, 2010, Council may conduct Second Reading of Ordinance 1093-10, an Ordinance acting on Item #1 of the 2010 Annual Docket for Amendment of the Comprehensive Plan by repealing the Sultan Industrial Park Master Plan, a Sub-Area Plan Appendix of the 2004 (Revised 2008) Sultan Comprehensive Plan.

BACKGROUND:

The Industrial Park Master Plan (IPMP) is a subarea plan component of the Sultan Comprehensive Plan. The subarea plan was adopted as an element of the Comprehensive Plan by Ordinance 781-02 on June 5, 2002. As a subarea plan, it provides policies and standards at a more specific level for the area of the City that is subject to the subarea plan.

In mid 2009, Sity Staff held a ublic meeting at the Fire District #5 meeting room. The meeting was well attended by a significant number of owners of property in the IPMP area. After much discussion, the overwhelming perspective of these Stakeholders was that the Plan had not provided the anticipated benefits and that, as a separate plan that required additional Development Standards to a sub-area of the community, it should be repealed.

This recommendation was forwarded to the City Council in the form of a Staff recommendation to place repeal of the IPMP on the 2010 Comprehensive Plan Amendment Docket. This recommendation was received by the Council on April 8, 2010. By unanimous vote, the Council placed this item on the 2010 Comprehensive Plan Docket and moved it forwarded to the Planning Board for further action.

Background Details by Date:

At its April 8, 2010 meeting, the Council received the proposed 2010 Comprehensive Plan Docket consisting of one item proposed by Staff. The Council reviewed the basic reasons for the recommended action, Repeal of the IPMP, and affirmed the item for the 2010 Docket, and forwarded it to the Planning Board for further action.

At its July 20, 2010 meeting, the Planning Board reviewed a Staff Report outlining the process for 2010 Comprehensive Plan Docket Item #1, the decommissioning of the Industrial Park Master Plan (IPMP), a Sub-Area Plan of the 2004 Comprehensive Plan.

At its August 3, 2010 meeting, the Planning Board reviewed a rough draft of the IPMP Policies and the initial Staff comments on the policies that should be reviewed for inclusion in the 2011 update.

At that meeting the Board asked that the IPMP Policies be extracted from the body of the IPMP and assembled with specific reference to the 2011 Comprehensive Plan update.

The Board also asked that IPMP Stakeholders who attended the meeting at the Fire District 5 station late in 2009, and property owners in the IPMP area be specifically notified that the IPMP decommissioning was coming before the Board.

That individually mailed notice was provided through a mailing on August 6.

At its August 17, 2010 meeting, the Planning Board reviewed a Staff Report addressing each policy in the IPMP and the policy's correlation to new draft policies in the Comprehensive Plan. Most IPMP policies are addressed and carried forward into the draft policies for the 2011 Comprehensive Plan Update. Some policies are not carried forward as they have become outdated and/or inoperative due to the issues presented in the **Discussion** section below. The Board affirmed that all policies necessary for continued appropriate development of the IPMP Sub-area are contained in the 2011 Draft Comprehensive Plan Policies.

The Board asked again that an individual notice to all property owners be sent by mail. This was done on August 27.

At its September 7, 2010 meeting, the Planning Board again reviewed the proposal after the second by individually mailed notice to all property owners. There was no public attendance or written input delivered on this topic at that meeting.

At its September 21, 2010 meeting, the Planning Board held an advertized public hearing on 2010 Docket Item #1. There was no public attendance or written testimony delivered on this topic at that Public Hearing.

At its September 21, 2010 meeting, the Planning Board, based on the extensive public input opportunities and the findings provided in the Staff Report of September 21, 2010, unanimously passed a motion recommending that the Council proceed to decommission (repeal) the IPMP. Based on the extensive public involvement opportunities provided, and the lack of public input or testimony on the proposal, the Board also recommended that the Council need not hold a second Public Hearing on the issue.

At its October 14, 2010 meeting, the City Council received a recommendation from the Planning Board that the Council proceed with appropriate action to repeal the IPMP, and that the action be taken without need for an additional Public Hearing at the Council level as provided in SMC 16.134.050 J.

The Council accepted the Planning Board's recommendation and directed Staff to prepare an Ordinance for Council consideration.

At its October 28, 2010 meeting, the City Council adopted findings recommended by the Planning Board and the Staff in support of repealing the IPMP, and conducted First Reading of Ordinance 1097-10. Anyone interested in a detailed analysis of the background and reasoning for repeal of the IPMP, and the findings in support of the proposal, is encouraged to review Item A-4 of the City Council Agenda Packet for October 28, 2010.

DISCUSSION:

The IPMP contains planning concepts and directions for further action that have no reasonable expectation of completion given current environmental protection standards and anticipated development patterns. These deficiencies are the main reasons that the Stakeholders and Staff agree that the IPMP Sub-Area Plan should be repealed.

Amendment Procedure:

Decommissioning of the IPMP is a Level IV procedure in the Public Participation and Notice Procedures as it substantively amends a sub-area element of the Comprehensive Plan. The Level IV process requires a Public Hearing before the Board with a recommendation to the Council.

The Council has received a recommendation from the Planning Board that the IPMP Sub-Area Plan be removed from the Comprehensive Plan. The Board further recommended that the Council need not hold a Second Public Hearing based on the lack of community input throughout the Board's amendment process.

Adopted Findings:

At its September 21, 2010 meeting, the Planning Board adopted findings and a conclusion in support of the proposal and recommended those findings and conclusion to the City Council. These findings (as presented below) were forwarded to the City Council.

At its October 28, 2010 meeting, the City Council affirmed acceptance and approval of these findings in support of Ordinance 1093-10 are listed for Council consideration as follows:

1. The IPMP, adopted in 2002, anticipated significant and rapid development of the industrial/commercial area on either side of the eastern portion of Hwy 2, and particularly the area north of Hwy 2 east of Rice Road.
2. The development patterns contemplated involved major utility and road construction in the Wagley Creek corridor from the east City Limits across Rice Road and continuing to Sultan Basin Road.
3. A main sewer connector was constructed in this corridor, but accompanying road development was not undertaken.

4. Major provisions of the IPMP called for “programmatic environmental impact analysis” by the City of Sultan which would provide significant environmental work in anticipation of applications for development, thus providing an incentive to developers to locate in the area.
5. In the same general time frame as the IPMP was adopted, the Federal government engaged policies declaring major portions of the Pacific Northwest, and Wagley Creek in specific, to be subject to stringent environmental standards for the protection of endangered salmon species.
6. The endangered species designation of Wagley Creek made realization of the visions and goals of the IPMP all but impossible from environmental and financial perspectives.
7. Due to the complexities of the endangered species designation and other issues, the programmatic environmental analysis that was to be the main product of the IPMP and the main incentive for development of the area was not conducted.
8. In the absence of the programmatic environmental analysis, the remaining components of the IPMP place additional development standards and procedures on potential projects over and above those required by the Comprehensive Plan, Unified Development Code, and other implementing ordinances that apply to the area. This, contrary to the intent of the IPMP, provides a disincentive to industrial/commercial development.
9. Based on the above issues, the City has provided several community input opportunities to allow citizens to express their perspectives on the potential of removing the IPMP from the Comprehensive Plan.
10. Public Input has been overwhelmingly in favor of removing the IPMP from the Comprehensive Plan.
11. The entire area included in the IPMP is addressed in the Comprehensive Plan and development codes through plan designations, goals and policies for development, development standards and procedures, and all other provisions that apply to all land in the City of Sultan. Removal of the IPMP does not result in removal of development standards that apply to the property without regard to the additional development standards and procedures called for in the IPMP.
12. Given the unanticipated events beyond control of the local community (Northwest implementation of the endangered species act by the Federal Government), and the impediments to development that have surfaced as unintended consequences of adoption of the IPMP (additional development standards without support of programmatic environmental analysis), it is in the best interest of the community to remove the IPMP from the Comprehensive Plan.
13. The Board finds that repeal of the IPMP requirements for additional development standards will encourage industrial/commercial development in the area.

Conclusion:

The City Council, upon consideration of the above findings, hereby adopts these findings in support of Ordinance 1093-10. Council directs that Staff prepare an Ordinance removing the IPMP from the Comprehensive Plan and that the Council, as provided for in SMC 16.134.050 J. need not hold an additional Public Hearing prior to adoption of such Ordinance.

ALTERNATIVES:

The Council, after discussion and consideration of the record presented above and the enclosed attachments, has the following alternatives:

1. Conduct Second Reading of Ordinance 1093-10, thereby authorizing the Mayor to sign the Ordinance and repealing the IPMP upon the effective date of the Ordinance.
2. Direct Staff to make specific changes in the proposed findings and modify the Draft Ordinance 1093-10 accordingly, and return for further consideration at an upcoming meeting.
3. Take no action on the proposal, thereby halting work on Docket Item #1.

RECOMMENDATION:

Based on adoption of the findings included in the Staff Report of October 28, 2010, Council may conduct Second Reading of Ordinance 1093-10, an Ordinance acting on Item #1 of the 2010 Annual Docket for Amendment of the Comprehensive Plan by repealing the Sultan Industrial Park Master Plan, a SubAarea Plan Appendix of the 2004 (Revised 2008) Sultan Comprehensive Plan.

ATTACHMENTS

Attachment A: Ordinance 1093-10 as forwarded from First Reading on October 28, 2010

**CITY OF SULTAN
WASHINGTON**

ORDINANCE NO. 1093-10

AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON, REMOVING THE INDUSTRIAL PARK MASTER PLAN (IPMP), A SUB-AREA PLAN, FROM THE SULTAN COMPREHENSIVE PLAN; REPEALING ORDINANCE 781-02 WHICH ADOPTED THE IPMP ON JUNE 5, 2002; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City Council adopted Ordinance 781-02, which ordinance adopted the Industrial Park Master Plan (IPMP), a Sub-area Plan of the 2004 Comprehensive Plan (Revised 2008); and

WHEREAS, the IPMP, adopted in 2002, anticipated significant and rapid development of the industrial/commercial area on either side of the eastern portion of Hwy 2, and particularly the area north of Hwy. 2 east of Rice Road; and

WHEREAS, development patterns contemplated by the IPMP involved major utility and road construction in the Wagley Creek corridor from the east City Limits across Rice Road and continuing to Sultan Basin Road; and

WHEREAS, a sewer main was constructed in this corridor, but the road needed to enable development of the Wagley Creek corridor was not constructed prior to adoption of new Federal environmental protection standards for salmon protection; and

WHEREAS, in the same general time frame as the IPMP was adopted, the Federal government adopted policies declaring major portions of the Pacific Northwest, and Wagley Creek in specific, to be subject to stringent environmental standards for the protection of endangered salmon species; and

WHEREAS, the Federal designation of Wagley Creek as a salmon-bearing stream under the Endangered Species Act has made construction of the planned road connecting Rice Road to Sultan Basin Road effectively impossible from an environmental and economic standpoint; and

WHEREAS, the commercial and industrial development called for in the IPMP is not possible without completion of the road connecting Rice Road to Sultan Basin Road; and

WHEREAS, a major component of the benefits to be provided by the IPMP consisted of a "Programmatic Environmental Impact Statement" to be conducted by the City of Sultan, which analysis would provide significant environmental work in anticipation of applications for development, thus providing an incentive to developers to locate in the area; and

WHEREAS; due to the complexities of the endangered species designation of Wagley Creek, and other issues, the programmatic environmental analysis that was to be a major economic development incentive of the IPMP, was not conducted and will not be conducted; and

WHEREAS; the benefit of the road connecting Rice Road to Sultan Basin Road and the benefit of the Programmatic Environmental Impact Statement are no longer feasible, the IPMP provides no other tangible incentives for development of the IPMP area; and

WHEREAS; the remaining components of the IPMP place additional development standards in the form of increased road development standards and public and private amenities, and additional land use review procedures on applications for development, over and above those required by the Comprehensive Plan, Unified Development Code, and other implementing ordinances that apply to the area; and

WHEREAS; the additional development standards and review procedures provide a disincentive to development within the IPMP Sub-area, which result is contrary to the intent of the IPMP; and

WHEREAS; based on the above issues, the City has provided several community input opportunities to allow citizens to express their perspectives on the potential of removing the IPMP from the Comprehensive Plan; and

WHEREAS; public input has been overwhelmingly in favor of removing the IPMP from the Comprehensive Plan; and

WHEREAS; the entire area included in the IPMP is addressed in the 2004 Comprehensive Plan (Revised 2008) and its implementing development codes through plan designations, goals and policies for development, development standards and procedures, and all other provisions that apply to all land in the City of Sultan; and

WHEREAS; Given the unanticipated events beyond control of the local community (Northwest implementation of the Endangered Species Act by the Federal Government), and the impediments to development that have surfaced as unintended consequences of adoption of the IPMP it is in the best interest of the community to remove the IPMP from the Comprehensive Plan; and

WHEREAS; repeal of the IPMP requirements for additional development standards is reasonably expected to reduce the cost of development, thereby encouraging industrial/commercial development in the area, which development was the original intent of the IPMP;

NOW, THEREFORE, it is ordained by the City Council of the City of Sultan, Washington as follows:

Section 1. Ordinance 781-02 is hereby repealed.

Section 2. The Industrial Park Master Plan Sub-area Plan is removed from the Sultan Comprehensive Plan of 2004 (Revised in 2008).

Section 2. Severability. If any Section, sentence, clause, phrase, or other portion or provision of this Ordinance or its application to any person or project is, for any reason, declared invalid, illegal or unconstitutional in whole or in part by any court or agency of competent jurisdiction, the balance of this Ordinance shall be unaffected and shall remain in full force and effect.

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE _____ day of _____, 2010.

CITY OF SULTAN

CAROLYN ESLICK, Mayor

ATTEST/AUTHENTICATED:

By _____
LAURA KOENIG, City Clerk

Approved as to form:

By _____
Margaret King, City Attorney

Date of Publication:

Effective Date: