

Email from James Anderson to Planning Staff, February 16, 2010

Dear Larry:

As an old western yarn has it, "Whiskey's fer drinkin' and water's fer fightin' over".

Does Langley have a local watershed plan per RCW 90.82? If it does I think there should be room for the City to assess the requirement to connect to the municipal water system.

To complete a plan assessments must be made to provide an estimate of total water resources; an estimate of future needs; identification of aquifer recharge areas and an estimate of surface and groundwater available for future appropriation.

Also required are strategies for increasing water supplies in the planning area including additional water allocations or storage. (RCW 90.82.070)

I have a problem with the City's position stated in Section 16G.10.040 of the proposed zoning code which requires connection to the City's water system. I think this component was brushed over even though the requirement to connect to the sewer system was amended.

I believe Goal 7 of the Comprehensive plan states the City should "diversify our water system" and that to be consistent with Growth Management Act Goals per ES-14 (Urban Growth), development shall occur where services exist or can be developed in an efficient manner.

Water service does not exist at my property, nor could a reasonable person state it could be provided in an efficient manner. I'm speaking here, of course, of the excessively high \$12,000.00 connection fees and the ongoing, burdensome minimum user charges, not to mention the cost of extending, and possibly looping, the main.

All ground water in Island County has been identified as coming from a sole source aquifer. It is also understood that water is a resource held in common for the public good.

I propose the City allow the creation of private, community water systems to service new plats that could more efficiently provide potable water and fire flow. These systems would be administered by the same guidelines and monitoring systems that the City is bound to. Community water systems are prevalent throughout Island County. Acreage in the sub-planning areas with a 70% open space requirement should be able to adequately protect a wellhead. In addition, covenants could be drawn where the City could be deeded access to these wells should the City well(s) fail or be compromised. Herein lies perhaps that greatest motivation for the City to consider such a proposal.

Wells can be drilled throughout the UGA and beyond it in County land. These wells access the same aquifer the City uses. There is simply no foundation to the thinking that the City's wells could be compromised by allowing other drilling. I am not speaking here

of allowing somewhat unregulated private wells. I'm speaking of creating community water systems, monitored and maintained by professional services, like King Water Company.

I think the City is remarkably inefficient in providing water service and should get out of the way and allow private enterprise to offer solutions. These solutions are in all likelihood less capital intensive; require no added burden for maintenance for the City; require less land for the transmission of service and could remove the biggest impediment the City faces in providing affordable housing - namely the huge "front-end" loading of fees for water connections.

The new plan for Langley incorporates so much vision but in really peeling the layers from the onion of what defines a City and what its' responsibilities are, the new plan falls short. It blindly accepts the premise that in order to be a city, Langley must provide essential services. Why is that? I suggest there are alternatives to being vertically integrated. I find nothing in the new Code that embraces and supports market-driven solutions. Decentralizing some of the command and control elements of operating the City could be beneficial to all. Every new extension of the water system places a burden on the operation of that system and challenges its' capacity. Decentralize it. In no way does my proposal abdicate responsibility for the City to maintain and provide for the health and welfare of its citizens. It enhances it. The City is no longer necessarily interested in extending sewer service and will allow approved, on-site systems. Let's also allow on-site water systems.

I would like the opportunity to discuss this further with you. If you direct me to, I shall submit these comments in writing to the State or you could forward them as part of those comments received by your office.

The water issue is a huge one but from my perspective on the new code my concerns are not exhausted there.

I am also concerned that Section 16G.30.030 provides a reference that new roads be consistent with LMC15.01.490. These roads have sixty foot right-of-ways and wide, paved areas. I don't see how the new code could reasonably meet its goals of low impact development and borrow street standards that have been in use since the 1950's and that have produced the type of neighborhoods and sprawl we have. I am not satisfied to learn these standards are the next agenda item being revised. They should have been included as an entire new section of the Code and integrated fully with the broad revisions that are taking place.

In conclusion, I believe the lack of revision to the water service aspect of the new Code and the failure to revise the street standards within LMC15 are grounds for the State to return the application to approve the City's Code revision.

I look forward to being able to comment at the public hearing on February 24.

Sincerely, James Anderson

Email from James Anderson to Planning Staff, 17 February 2010

Larry & Fred:

Here is a listing of items that raise red flags for me.

1. Potential adjustments for habitable floor area:

We discussed this at our meeting on 2/15. I think only the critical areas should be backed out and the buffers not included in the calculation. Owners are penalized twice by first creating buffers using perfectly good land and then asked to remove it a second time in the calculation. In addition, buffers may be adjusted by you, so, if that were to happen, it confuses what the net result would be. It would be cleaner and more easy for everyone to understand if the buffers are not included.

2.

Maximum lot size: 9600SF

OK, I guess, but there is no minimum lot size and yet affordable lots can be no smaller than 5000SF. So the affordable lots are better than 50% of the size of the maximum.

That's huge. I suggest those lots meet a ratio of habitable floor area...say 2 or 3 times that amount. That provides flexibility and scale.

3.

Design for Diverse Housing/Diversity:

a. The ratios suggested seem to work, particularly the standard of 40% for detached units.

b. The standard to not cluster one style seems groundless. I think it would be beneficial to allow the developer some latitude from a design point of view. Given the small footprint of development in the 70% open space CD zone, spreading the various types of housing throughout creates a hodge-podge of design and lack of cohesion over the small area that's actually being built. I strongly disagree with this concept to not cluster. It may also be true for the 45% open space zones.

4.

Street Design:

An insertion of road design from the flexible lot standards would be a great help to this section. To the degree that front yard setbacks are constrained by right-of-way width, I think graded and paved road ROW's should be much smaller, say 25 to 30 feet if combined with utility easements of say ten feet on each side of the ROW. In this way, streets would have a stronger presence, use less land and contribute to nurturing meaningful neighborhoods and social interaction.

5.

Design for pedestrian space:

- a. I can't wait to see what the standards are for these walkways. Are there any? What does it mean, "walkway"?
- b. Bus Stops designed into projects on routes. Design is one thing but who builds them and when?

6.

Sustainability: Standard Six

Alternative wastewater systems are allowed here and that is great. However, the thinking behind this allowance is not developed at all nor are their impacts on sites considered. To wit, drainfields require both a primary field and a back-up reserve field of the same size. Where are these to be located? Entirely on site? If so, we're back to creating traditional lots like you'd find in any subdivision.

Could there be off-site drainfield areas? Could they be located in some portion of the open space? I will discuss this idea more fully when I get to the 70% open space requirement.

7.

Connection to the Municipal Water System:

I shared my thoughts on this in a previous email and appreciate you looking into it.

8.

Ecosystem Monitoring and Critical Area Monitoring:

- a. Deeding a conservation easement... Well, OK, fine.
- b. Management and funding for a 10 year plan... Absolutely not. I've already deeded the property as an easement. It's gone. It's the City's now. This, along with ecosystem monitoring are the responsibility of the City once a plat is recorded. This requirement is arrogant and unnecessary... totally top-down.

9. Parks and Open Space:

- a. There is a 5% requirement for parks within the developed area in addition to 70% being set aside for open space in the CD zone. Wow... there's no end to how much the City wants to take away from the landowner. Don't you think people could find a place to "park-out" on the 70%. If the 5% requirement is there to insure internal buffering of plats, state it. Call out a landscape buffer guideline. Again, a totally top-down. This one should go away.

I said I'd be brief so I'm ending here. The open space discussion is so overwhelming that I've decided to submit it as a separate item.

Thanks for your time,

Jim Anderson

Copy of Email from James Anderson to Planning Staff, 17 February 2010

Larry and Fred:

I'll continue my numbering here. This open space thing is really tough...

10.

70% Open Space CD Zone:

Where should I begin on this one? Let's just summarize and I'll say I don't think it should exceed 50%, if that. The guidelines of 3000SF per acre cannot be remotely achieved. That smoke and mirrors number is not quantified and is purely academic. For purposes of development 70% open space amounts to an unfair, uncompensated taking of land. If you want to be accurate, 1500 SF would characterize what could occur. Let's look at an example:

Say I have 10 acres and 30% is unusable due to critical areas. So with a 70% requirement, seven of the ten acres will be open space. This open space will include the 3 acres of critical area. The development area will therefore be three acres. Roughly speaking and not including the miniscule adjustment for critical area buildout, the site would support, in theory, 3000SF per acre or 21,000SF built (7acres x 3000 SF). After deducting land for roads, typically 30% or 0.9 acres, there would be 2.1 acres left. Now deduct 5% for parks or 0.105 acres. We are left with 2.09 acres (91,040SF) on which to build the potential 21,000 SF of habitable space. This sum is 10,0480 SF of potential building per acre.

NOTE: We started with a 10 acre parcel. We now have a 2.09 acre parcel left for development and are more in the range of using 20% of the total site.

BUT WAIT! THERES MORE! We're going to put some drain fields in.

Let's say we build 40% or Six Units as detached 2 bedroom small homes @ 1400SF each for a total of 8400SF. That's 8400 SF used out of the 21,000 SF allocation, leaving 12,600SF to build as clusters, common wall and the like. Sewer is not available so we're going to construct traditional drain fields. Assuming good soils, a 2 bedroom system needs an area 50' x 25' for the primary and reserve or 1250SF per home. So the drain field is almost as big as the detached dwellings. We have 1400SF for the dwelling, 1250SF for the drain field and the rest of the lot for yard and setbacks. Now let's say the lot size is 5000SF as it is in the historic core of downtown on First Street which has a number of similarly sized dwellings. The total land used for the six detached

dwellings is 30,000SF (6 x 5,000SF) and the balance of land is 61,040SF (91,040 - 30,000). On this 61,040 SF we are going to build the other 60% of the development as clusters and the like.

There is 12,600 SF left to build the clusters. Let's build six - 1000SF, 2 bedroom clusters on 5000 SF lots (6000SF Buildings and 30,000SF Land). We are left with 6,600SF(12,600 - 6000) to build the common wall units and we have 31,040SF of land remaining (61,040 - 30,000).

Now why are these lots for clusters the same size as the detached residence lots? Because we're using drain fields and that's what it takes.

Time for the affordable unit... How's that going to work? I want that unit to be a common wall unit but now I realize it can't be. It has to go on the same size lot as everything else because it must satisfy a minimum lot size of 5,000SF. I deed that lot to a housing agency and they decide to build a 1000SF 2 bedroom unit.

WAIT. THAT'S ANOTHER DETACHED DWELLING. I HAVE TO GO BACK AND GIVE UP ONE OF THE DETACHED UNITS I WAS GOING TO BUILD. One of the high-value lots has just been converted to a no value lot. Thank you very much, I am sure.

Now, upon revision, we have 5 - two bedroom detached @ 1,400SF each and one - affordable unit @ 1000 SF. I've recaptured 400SF of building area that I'll add to the common wall units. We are left with the same amount of land (31,040SF) and can build 7,000SF of common wall units (6,600 + 400SF). I'll build one triplex having three - 750SF, one bedroom units, or 2,250 SF and three duplexes having six - 790SF units, or 4,740SF. Basically, I've used up the allocation for habitable space. The triplex and the duplexes consumed 6,990SF and I had 7,000SF to work with. I have 10SF left over which I shall construct as a small dwelling for a wayward beaver. The triplex goes on an 8,000SF lot and the three duplexes each go on 7,680SF lots for a total of 31,040SF.

How about that. I made it. With my 10 acres I created 15 marketable units and one gifted unit on reasonable size lots. The bad news is there are not enough units to cover the cost of development.

5 Detached 2 bedroom units for 8,400 SF;
6 Clustered 2 bedroom units for 6,000 SF;
1 Triplex with three-1 bedroom units for 2,250 SF;
3 Duplexes with six-2 bedroom units for 4,750 SF;
and
1 Affordable 2 bedroom unit for 1,000 SF. (satisfies req. for more than 10 units)

TOTAL: 21,000 SF

There is a total of 33 bedrooms. The drainfields require at least 20,625 SF or nearly half an acre out of the 2.09 acres (91,040SF) of build-able land. The buildings require 21,000SF. Together that's 41,625 SF, nearly one acre. There are sixteen different units in this discussion so if we divide the remaining amount of build-able land which is 49,415 SF or 1.13 acres by 16 units we average 3,088 SF of lot left over for yards exclusive of buildings and drainfields.

SO IT WORKS ON PAPER, BUT DOES IT WORK IN THE FIELD?

IN A WORD, NO!

Surely, this scenario could not happen. There will be all kinds of constraints that will limit it. Among these constraints are:

1. Topography and terrain features;
2. Significant trees and vegetation;
3. Buffers; (I left these out from the above discussion but they have a huge impact here)
4. Utility easements;
5. Parking;
6. Surface water retention areas for roads;
7. Internal trails;
8. Mailboxes;
9. Refuse disposal areas;
10. Common gardens not in the open space;
11. Common meeting areas;
12. Emergency vehicle access;
13. Surface water retention areas for driveways, roofs and impervious surfaces;
14. Solar Access;
15. Noise and privacy screening;
16. The thousand other things the City will dream up that I would need to satisfy.

By the time all the constraints are backed out I think it is safe to say I'd probably lose half of the units. I'd have 10 acres on which seven or eight units could be manifested. It didn't work with 15 units and now, well, it's pathetic.

70% does not work. It is not clear to me whether water retention areas, drain-field areas or utility easements could be located in the open space. Better lots could be created if those things were allowed. There is a known inventory of undeveloped parcels in the City and an estimate could be made of critical area deductions. Some sites may have none, in which case the tables may work. But most do and the tables do not work.

What do you think all this would cost? I'm thinking with land and improvements, fees and interest, commissions and carry costs the eight units of land would easily cost in excess of \$200,000.00 each. If that's true, the property is virtually condemned without compensation. There is no market for what you are proposing.

Has anyone on the staff ever produced a spreadsheet like this to support your conclusions? The 70% open space guideline is so far away from reality I can barely go on. Now I'm even wondering if 50% would work.

There has been no due diligence performed by the City to quantify the guidelines set forth in the open space provision of the code. Take note of this. No due diligence was performed by the City to quantify any of its' findings as they relate to the financial impacts and potential costs that would be associated with adopting these regulations and the City achieving its' Comp. Plan goals. Given the seriousness of what is being proposed - an entirely new body of complicated regulations - at least one outside professional consultant should have been hired to conduct a financial pro forma on adopting these regulations. Each of the new zones should have an analysis. How can you, or the mayor, or the council or the PAB say with any certainty that these regulations will meet GMA or the City Comp. Plan? Where's the proof? There's not even a discussion of it. You can bet the City would require me to support all my claims if I were making an application with best available science, engineering opinions, impacts studies, and the like.

Where are yours? The City excuses itself from all the standards it applies to others. That, my friend, is Chinatown. But that should not be Langley.

In conclusion, the more time I spend with this plan, the more I know it will not work and I am against adoption in the current form. If adopted as it stands, as well-intentioned as it is, I think it would be a shameful outcome and it is wrong. I think the burden of proof is on the City to show the impact here. The City is not run like a business anymore but more like a think tank and that's why it's going broke. Adopt these regulations and maybe I can go broke too.

Thanks for the opportunity to comment.

Jim Anderson

Copy of Email from James Anderson to Planning Staff, 18 February 2010

Good Day Fred:

Today's discussion has two components. I shall number them so they follow the sequence of my previous comments.

11. Steep Slopes and Buffers

16F.70.050 provides for buffer width averaging by the planning official as it relates to wetlands. There is no similar provision in 16.F.60 for geologically hazardous areas.

16F.60.10 defines a hazard area as a 40% slope and a 10 foot gradient of elevation change under item B.g.

Buffers of 50 feet are specified in C.a. and may be reduced to 25 feet by the planning official.

I'm looking at a topo of my property and note there are two principal steep slope areas... one on Maxwellton Road and one on Langley Road.

These are the ones we all want to defend. Internally there are a number of small, isolated slope areas that my engineer has determined have a gain in elevation of ten feet or more and are 40% slopes.

Here's the rub. If I add 50' buffers to these smaller areas and the principal areas mentioned above, virtually the entire property is set aside from any calculation of habitable space square footage. Out of my 8.66 acres perhaps 1.5 acres would remain giving me a baseline of building 4,500 SF (3,000 x 1.5 acres). What's that ...4 units?

These small areas are sometimes as small as 30 feet from the toe of the slope to the base. So I am asked to protect a slope that is 30 feet in duration with a 50 foot buffer. It does not make sense to me.

Also, these small areas are spread throughout the property and ultimately would all be located in contiguous, set-aside open space.

Why should I have to apply buffers to those slopes? What does that accomplish? If you wish, I can show you my topo map.

Buffers should be excluded from the calculations for build-able acreage. Previously I cited how these buffers amount to "double- dipping" on the deduction and now we can see that these buffers would render my property unusable.

12. Drain-fields.

On site drain-fields will require a minimum lot size of 5,000 SF for any house 900 SF or greater. There is simply no way to position them on anything smaller. For the purposes of planning one should assume that roughly 5,000SF of land is required for every 1,000SF of dwelling if drain-fields are utilized. You can easily sketch the examples below. I'm not attaching any drawings...

Here's one example for a 900 SF 2 bedroom house that measures 30' x 30' and requires 1250 SF of drain-field.

Example 1.

Depth of Lot: 122 FEET

We have a 20 foot front yard setback; a 30 foot house; a 20 foot drain-field setback from the house; a drain-field that is 42 feet; a rear yard setback from the drain-field of 10 feet, or a total length of 122 feet

Width of Lot: 40 FEET

The house is 30 feet; there are two- five foot side-yard setbacks which total 10 feet.

This lot would be 4,880 SF which is roughly 5,000SF.

Here's another example for a really small house: 600 SF 1 bedroom that measures 20' x 30' and requires 625 SF of drain-field.

Example 2.

Depth of Lot: 112 feet

20 foot front yard setback, 30 foot house, 20 foot drain-filed setback, 32 foot drain-field, 10 rear yard for drain-field, or 112 feet.

Width of Lot: 30 feet

The house is 20 feet, the side-yards are 10 feet, or 30 feet total.

This lot would be 3360 SF . But in reality one probably could not build that house on anything that small. Porches and decks, cornices and overhangs would require additional space. Even if one built two attached 600 foot units, the drain-fields would create larger lots.

The 3,000SF baseline number for the CD zone will never be achieved and is misleading. You might as well say 5,000SF. It will never happen.

One possible solution, assuming there is no change to the 70% open space requirement, is to allow the placements of drain-fields off- site in the open space area. Then it would be conceivable to put small dwellings on small footprint lots (3,000SF to 4,000SF) and the densities being considered could actually be achieved.

Jim