

FROM CHRIS CARL  
- Request for inclusion  
in Council packet  
- August 14, 2010

## Section 16 In General

Remove the designation and word village from all descriptive titles as it is misleading and ambiguous.

Presented section 16G-18 b&c

The recommended percentages of open space for properties (60/40) that PAB has presented, I feel are out of line with the current State Laws and constitute in a manner a government "Taking", I propose that the language be changed in the PAB proposal to reflect the following:

25% of the area (which is what the current codes call for in setbacks) proposed for development shall be required for the purpose of open space (there is not a definition of this, I propose it includes all setbacks and critical areas and buffers and any other property that is restricted from being built on), any additional percentage that is given by the property owner shall be used for higher density allotments as an incentive for enhancing further open space (There would need to be a formula developed for additional density vs. open space added and would increase over the currently allotted area as any downward adjustment would result in an unlawful taking). The City planning official has the authority to implement, in line with the Comprehensive Plan of The City of Langley.

Section 16G-24, requiring any donation of or by a property owner in my mind is a form of "Taking", and extortion. I feel is out of line with the current State Laws, and the State of Washington Constitution. I propose this language be removed in its entirety.

Presented section 16G-24

-If a subdivision contains 11-20 units, one 5,000 or more square foot lot is required to be donated.

-If a subdivision contains 21 or more units, the total amount of donated square feet shall be determined by rounding the total number of units up to the nearest tens digit (i.e. 30, 40, 50, etc.) and multiplying the result by 250 square feet.

Lots for affordable housing created in this way shall not count against the total developable area of a site.

### Washington State Constitution

Article I, section 16 of the state constitution is more detailed. It provides, in part:

"Private property shall not be taken for private use, except for private ways of necessity, and for drains, flumes, or ditches on or across the lands of others for agricultural, domestic, or sanitary

purposes. No private property shall be taken or damaged for public or private use without just compensation having been first made . . . which compensation shall be ascertained by a jury . . . Whenever an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be really public shall be a judicial question, and determined as such, without regard to any legislative assertion that the use is public . . ." (emphasis added)

16E.10.060 Water conservation Delete as it is in the building codes.

Section 16 H strike all reference to planning advisory board. Replace with the appropriate City Council. (Otherwise, you are granting regulatory authority, to both the Planning Advisory Board and the Design Review board and are in violation of the one meeting act RCW 42.30.010.).

Section 16I

Add definition of open space none stated in GMA .

Section 16I.30.080 is in fact granting subjective and regulatory authority to the Planning Advisory Board. This language needs to be deleted; only Council and Designated planning Officer have this ability. Planning Advisory Board and the Design Review board and are in violation of the one meeting act RCW 42.30.010.). As well as duplicating the City Planners position and responsibilities (very confusing to the average property owner and may well be a infringement into the separation of power between legislative and administrative branches.)

16I.30.080 Planning Advisory Board Actions.

A. Public Hearings. After notification and receipt of the staff report, the planning advisory board shall hold a public hearing for the purpose of taking testimony, hearing evidence, considering the facts germane to the proposal, and evaluating the proposal for consistency with the City's adopted plans, policies, and regulations. Hearings shall be held on the following applications and subjects:

1. Amendments to the comprehensive plan when these are the responsibility of the Planning Advisory Board (see Chapter 16A.30); (CHANGED CODE CITATION)
2. Amendments to Title 16 of the Langley Municipal Code the zoning code (in Title 18);
3. Amendments to the subdivision code (Title 17);

4. Amendments to the environmental code (Title 16);
5. Preliminary plats of subdivisions;
6. Binding site plans;
7. Variances and conditional use permits;
8. Shoreline substantial development permits subject to public hearing;
9. Appeals of SEPA determinations of non-significance and of the adequacy of a final environmental impact statement of the underlying land use action.
10. Other actions requested or remanded by the city council.

B. Required Findings. The planning advisory board shall not recommend approval of a proposed development or other proposal unless it first makes the following findings and conclusions;

1. The development is consistent with the Comprehensive Plan (subjective) and meets the requirements and intent of the applicable City code and regulations.
2. The development makes adequate provisions for open space, drainage ways, streets and other public ways, transit stops, water supply, sanitary waste, and parks and recreation facilities (subjective)
3. The development is beneficial to the public health, safety and welfare and in the public interest. (subjective)
4. The development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the Comprehensive Plan. If the development results in a level of service lower than those set forth in the Comprehensive Plan, the development may be approved if improvements or strategies to raise the level of service above the minimum standard are made concurrent with the development. For the purpose of this section, "concurrent with the development" is defined as the required improvements or strategies in place at the time of occupancy, or a financial commitment is in place to complete the improvements or strategies within six (6) years of approval of the development. (subjective & regulatory)
5. The area, location, and features of land proposed for dedication are a direct result of the development proposal, are reasonably needed to mitigate the effects of the development, and are proportional to the impacts created by the development. (subjective)

C. Recommendations. After review of the staff report and public testimony, the planning advisory board shall act on the proposal, voting to recommend one of the following to the city council: approval, approval with conditions, denial, or denial without prejudice of the applications or other action before it. (subjective & regulatory) The recommendation shall include a

summary of the testimony heard and the findings and conclusions of the planning advisory board and be promptly forwarded to the City Council for consideration. A copy and the procedure for filing an appeal of the planning advisory board's decision shall be mailed to the applicant, and to any person requesting a copy. (Ord. 714, 1996)(Ord. 868, 2006)(Ord. 873, 2006)