

**MINUTES
CITY OF LANGLEY
PLANNING ADVISORY BOARD
April 28, 2010**

Jim Sundberg called the meeting to order at 4:03.

ATTENDANCE

Members Present: Melanie Shafaat, Roger Gage, Jim Sundberg, and Julie Buktenica (at 4:08)

Members Absent: Fred Geisler

Staff Present: Larry Cort, Director of Community Planning, Challis Stringer, Director of Public Works, Ryan Goodman, City Engineer, Fred Evander, Community Planner

APPROVAL OF MINUTES

The Planning Advisory Board (PAB) reviewed the minutes of the April 14, 2010 meeting. Jim Sundberg suggested a couple of changes to the minutes. Sundberg said that the minutes should include page numbers in the future and that the word “property” in the third full paragraph on the eighth page should be “wetlands.” Melanie Shafaat moved to approve the minutes with the corrections. Roger Gage seconded. The minutes were approved unanimously.

PROJECT UPDATE

Larry Cort invited the PAB to the City Council meeting on May 3, 2010. Cort said that the meeting would focus on subarea planning and that he would like to have as many of the Board members at the meeting as possible.

SEPA APPEAL RULES OF CONDUCT

Larry Cort introduced the document “Planning Advisory Board: Proposed Rules for Conduction SEPA Appeals.” Cort said that the document was prepared by the City Attorney, and he recommended that the Board adopt the procedures to ensure that there was a fair hearing for the SEPA Appeal. Cort said that the document would make sure that everyone knew the procedures, timelines and deadlines for the process.

Jim Sundberg said that the first task would be to pick a starting date for the appeal. Sundberg said that Wednesdays in May were not good for him and that Wednesdays in June were better.

Steve Erickson asked to comment on the rules of conduct. Erickson said that he had five things about the rules that he would like to be addressed. Erickson said that he would like to submit a reply brief, and said that, as the rules were written, the reply brief would only be allowed if the hearing went two days. Erickson said that he would like assurance that he could reply to others’ evidence and testimonies. Cort said that staff thought that the appeal would take place over two separate meetings and the Board said that Erickson would have time to respond to the testimonies of other parties.

Erickson said that he would like to submit documents that were larger than legal size and said that the exhibits should be whatever size necessary. Cort said that the City did not want to have unwieldy exhibits. Erickson said that he was okay with copies of exhibits that were 11 inches by 17 inches in size, so long as larger versions of the exhibits could be provided.

Erickson said that he wanted to have exhibits submitted more than three days before the appeal so he could respond to other presenters’ exhibits. The PAB decided that the first sentence in 2c should be distributed to 2a and 2b, and that the briefs and exhibits should be submitted at the same time: 15 days prior to the first hearing

for the appellants, and seven days prior to the hearing for the applicant and the City. Only the portion of c that dealt with the size of the paper was left under 2c.

Erickson questioned the reference to “other parties of record” in number 4 of 3b. Cort said that the appeal rules were made to be usable for other appeals and that number 4 would not apply to the Langley Passage SEPA Appeal.

Erickson said that he would appreciate the PAB advising parties if there would be introductory and closing statements allowed. The PAB decided that they should allow opening and closing statements and changed the word “may” in the last sentence of 3b to “will.” The Board also decided to move the entire last sentence of 3b to the first sentence of the paragraph. Doug Kelly said that the PAB should be sure to say how long they would give for opening and closing statements.

Roger Gage moved to adopt the SEPA rules as changed. Melanie Shafaat seconded. The motion passed unanimously.

The appellants, applicants and City discussed calendar dates for the SEPA Appeal. The Board determined that the appeal hearings would occur on June 2nd and June 9th, with the potential for leaving the record open for a period after the meeting of June 9th for the submittal of a reply brief or other specific purpose.

Cort said that the meetings would be scheduled for City Hall, and he would advertise another location if the meetings were moved. Cort said the meetings would start at 4:00.

LANGLEY PASSAGE - PUBLIC HEARING

Sundberg said that the goal of the meeting was to wrap up the record and possibly spend some time in deliberation. Sundberg swore in the individuals that would testify at the meeting and had not been sworn in previously.

Larry Cort Director of Community Planning introduced City staff and began the rebuttal of the application for the City. Cort entered the Langley Municipal Code (Exhibit P-29), 2006 Comprehensive Sewer Plan (Exhibit P-30), 2002 Comprehensive Water Plan (Exhibit P-31), 2005 Low-Impact Development Manual (Exhibit P-32), and four site photographs (Exhibit P-33) into of the record.

Cort explained the general subdivision review process. Cort said that the process for subdivision review was articulated in Chapter 58.17 of the Revised Code of Washington (RCW). Cort said that RCW 58.17 defined preliminary plat as “a neat and approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots and blocks, and other elements of a subdivision.” Cort further said that the chapter stated that “the preliminary plat shall be the basis for the approval or disapproval of the general layout” of a subdivision. Cort explained that the law did not anticipate that the preliminary plat would be the final form of a subdivision.

Cort said that, if the application was approved, a number of things would have to happen before the final plat was recorded. Cort said that the subdivision review process involved two primary steps (the preliminary plat and the final plat) and that a number of approvals must occur between the two steps. Cort said that these approvals included:

1. Submittal and approval of site engineering. Cort said that the existing engineering for the project was conceptual and that it was not anticipated that the existing proposal included the final site engineering.
2. Installation or bonding for infrastructure and other utilities. Cort said that the applicant would need to either install the utilities or bond for the infrastructure on the site.
3. Compliance with the conditions of approval. Cort said that all the conditions for the project would need to be met before the project could move to final plat.

4. Compliance with the Langley Municipal Code. Cort said that standards for the development stipulated in the Langley Municipal Code (LMC) would also need to be met before the project could move towards final plat. Cort explained that the LMC standards must be met regardless of whether or not they were specified in the conditions of approval for the project.
5. Submittal and approval of final wetland mitigation plan. Cort said that the applicant would need to create a wetland mitigation plan for the project based on the final form of the plat. Cort said that the plan would need to meet all the requirements of the Langley Municipal Code and be approved by City staff.
6. Final Lot and Street Layout. Cort explained that the applicant would have to finalize the lot and street layout for the proposal.
7. Final plat review and decision by the City Council. Cort said that the City Council would need to review and approve the final plat to ensure compliance with the conditions of approval and consistency with the LMC, before any lots could be created.

Buktenica asked about the Coles Road development and where that proposal stalled in the subdivision review process. Cort said that the Coles Road development had received preliminary plat approval and preliminary approval of the site engineering. Cort said that the developer had begun to install site engineering and utilities when the project stopped. Buktenica asked if the Highlands had completed the two step review process. Cort said yes.

Cort continued and said that every section of the Critical Areas Ordinance would apply to the application, even though the standards were not specifically stated in the conditions of approval. Cort explained that both the proposed conditions of approval and the entire LMC would apply to the development. Cort said that the conditions regarding lighting, fertilizer, barriers installation, and maintenance of surface flow would all apply to application, because each of the items was stipulated in the LMC. Cort also said that the 110 foot Category III wetland buffer would apply to the project. Cort said that the wetland boundary on the preliminary plat was shown incorrectly, and he noted the condition of approval that stipulated that when the final work was done, the boundary must be set at Shannon and Associates peer review wetland delineation. Cort lastly said that the final wetland mitigation plan would be subject to the critical area standards for mitigation plans.

Cort introduced City Engineer Ryan Goodman to speak about the water line loop, infiltration and the sewer system.

Goodman said that the water line loop as shown was considered an exemption to the Critical Areas Regulations and he stated the three criteria that needed to be met to get that exemption. Goodman said these criteria were:

1. There is no other feasible or reasonable alternative to the proposed development with less impact on the wetland and buffer.
2. The proposal minimizes the impact on the wetland and buffer and incorporates all reasonable mitigation measures.
3. Construction techniques shall minimize both long and short-term impacts to the wetland and buffer.

Goodman said that he believed that each of these conditions had been met by the application, but said that a condition could be applied to the project, which required the applicant to approach property owners to the north regarding a potential water line easement. Goodman said that if an easement was granted, routing the sewer through the easement would also be the preferred route for the system.

Goodman discussed infiltration on the site and read the portion of the Comprehensive Plan that stated that “each new development shall be responsible for minimizing stormwater runoff from its site. Primary emphasis should be on infiltrating stormwater on-site, except in those circumstances where water flows to and through bluffs.” Goodman said that almost all of Langley flowed toward a bluff and he questioned where to draw the line for circumstances where water flows to and through bluffs. Goodman referred to LMC 15.01.430 and said that “the

use of all reasonable and appropriate low impact development measures shall be required prior to consideration of conventional stormwater management methods” and he explained that staff had interpreted this as a statement to evaluate the handling of stormwater on a site by site basis. Goodman further explained that staff had interpreted the section to mean that it was the responsibility of the applicant to show that the Low-Impact Development standards did not work on a site.

Goodman said that the proposed on-site infiltration systems were likely to work, and in the event that they did not, the applicant would finance needed downstream stormwater improvements. Goodman said that the applicant would monitor the downstream systems, and if an impact was identified, a bond would finance the necessary improvements within the City limits. Larry Cort explained that an additional condition of approval was tied to the performance of the downstream system in the County and he said that, in the worst case, if the County found something wrong with outfall, the applicant would be financially responsible to make the improvement.

Buktenica asked about the easement to the north and what the width of the easement would need to be. Goodman said that, under ideal circumstances, the easement would be 20 feet wide. Goodman said that the water and sewer lines would need to be 10 feet apart.

Goodman continued his explanation of the stormwater infiltration on-site and said that the difference in infiltration between pre and post-development conditions would be approximately 200,000 gallons annually. Goodman said that most of this increase in infiltration would be associated with the loss of capacity for evapotranspiration, due to the removal of trees. Goodman said that the 200,000 gallons increase in water per year would equal 3.5 households infiltrating on-site septic systems. Goodman identified conditions that were proposed for the development: including the retention of mature tree canopy, limits on impervious covers (including gravel driveways), installation of raingardens to handle normal rain events, and the installation of infiltration chambers to handle additional rain.

Jim asked about the discrepancy between the numbers for pre and post-development runoff and questioned how Goodman calculated the numbers. Goodman said that he had received the numbers from the applicant and the applicant would provide more information about the numbers during their presentation. Goodman said that the Board could come back to the question if it was not adequately addressed by the applicant.

Goodman spoke about the proposed sewer system for the project and referenced LMC 15.01.150, which states that sewers shall be designed as a gravity sewer or as outlined in the Comprehensive Sewer Plan. Goodman said that the second reference in the section allowed the City to set the standard based on the Comprehensive Sewer Plan, and he explained that the 2006 Sewer Plan specified that the grinder pump system was the City standard for sewer. Goodman referenced a couple of sections within the sewer plan that supported his point. Goodman read Section 3.6.5 of the plan, which says that proposed sewer expansions were recommended to utilize low-pressure systems. Sundberg questioned if there was anything in the plan about backup systems. Goodman said that it was recommended that there be a source of power for low-pressure systems, but he said that there were several grinder pump systems in town and there had not been a problem with power outages. Goodman said that it would be rare that there would be a problem with a wet well filling up.

Larry Cort discussed standards associated with Best Available Science and distributed a section of the City’s Critical Areas Ordinance about Best Available Science to the Board. Cort read a portion of the document and said that the Critical Areas Ordinance was very specific about what constituted scientific evidence and non-scientific evidence. Cort said that City Staff needed to base their decision on scientific information and he explained that he felt that this standard had been met.

Cort said that the City recommended approval of the proposal with 34 conditions. Cort said that several of the conditions would be applied between the preliminary plat and the final plat and that some of the conditions would apply to the site after approval of the development. Sundberg questioned if it would be practical or

acceptable to add conditions. Cort said yes and stated that staff had proposed a couple of options for additional conditions including: asking property owners to the north/ northwest about potentially donating an easement to loop the waterline through their property; and adding or revising a condition to ensure that there was no question that gravel qualified as an impervious cover. This ended the presentation by the City about the application.

Quinn Clements started the response for applicant and distributed a handout to the Board (Exhibit P-34). Clements said that the wetland delineation shown on the preliminary plat did not use the Shannon and Wilson delineation and he provided a revised plan set reflecting the peer review delineation. Clements said that the change in delineation would not significantly affect the project and that most of the additional wetland and buffer would be west of the project. Sundberg asked if the distance between the inner and outer line on the map was 110 feet. Clements said yes.

Clements began a PowerPoint presentation about the change in stormwater infiltration and surface flow on the site. Clements referenced Robin Adam's presentation on March 24, 2010, and Adam's calculation of a 7,000,000 gallon increase in stormwater per year. Clements said that the calculation was incorrect by a factor of ten. Clements explained the amount of precipitation on the site. Sundberg questioned how the estimate of precipitation was generated. Clements said that the amount of precipitation was generated by a stormwater model and was agreed upon by the Aspect Consulting report conducted for the site. Clements continued his presentation and said that the amount of pre-development and post-development precipitation would be the same for the site and that the precipitation itself was actually below the 7,000,000 gallons quoted by Robin Adams.

Clements said that, using the stormwater model, the pre-development amount of evaporation on the site was 4.3 million gallons and that the development would cause 727,000 gallons to be lost to evaporation capacity. Clements said that this loss would contribute to a 10.47 percent increase to site runoff (without the use of raingardens).

Clements said that the pre-developed infiltration volume was 2.6 million gallons and he explained that a development (without raingardens) would cause the number to go down because of additional impervious surfaces. Clements said that the Langley Passage project; however, would increase the amount of infiltration on the site in post-development conditions, because of the use of raingardens for infiltration. Sundberg asked about the difference between the numbers. Sundberg said that the overall increase in 727,000 lost to evaporation would no go back to evaporation, and the post development infiltration would only increase 200,000 gallons. Sundberg questioned what would happen to the additional 500,000 gallons. Clements fainted.

ADJOURN

The Board decided to adjourn the meeting, and continue the testimony by the applicant at the meeting of May 12, 2010, beginning at 4:00 at Langley City Hall.

The meeting was adjourned around 5:30. The meeting was held at the Langley United Methodist Church Fellowship Hall. Fred Evander recorded the minutes for the meeting.