

Public Hearing_ AB22-61_Chapter 9 Comprehensive Plan Update

Public hearing date: September 8, 2022

September 8, 2022

Held during the City of Sultan Council Meeting and presentation on file with the city clerk's office

At approximately 7:10 p.m. Mayor Wiita opened the public hearing and read the public hearing procedures. The meeting was a hybrid with attendees both in person at City Hall Council Chambers and via Zoom Internet Conference Service. Mayor Wiita called roll and the following were in attendance:

Councilmembers: Morgan, Aldrich, Dearborn, Hund, Neigel, Sivewright, and Beeler.

Staff: Administrator Ibershof, Public Works Director Morgan, Community Development Director Galuska, Finance Director Erdman, Police Chief Martin, New Police Chief Adams, and City Clerk Pevey.

Staff Report

Community Development Director Galuska explained the Chapter 9 Comprehensive Plan Update was brought to council last year and it was realized afterwards that a portion of the changes intended were excluded from the document presented and approved by council. Galuska explained this update now incorporates all changes as was intended during last year's update. He explained that some of the sewer capital projects were adjusted due to inflation costs and that the updates are being done mostly in response to new water/sewer plans as well as the transportation element updating prices on projects.

Council Questions

None Noted

Public Comment

Ron Kraut, Bryant Road, Sultan, Written and In Person comments expressing his concerns re: proposed East/West Connector at Bryant Road and requesting language be added to prevent the use of eminent domain as a tool for land acquisition. Referenced documents responsive as the source of his information. (Exhibit A)

Judy Heydrick, Written comments expressing concerns and urging that all projects proposed include a full feasibility and environmental study before being included. (Exhibit B)

Colleen Rupke, Bryant Road, Sultan, Written and In person comments expressing concerns as feels there is a lack of environmental studies conducted and slope alteration violations for a few proposed East/West Connector projects listed as well as additional concerns with proposed East/West Connector on Bryant Road. (Exhibit C)

Jeff Estes, Startup: In person comments expressing support for Citizen Ron Kraut's comments and concerns re: imminent domain.

Staff Comments

Councilmember Dearborn addressed comments and expressed his viewpoint regarding the plans he reviewed and doesn't feel it would impact actual houses.

Councilmember Neigel addressed comments and acknowledged the expression of fear and concern from citizens; also expressed and explained the process the city must go thru to express viable options to the state when pursuing options and this is part of the process. Open to having further council discussion on imminent domain restrictions suggested this evening.

Councilmember Morgan echoed comments of fellow Councilmember Neigel and agreed it is not the intent of council to create a feeling that property is being taken away and that unfortunately the way the state focuses on transportation projects the city must turn over every rock and show the state they have done everything they can before moving

Public Hearing_ AB22-61_Chapter 9 Comprehensive Plan Update (Continued)

forward and ultimately focusing on the end goal of US 2 improvements. Also expressed he is open to further council discussion on imminent domain restrictions suggested this evening.

Councilmember Beeler echoed fellow councilmembers comments and discussed the PRSC planning process and the city showing state consultants that the current options as viable, but that doesn't mean it is reasonable. He also expressed that it is necessary to perform this work in order for the city to obtain funding for US 2 improvements. Acknowledged his burden representing all citizens to include the burden of citizens that express worry and concern regarding actions the city is reviewing.

Motion

On a motion by Councilmember Morgan, Seconded by Councilmember Aldrich the public hearing regarding AB22-61 proposed changes to Chapter 9 of the Sultan Comprehensive Plan was closed. Motion passed 7-0.

DocuSigned by:



Russell Wiita, Mayor

DocuSigned by:



Tami J. Pevey, City Clerk

**WRITTEN COMMENTS RECEIVED
AND ATTACHED AS REFERENCE**

From: cohobanger@aol.com
To: [Tami Pevey](#); [Joseph Hund](#); [Conner Morgan](#); [Cory Dearborn](#); [Jeffrey Beeler](#); [Christina Sivewright](#); [Joe Neigel](#); [Stephanie Aldrich](#); [Russell Wiita](#); [Will Ibershof](#); [Nate Morgan](#)
Subject: Comments Public Hearing for Chapter 9: Capital Facility Element September 8, 2022
Date: Thursday, September 8, 2022 1:02:32 PM

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Tami,

Please incorporate these comments, into the record for the public hearing on September 8, 2022.

Regarding the Public Hearing for Chapter 9: Capital Facility Element:

Mayor and City Council,

The proposed Capital Facilities Element provides a funding strategy and estimated cost for the proposed Bryant Connector. The Bryant Connector Road if built, cannot exist simultaneously with my and my neighbors homes. This is based on city plans and drawings that include cut and fill calculations showing our homes in the cut and fill zone.

My wife, my neighbors and I, have explained to the the planning board and city council over and over, while participating in multiple public hearings, that city code does not even allow the Bryant Connector due to the existence of Native Growth Protection Areas, Common Areas, excessive steep slopes and propensity for for landslides.

The Mayor and majority of Council have stated on the record that they do not support the use of eminent domain for any of the connector roads included in the proposed capital facilities element. None of my affected neighbors are interested in selling or moving at this time. Because of the threat of eminent domain however, we also feel that as long as these connector roads are included in the city's comprehensive plan, we would be obligated to disclose the connector road plans and their devastating impact to our property value, should we ever did choose to put our homes on the market.

At a recent council meeting, we were assured by the Mayor and a majority of individual Council Members that they would not support connector roads unless all property for the roads was acquired from willing sellers. If the Mayor and Council truly feel this way, please provide a clause in the proposed Capital Facilities Element update which clearly states that eminent domain cannot be used as a tool to acquire needed property for the Bryant Connector, or even better, for any connector road over

critical slopes.

The threat of the Bryant Connector Road has been a constant stressful dark cloud of uncertainty cast on the lives of my wife, my neighbors and me. **I urge you to remove that Dark Cloud, by simply adding a clause in the proposed Capital Facilities Element which would prevent the use of eminent domain as a tool for land acquisition to facilitate construction of the Bryant Connector Road.** (see related link below)

Using this strategy, the connector roads still remain a planning option for the city while pursuing negotiations for Highway 2 improvements with WSDOT, while at the same time, removing an uncertain future and unfair disclosure burden on impacted property owners.

This seems to me like win win solution to this problem.

Sincerely,

Ron Kraut

Riverside – On February 13, 2007, the City Council passed a law limiting its power of eminent domain. The new law prohibits the agency from seizing any owner-occupied single-family residence through eminent domain unless the house is encumbered with a lien stemming from a code violation, has been unoccupied or boarded up for more than a year, or has become a public nuisance. The new law also requires the city's Redevelopment Agency to pay fair market value for any property taken through eminent domain.

<http://castlecoalition.org/local-legislation-on-eminent-domain>

From: [Judy Heydrick](#)
To: [Tami Pevey](#); [Stephanie Aldrich](#); [Cory Dearborn](#); [Joseph Hund](#); [Joe Neigel](#); [Christina Sivewright](#); [Jeffrey Beeler](#); [Conner Morgan](#); [Russell Wiita](#); [Will Ibershof](#); [Andy Galuska](#); [Nate Morgan](#)
Subject: Public Hearing, Chapter 9 Comp Plan updates of the Capital Facilities Element-Sept. 8, 2022
Date: Thursday, September 8, 2022 12:38:56 PM

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Council, Mayor and Staff

Please include my comments and concerns in the record regarding the adoption of the updated Capital Facilities Element, Chapter 9, of Sultan's Comprehensive Plan.

My primary concern with the proposed Comp Plan update is that listed projects will inevitably impact Sultan's physical environment without the benefit of full feasibility and environmental studies required by Statute. Based on **significant actions** being proposed in this CFE, compliance with RCW 43.21C.030 (2) (c) is **not only needed but required:**

(2) all branches of government of this state, including state agencies, municipal and public corporations, and counties **shall:**

(c) Include in every recommendation or report on proposals for legislation and other major actions significantly affecting the quality of the environment, a detailed statement by responsible official on:

- (i) the environmental impact of the proposed action;**
- (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented;**
- (iii) alternatives to the proposed action;**
- (iv) the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity; and**
- (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.**

I strongly disagree with the SEPA Official's determination that this Comprehensive Plan proposal does not have a probable significant adverse impact on the environment. What studies or documents were relied upon to make this determination? The record, including the SEPA checklist, does not show any studies or documents as the basis or provide indication that Best Available Science was used for guidance consistent with RCW 36.70A.172.

It is apparent that the projects listed in the Capital Facilities Element will pave the way for increased sprawl, traffic congestion, wildlife habitat loss, watershed pollution, greenhouse gas emissions, noise and air pollution etc. How can covering acres of wetlands with roads and utilities and proposing roads for geologically unstable slopes not have any significant environmental impacts? What special protections are offered our ESA salmon bearing streams, side channels and major rivers from polluted run off and silt?

Several proposals in the CFE , most notably the cited East -West Connectors, probably have significant adverse impacts and therefore require environmental and legal compliance assessments before inclusion in the CFE. Proposed roads located in geologically hazardous

areas are offered protections offered under the Growth Management Act's RCW 36.70A.030 (5) mandating each city and county to **designate and protect critical areas within their jurisdiction**. Clearly Sultan's code SMC 17.10.325 **prohibits alterations of land with slopes over 40%**. CFE proposals would also have significant adverse impacts on property owners who would be displaced by these projects.

The only recent environmental study was commissioned by the developers of Wyndham Highland, whose consultant, Associated Earth Sciences, Inc. performed a Connector Road Feasibility study in 2019. Study concluded:

1. The valley floor is separated from the upland plateau by a steep slope. Landslide hazards and subgrade stability on this slope are the primary geotechnical issues associated with road construction feasibility.

2. **"Bryant Connector's (T-75) approximate average slope height is 160 feet and the average inclination over height of the slope is 45%. Study indicates that the Bryant Road classifies as a Landslide Hazard Area based on topographic conditions (i.e. presence of slope inclinations over 40% over a height of at least 10 feet) and the presence of mapped landslide deposits."**

3. **"124th Street Connector's (T-57) approximate average slope height is 260 feet and the average inclination over height of the slope is 65%. The portion of the slope crossed by the conceptual road alignment that lies within the City of Sultan classifies as a Landslide Hazard Area due to the presence of slope inclination over 40% over a height of at least 10 feet."**

Based on this study, T-75 and T-57 are not permitted under SMC 17.10.325 **"Alteration of land with slopes over 40% shall be prohibited."** Projects proposed in areas of geologic instability, with a pattern of landslides, pose significant threats to public health and welfare and are prohibited by Sultan code, if slopes exceed the 40% threshold.

Environmental studies are needed to ensure that various transportation and other infrastructure projects also conform with the city's Comp Plan.

Chapter 1, Page 2 "All counties and cities within the State classify, designate, and **protect** resource lands (forest, agricultural and mineral lands) and critical areas (wetlands, geologically hazardous areas, fish and wildlife habitat conservation areas, aquifer recharge areas, frequently flooded areas).

Chapter 5, Page 8, 5.6.4 Geologically hazardous areas are susceptible to erosion, sliding, earthquakes..... posing a threat to the health and safety of residents.

I urge Council to delay adoption of the Capital Facilities Element Chapter 9 until projects are fully assessed and informed by environmental studies as mandated by the controlling RCW, Sultan's Comp Plan and Municipal Codes. If some projects in the proposed CFE are non compliant, they must be removed before this Chapter can be adopted. Compliance is key to protecting public health, welfare, treasury and the community's quality of life.

Thank you for your consideration,

Judy Heydrick

From: [COLLEEN RUPKE](#)
To: [Tami Pevey](#); [Stephanie Aldrich](#); [Cory Dearborn](#); [Joseph Hund](#); [Joe Neigel](#); [Christina Sivewright](#); [Jeffrey Beeler](#); [Conner Morgan](#); [Russell Wiita](#); [Will Ibershof](#); [Andy Galuska](#); [Nate Morgan](#)
Subject: Public Hearing, Ch. 9 Comp Plan Update of CFE
Date: Thursday, September 8, 2022 3:57:49 PM

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Council and Mayor:

Please consider and enter the following comments into the public record for tonight's public hearing of the Chapter 9 Comp Plan Update of the Capital Facilities Element.

My chief concern is the Council's apparent unwillingness to follow its own regulations. Not only has there not been adequate (and defensible) environmental studies conducted to support the declaration of the SEPA Official that no significant environmental impact results from this Comp Plan proposal, but there has also been a complete disregard of the issues of slope alteration violations for a few of the proposed east-west connector projects listed. (See SMC 17.10.325) It's remarkable how fluid the city's own code can be when a favored project is on the table and wordsmith consultants and leaders convince you it is ok in this instance.

I wish you would just follow our laws. I wish you would have enough respect for the preservation of our community and its critical areas and its environmental significance to its residents to do what is right and what is written into our own laws.

Please postpone adoption of the CFE chapter 9 until these matters can be rectified adequately and justly. This rush to approve everything set before you is really frustrating for those of us wondering why regulations and process isn't equally important to you.

Colleen Rupke
Bryant Road