



PLANNING BOARD
DEPARTMENT OF COMMUNITY DEVELOPMENT
319 Main Street, Sultan, WA 98294

PLANNING BOARD AGENDA
August 18, 2016
7:00 PM
City of Sultan Council Chambers
319 Main Street, Sultan WA 98294

Call to Order, Pledge of Allegiance, Roll Call

Changes to the Agenda

Public Comments

Citizens are requested to keep Public Comments to a 3-minute maximum (3 minutes or less per person) to allow time for everyone to speak.

Planning Board Member Comments

Approval of Minutes

- July 21, 2016 Meeting

Open Public Hearing (if Applicable) - Hearing and Action Items

- PH-1 Zoning Code Amendments – 2nd Public Hearing
- A-1 Zoning Code Amendments – Recommendation to City Council

Discussion Item

- D-1 Impact Fee Deferral – Ordinance 1241-16
- D-2 Board of Adjustments – Update from City Administrator

Summary of Meeting Results and Actions for Next Meeting

Public Comments on Agenda Items Only

Planning Board Member Comments

Adjournment

PLANNING BOARD MISSION STATEMENT

The City of Sultan Planning Board's mission is to translate its knowledge of the community into recommendations on land use plans and codes that help the community to achieve its goals and desires for health, prosperity and quality of life for present and future generations.

Planning Board Members

Tom Green
Gloria Reedy
Janet Peterson
Sean Standefer
Mirza Avdic

Community Development Staff

Brad Collins FAICP
Cyd Sparks, Secretary of the Board

ADA NOTICE: City of Sultan Community Center is ADA accessible. Accommodations for person with disabilities will be provided upon request. Please make arrangements prior to the meeting by calling City Hall at 360.793.2231. For additional information please contact the City at cityhall@ci.sultan.wa.us or visit our website at www.ci.sultan.wa.us

(360) 793-1311, FAX (360) 793-3344
Staff Email: planning.department@ci.sultan.wa.us

SULTAN PLANNING BOARD MINUTES
July 21, 2016

PLANNING BOARD MEMBERS PRESENT:

Janet Peterson, Chair
Tom Green
Gloria Reedy
Sean Standefer, Co-Chair
Mirza Avdic

STAFF PRESENT:

Ken Walker, City Administrator
Cyd Sparks, Secretary of the Board
Brad Collins FAICP, By Phone

CALL TO ORDER:

Call to Order at 7:00 p.m.

CHANGES TO THE AGENDA:

Walker goes over rules for new PB Members.

PUBLIC COMMENTS:

Kathleen Morrison - 34805 Mann Road, comments on the 35% to 40% lot coverage. Board has brief discussion over reasons for the change in the lot coverage. The Board kept it at 40% but would like to discuss changing it to 35%-Building and 5% for post building when they send the recommendation to the City Council in September.

PLANNING BOARD MEMBER COMMENTS:

Standefer – He is happy to be here and to work with such an energetic group of people.
Avdic - Same as Standefer, happy to be here.
Peterson – Thanks for the flowers and thinking of her. She is doing well after surgery.
Green – He is very happy to see the table full.
Reedy – Welcome new board members, glad to have you and we shall do some good work.

APPROVAL OF MINUTES:

June 21, 2016 Minutes – Motion by Green to approve the Minutes as written. Motion seconded by Reedy. Standefer and Avdic abstain. All Ayes.

ACTION & PUBLIC HEARING ITEMS:

A-1 Election of Chair and Pro-Tem and PB Meeting Dates

Green nominated Peterson for Chairperson, Reedy seconds the motion. All Ayes.
Green nominates Standefer for Co-Chair, Reedy seconds the motion. All Ayes.

Open Public Hearing - Hearing and Action Items

PH-1 Zoning Code Amendments – Public Hearing opened at 7:17p.m.

Collins, by phone gives an overview of the draft zoning code and how we got to where we are. Title 16 will be repealed in its entirety and the new zoning code will take its place.

There is more discussion over the 40% lot coverage for Moderate Density Zone for the principal building and 5% designated for homeowner and how to address this in the final version of the zoning code.

On a motion by Green and seconded by Standefer the Chair closed the Public Hearing. All Ayes.

A-2 Zoning Code Amendments – Recommendation

Reedy rescinds the previous motion from the June 16th meeting. Reedy makes a new motion to allow the builders 35% for the primary structure and 5% for additional roof structure for the homeowner.

Avdic asks are they discriminating against people who want to build the 40% at time of building. Board has discussion over the issue.

Collins says that we could add a footnote that the property owner could add 5% more to the 35% maximum lot coverage after the developer has sold the single-family dwelling unit to accomplish the intent.

Reedy makes a motion again, to recommend approval of the new Zoning Code with the additional 5% lot coverage for a single-family dwelling unit in the Low Density Residential Zone to be footnoted. Green seconds. All Ayes.

Avdic makes a motion to set a second Public Hearing for August 18th at 7:00 p.m. The motion was seconded by Green. All Ayes.

Administrator Walker also informed the Board that they would be adding Section 16.118 Impact Fee Deferral, mandatory from ESB 5293. The City Council will adopt the Ordinance at the September 8th Council Meeting.

DISCUSSION AND STUDY ITEMS

D-1 – Introduction – Mirza Avdic, Planning Board Member replacing Sean Gossett
Mirza shares that he was on the Planning Commission at Lake Stevens and an alternate at City of Kirkland Planning Commission. He has a non-profit group called the Hungry Heart Foundation in Lake Stevens that helps to feed the children in the area.

ACTIONS FOR NEXT MEETING:

- PB Minutes for July 21, 2016
- Zoning Code -2nd Public Hearing set for August 18th at 7:00 p.m.
- Board of Adjustments – status update by City Administrator

PUBLIC COMMENTS:

PLANNING BOARD COMMENTS:

Green – Wanted to comment that he wants the Planning Director to set the Agenda for the Board Meetings and not have the Chair of the PB set the agenda.

Peterson – everyone did a great job.

ADJOURNMENT:

Avdic moves to adjourn the meeting and is seconded by Standefer. All Ayes.

Meeting adjourned at 7:50 p.m.

**CITY OF SULTAN
PLANNING BOARD COVER SHEET**

ITEM NO: PH-1

DATE: August 18, 2016

SUBJECT: Public Hearing – Sultan Municipal Code
Zoning Code Amendments – Title 16

CONTACT PERSONS: Brad Collins FAICP, Interim Planning Director

ISSUE:

The issue before the Planning Board is to hold a 2nd Public Hearing to take public comment on amendments to the Zoning Code - Tile 16 the Sultan Municipal Code.

STAFF RECOMMENDATION:

Hold a 2nd Public Hearing to take public comment on amendments to Tile 16 the Sultan Municipal Code – Zoning Code and go include the changes to date.

SUMMARY:

The City Council and Planning Board have jointly recognized the need to update the zoning code to simplify and replace outdated and disorganized provisions in the existing Sultan Municipal Code. The Planning Board has constructed a Public Hearing Draft of the proposed Zoning Code Amendments.

Prior to further action on the draft and any potential recommendation to the City Council, the Board needs to conduct a public hearing on the draft zoning code.

No further action will be taken on this issue until the Board provides staff with direction and until staff has time to finalize editorial work on the draft. Staff will present a final document for Board action at the next Planning Board meeting to be held on August 18, 2016.

BACKGROUND:

The Planning Board has completed a Draft of the Zoning Code Amendments and is now ready to take the Draft to public hearing(s) prior to making a recommendation to the City Council regarding adoption.

DISCUSSION:

To proceed with action on the Planning Board draft of the Zoning Code Amendments, it is necessary to conduct a public hearing as provided by SMC 16.134.050, Procedure Level IV. This will provide the Board one or more opportunities (as determined by the Board) to hear from the Public on any issues related to adoption of this proposed code.

When the Board has had its hearing(s), and considered the public's input, the Board's alternatives are as follows:

1. Direct staff to make specific changes and return to the Board for further consideration; or
2. Direct staff to make specific changes, review those changes and forward to the City Council with a recommendation for adoption, including a recommendation as to whether the Council should hold an additional public hearing as provided by SMC 16.134.050 J.

No action on these alternatives is required until completion of the public hearing phase of the adoption process.

STAFF RECOMMENDATION:

The 60-day review period will end on September 13, 2016. Staff recommends that the Planning Board send their recommendation to adopt the Zoning Code Amendments to Title 16 of the Sultan Municipal Code to City Council for approval and adoption at the City Council Meeting on September 22, 2016.

PLEASE BRING YOUR BINDER WITH THE DRAFT ZONING CODE FROM THE JULY 21ST PLANNING BOARD MEETING.

ATTACHMENT:

Low Density Residential with Footnote 12

**Low Density Residential (LDR) Zone
Table of Dimension and Density Requirements**

Uses Permitted	Maximum Units/Acre	Minimum Lot Dimensions				Minimum Yard Setbacks (ft) ⁶			Max. Lot Coverage (%)
		Area	Width (ft)	Depth (ft)	Front ¹⁰	Each Side ¹⁰	Rear ¹⁰	Max. Bldg. Hgt. (ft)	
Single-Family Detached Dwellings	4.0	9,600 sq ft	80	100	20	10	20	30	40 ¹²
Single-Family Detached Dwellings (Clustered) ⁷	4.0	9,600 sq ft	80	100	20	10	20	30	35
Group Homes	4.0	9,600 sq ft	80	100	20	10	20	30	35
Accessory Dwelling Units	*	n/a	80	100	20	10	20	30	35
Home Occupations	-	n/a	80	100	20	10	20	30	35
Accessory Buildings/Structures	-	n/a	80	100	20	10	20	30	35
Guest Houses ²	4 guest rms ²	9,600 sq ft	80	80	20	10	20	30	35
Elementary Schools ^{6,7}	-	10 acres ⁶	300	300	25	25	50	50	25

¹Repeated by Ord. 1076-10.

²Guest Houses shall not exceed a total of 4 bedrooms.

³Plus one acre per 100 students.

⁷Conditional use.

⁸All site and development plans including lots within short and formal subdivisions shall show building envelopes based on minimum yard setbacks.

¹⁰Eaves of a dwelling or accessory structure may project 12 inches from the line of the setback toward a property line when the setback is at least five feet, and 16 inches toward a property line when the setback is at least six feet. All other uses shall conform to the requirements of the Uniform Building Code Sections 503.2 and 705. (Ord. 1076-10 § 2 (Exh. A); Ord. 917-06 § 1; Ord. 834-03 § 1; Ord. 780-02 §§ 1, 2, 3; Ord. 630 § 2[16.07.010], 1995)

* Units/Acre density will increase as an ADU is added on the lot of a principal single-family dwelling unit.

¹² After 5-years from the time of first occupancy of a single-family dwelling unit, the maximum lot coverage may be increased from 35% to 40%.

**CITY OF SULTAN
PLANNING BOARD COVER SHEET**

ITEM NO: A-1
DATE: July 21, 2016
SUBJECT: 2ND Public Hearing - Zoning Code Amendments
CONTACT PERSON: Brad Collins FAICP, Interim Planning Director

ISSUE:

The issue before the Planning Board is to hold a 2ND Public Hearing on the proposed Zoning Code Amendment to Title 16 in the Sultan Municipal Code.

BACKGROUND:

The Planning Board has added the changes to the Draft of the Zoning Code Amendments and is now ready to take the draft to its 2nd Public Hearing prior to making a recommendation to the City Council regarding adoption.

RECOMMENDED ACTION:

The 60-day review period will end on September 13, 2016. Staff recommends that the Planning Board send their recommendation to adopt the Zoning Code Amendments to Title 16 of the Sultan Municipal Code to City Council for approval and adoption at the City Council Meeting on September 22, 2016.

**CITY OF SULTAN
PLANNING BOARD COVER SHEET**

ITEM NO: D-1

DATE: August 18, 2016

SUBJECT: Ordinance 1241-16 – Impact Fee Deferral Process

CONTACT PERSON: Brad Collins FAICP, Interim Planning Director
Ken Walker, City Administrator

ISSUE:

The issue before the Planning Board is Ordinance 1241-16 Impact Fee Deferral Process. The Washington State Legislature adopted changes to Washington 's Impact Fee Law, providing for the requirement of counties, cities, and towns to adopt a deferral system for the collection of impact fees for new single-family detached and attached residential construction. The deadline for adoption is September 01, 2016. The City Attorney has reviewed the ordinance.

MRSC analysis is attached for details.

RECOMMENDED ACTION:

City staff recommends the adoption of Ordinance 1241-16 to add Sultan Municipal Code Section 16.118 to implement required impact fee deferrals

ATTACHMENTS:

- A. Ordinance 1241-16 for Impact Fee Deferral, SMC Chapter 16.118.
- B. MRSC Legislature Adopts Changes to Washington's Impact Fee Law.

CITY OF SULTAN
WASHINGTON
ORDINANCE NO. 1241-16

AN ORDINANCE OF THE CITY OF SULTAN,
WASHINGTON, ADDING A NEW SULTAN MUNICIPAL CODE CHAPTER 16.118
ESTABLISHING AN IMPACT FEE DEFERRAL PROCESS; PROVIDING FOR SEVERABILITY;
AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of Sultan is authorized by Chapter 82.02 RCW to require new growth and development within the City to pay a proportionate share of the cost of new facilities to serve such new growth and development through the assessment of impact fees; and

WHEREAS, pursuant to such authority and the police powers of the City, the City has enacted Chapters 3.05, 3.06, 16.112, and 16.116 of the Sultan Municipal Code ("SMC") establishing such impact fees; and

WHEREAS, on April 16, 2015, the Washington State Legislature passed ESB 5923, Chapter 241, Laws of 2015, which requires cities to adopt a deferral process for the payment of impact fees for single-family detached and single-family attached residential construction; and

WHEREAS, the City desires to encourage new growth and development in the City, to ease the financial burden on individual homebuilders, and to promote economic recovery in the construction industry; and

WHEREAS, City staff has proposed the addition of a new Chapter 16.118 SMC establishing an impact fee deferral mechanism; and

WHEREAS, the City's proposed impact fee deferral process relates solely to governmental procedures and contains no substantive standards respecting use or modification of the environment and is therefore exempt from SEPA review pursuant WAC 197-11-800(19);

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SULTAN, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. New Chapter 16.118 SMC, Impact Fee Deferral, Added. A new Sultan Municipal Code Chapter 16.118, entitled "Impact Fee Deferral," is hereby adopted to read as follows:

Chapter 16.118
IMPACT FEE DEFERRAL

Sections:

16.118.010	Purpose
16.118.020	Applicability
16.118.030	Impact Fee Deferral
16.118.040	Deferral Term
16.118.050	Deferred Impact Fee Lien
16.118.060	Limitation on Deferrals

16.118.010 Purpose

The purpose of this chapter is to comply with the requirements of RCW 82.02.050, as amended by ESB 5923, Chapter 241, Laws of 2015, to provide an impact fee deferral process for single-family residential construction, in order to promote economic recovery in the construction industry.

16.118.020 Applicability

A. The provisions of this chapter shall apply to all impact fees established and adopted by the City pursuant to Chapter 82.02 RCW, including development impact fees and school impact fees as codified in Chapters 16.112 and 16.116 of the Sultan Municipal Code.

B. Subject to the limitations imposed in SMC 16.118.060, the provisions of this chapter shall apply to all building permit applications for single-family detached and single-family attached residential construction. For the purposes of this chapter, an "applicant" includes an entity that controls the named applicant, is controlled by the named applicant, or is under common control with the named applicant.

16.118.030 Impact Fee Deferral

A. Deferral Request Authorized. Applicants for single-family attached or single-family detached residential building permits may request to defer payment of required impact fees until the closing of the first sale of the property occurring after the issuance of the applicable building permit, which request shall be granted so long as the requirements of this chapter are satisfied. If a deferral request is granted under this section, payment of the impact fees shall be due to the City within seven (7) calendar days after the date of sale or transfer of ownership of the property. Unless an agreement to the contrary is reached between the buyer and seller, the payment of impact fees due at closing of a sale must be made from the seller's proceeds. In the absence of an agreement to the contrary, the seller bears strict liability for the payment of the impact fees.

B. Method of Request. A request for impact fee deferral shall be made in writing on a form provided by the City, and submitted contemporaneously with the associated building permit application. Any request for impact fee deferral must be accompanied by an administrative fee in an amount determined by resolution of the City Council.

C. Calculation of Impact Fees. The amount of impact fees to be deferred under this chapter shall be determined as of the date the request for deferral is submitted.

16.118.040 Deferral Term

The term of an impact fee deferral granted under this chapter may not exceed twelve (12) months from the date the building permit is issued ("Deferral Term"). If the condition triggering payment of the deferred impact fees does not occur prior to the expiration of the Deferral Term, then full payment of the impact fees shall be due on the last date of the Deferral Term. Payment of impact fees deferred under this chapter shall be made by cash, escrow company check, cashier's check, or certified check.

16.118.050 Deferred Impact Fee Lien

A. Applicant's Duty to Record Lien. An applicant requesting a deferral under this chapter must, at his or her own expense, grant and record a deferred impact fee lien, in an amount equal to the deferred impact fees as determined under SMC 16.118.030(C), against the property in favor of the City in accordance with the requirements of RCW 82.02.050(3)(c). The applicant or seller shall provide written disclosure of the deferred impact fee lien to a purchaser or

prospective purchaser of the property, including the amount of impact fees payable and the requirement that the impact fees be paid at the time of sale.

B. Satisfaction of Lien. Upon receipt of final payment of all deferred impact fees for the property, the City shall execute a release of deferred impact fee lien for the property. The property owner at the time of the release is responsible, at his or her own expense, for recording the lien release.

16.118.060 Limitation on Deferrals

The deferral entitlements allowed under this chapter shall be limited to the first twenty (20) single-family residential construction building permits per applicant, as identified by contractor registration number or other unique identification number, per year.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

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 on September 1, 2016.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF SULTAN AT A REGULAR MEETING THEREOF ON THE ____ DAY OF _____, 2016.

CITY OF SULTAN

Carolyn Eslick, Mayor

ATTEST/AUTHENTICATED:

Laura Koenig, City Clerk

APPROVED AS TO FORM:

Amy S. Mill, City Attorney

Passed by the City Council:

Legislature Adopts Changes to Washington's Impact Fee Law

July 7, 2015 by Steve Butler

Category: [Impact Fees](#)



After several years of discussion and debate, the 2015 Legislature has enacted changes to how impact fees are to be collected by Washington counties, cities, and towns. ESB 5923 requires counties, cities, and towns to adopt a deferral system for the collection of impact fees for new single-family detached and attached residential construction, a change that developers contended would address the financial burden of paying fees at the early stages of the process, before a development project is generating any revenues. While many counties and cities were worried that a deferral system would make it harder to collect impact fees and stymie planning for new infrastructure, the lengthy deliberations and revisions over several legislative sessions resulted in a final product that addresses many, if not all, of their concerns.

The deadline for most of the new law's provisions is more than one year away (September 1, 2016), so local governments have time to develop a deferral system that best meets statutory requirements and local objectives.

Description of New Law

Under the new law, counties, cities, and towns must adopt a deferral system for the collection of impact fees that, upon developer request, delays payment until the time of:

1. Final inspection;
2. Issuance of the certificate of occupancy or equivalent certification; or
3. The closing of the first sale of the property.

For the first two options, cities are authorized to delay issuance of the certification until the impact fees have been paid. For the third option, the new law states that the seller has strict

liability for payment of impact fees and that such payment must be made from the seller's proceeds (unless there is an agreement to the contrary between the seller and the buyer). It is up to each municipality, however, to choose one or more of the three options it wants to use.

Other highlights of the new law include:

- The term of deferral is 18 months from issuance of the building permit.
- The amount of impact fees that may be deferred is determined by the fees in effect at the time the applicant applies for a deferral.
- Deferral of impact fees can be limited to the first 20 single-family residential building permits, annually, per applicant.
- An applicant seeking a deferral must grant and record a lien against the property in favor of the municipality in the amount of the deferred impact fee.
- Municipalities may collect reasonable administrative fees from applicants seeking a deferral.
- To limit the "spin-off LLC" issue, "applicant" is defined to include "an entity that controls the applicant, is controlled by the applicant, or is under common control with the applicant."
- Limited grandfathering is authorized for an existing deferral system (in effect on or before April 1, 2015), even if it does not fully match the new state requirements, as long as all impact fees are deferred.
- Municipalities and school districts are authorized to institute foreclosure proceedings if impact fees are not paid.
- The Department of Commerce must develop an annual report, beginning December 1, 2018, on the payment and collection of impact fees from school districts, counties, and cities for single-family residential construction.

The new law also contains provisions where local choices should be made, including but not limited to: (a) at what juncture impact fees are collected; (b) whether to impose a reasonable administrative fee; and (c) whether to limit the deferral to the first 20 building permits or to a greater number of building permits.

The timing of impact fee collection under a deferral system will be the key decision to be made by counties, cities and towns. Presumably, most builders would prefer the "time of sale" option, since it extends out the time when payment would be due. However, local governments have direct involvement with final inspections and certificate of occupancy issuance (the first two options), so choosing either of those points would allow them to know exactly when the deferred payment is due. In addition, under the "time of sale" option, there is the possibility that a newly constructed single-family residence could be rented out and not sold, resulting in no impact fee payment. In the end, the final decision on when to require payment of impact fees is a local one.

Tips and Suggested Actions

- Be proactive in preparing your local codes, procedures, and staff for this new change. Take the time necessary to develop and adopt an impact fee deferral system before the statutory deadline of September 1, 2016.
- Decide which local options are best for you, such as:
 - Timing of payment of the deferred impact fee(s).
 - Imposition of an administrative fee.
 - Expansion of deferrals beyond the first 20 building permits (with a decision on expansion to be made only after consultation with any affected school district).
- For those municipalities that already have an impact fee deferral process - Review it carefully for consistency with the new law's requirements and amend the existing process if needed. Of course, no action is required for those counties, cities, and towns that don't impose impact fees.

**CITY OF SULTAN
PLANNING BOARD COVER SHEET**

ITEM NO: D-2

DATE: August 18, 2016

SUBJECT: Board of Adjustments Update

CONTACT PERSON: Brad Collins FAICP, Interim Planning Director
Ken Walker, City Administrator

ISSUE:
The City Administrator will update the Planning Board on the Board of Adjustment selection process.