

**MINUTES
CITY OF LANGLEY
PLANNING ADVISORY BOARD
May 26, 2010**

Jim Sundberg called the meeting to order at 4:09.

ATTENDANCE

Members Present: Julie Buktenica, Roger Gage, Jim Sundberg, Melanie Shafaat (at 4:16)

Members Absent: Fred Geisler

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

MINUTES

Roger Gage moved to approve the minutes from the May 12, 2010 meeting. Julie Buktenica seconded. The minutes were approved unanimously.

PROJECT UPDATE

Larry Cort reported that Melanie Shafaat was moving to Bangkok, Thailand in July and that she had tendered her formal resignation from the Board. Cort reported that Mayor Paul Samuelson would be recruiting new members and told the Board to let the Mayor know if anyone was interested in the position.

Cort also reported that the City Council was progressing through three presentations on subjects that had originally been docketed for phase II of the code amendments. Cort reported that, to date, the Council had held meetings on the neighborhood planning and the land use budgeting concepts. Cort said that the next City Council meeting would focus on transferable development rights. Cort said that the Mayor had scheduled a public comment period on the concepts on June 21 and had set aside time on July 6 for the staff and administration to offer their response to the information presented and the public comment. Cort said that the PAB was encouraged to attend the meetings. Sundberg said that the Council meetings start at 6:30 and that the previous two discussions had started at 9:00 and 8:30 respectively. Larry Cort reported that Kathleen Landel had posted the two PowerPoint presentations by Councilmember Gilman from the meetings on the City website.

PUBLIC HEARING – LANGLEY PASSAGE PRELIMINARY PLAT

Sundberg continued the Public Hearing at 4:14 and recapped where the PAB was in the process of the hearing. Sundberg said that the Board was in the middle of the responses from the applicant and he noted that Larry Cort had submitted a supplemental staff report for the proposal. Sundberg asked if Cort would like to make any comments about the document. Cort said that he would be happy to answer any questions from the Board, but thought the document was self explanatory.

Quin Clements started the continuation of the applicant's presentation with a PowerPoint presentation (Exhibit P-36). Clements explained how he had calculated precipitation values for the site and said that the Board could decide if the calculation method was appropriate. Clements explained that he had used the City's adopted stormwater model, the Western Washington Hydrology Model, and said that the model used historic precipitation amounts to estimate a precipitation rate for the area. Clements said that this model provided an output of 30.061 inches per year for Langley and that, after a number of calculations, the precipitation that would hit the 8.52 acre site would total 6,958,076 gallons per year.

Clements explained that all the increase in runoff flow from the site would come from the loss of evaporation. Clements said that this increase would total 727,091 gallons of water per year, or a ten percent increase in current runoff from the site. Clements explained that this accounted for only a tenth of the amount presented by Robin Adams.

Clements noted that, under the proposal as of May 11, 2010, eighty percent of the additional runoff created by the development would be infiltrated into raingardens. However, as part of a revision to the plan as of May 26, 2010, Clements explained that all runoff would now be infiltrated and the dispersion trenches (and the associated 20 percent surface flow) would be removed from the plan. Sundberg asked if that was what condition number 2 two of the supplemental staff report meant. Cort said yes.

Clements said that the additional 728,000 gallons would account for an increase of 28 percent in the amount of water currently infiltrated onsite. Clements also said that this water would account for a 0.56 percent increase in the basin total of 128,000,000 gallons of water per year. Julie Buktenica asked Clements how he defined the basin. Clements said that he had looked at the topography of the area. Buktenica asked if the basin Clements had used matched the watershed maps. Clements said that he did not know. Buktenica asked if Clements had a copy of the map of the basin. Clements said that the map was provided in an earlier drainage report. City Engineer Ryan Goodman showed Buktenica a copy of the basin map that Clements had used.

Clements discussed surface water flow on the site. Clements said that several individuals had argued that surface water from the surrounding area congregated in the wetland, and Clements said that that was not the case. Clements pointed to Sandy Point Road on the south end of the project and said that the location represented a high point on the road. Clements explained that the roadway had a swale to handle runoff from the street and that surface flow south of the project was intercepted in the swale and transported down the hill. Clements further said that the site formed a ridge and that surface water flow would move perpendicular to the contour lines on the site. Clements said that the only surface flow that would hit the wetland would be from the site itself, and that most of this surface flow would be infiltrated prior to reaching the wetland. As a result of these factors, Clements concluded that there would not be an influx of surface water flow that would move towards the wetland.

Clements lastly went through a series of projects that had recently been completed in the City of Langley to demonstrate the projects' proximity to the bluff, and use of infiltration as a method of handling stormwater. Clements said that all bluffs fronting Langley were considered unstable, several projects had utilized infiltration in their design, and the method the applicant was proposing was not unique to the City. Clements said that the approach was used throughout the City in similar proximity to the bluff and he argued that the same standard should be used for project.

Arnie Sugar continued with another PowerPoint presentation for the applicant (Exhibit P-37). Sugar displayed a map of the area and said that the map was meant to show that the project site was on an island, in a coastal area, and part of a groundwater discharge area. Sugar said that this location meant that water was discharged radially from the site, and was similar to other coastal areas on the island where there were wetlands, springs, and swamps.

Sugar said that two cross sections had been prepared for the project site. Sugar began with the Conceptual Geologic Cross Section prepared by Aspect Consulting and explained that the cross section was different than other types of cross sections. Sugar said that a conceptual geologic cross section was very detailed in nature and was meant to diagram relations of what might occur on a site. Sugar explained that the diagram hypothesized that there was an impervious layer of Quaternary Vashon Till beneath the site and he said that this conceptual diagram was prepared before the two deep borings on the site were conducted.

Sugar moved to the second cross section, which he called a geologic cross section, and said that the diagram was sparser and created primarily for construction. Sugar also explained that pretty much everything on the cross

section that was a solid line was based on an observation from the site. Sugar said that HWA GeoSciences had bored a number of test pits and had found clean sand in each of those test pits. Sugar said that, to confirm that the sand was sand typically found beneath till, the City peer-reviewer had told the applicant to dig two deep test pits. Sugar said that these deep test pits found sand all the way down to the regional ground water table (there was no till beneath the sand), and that the ground water table was coincident with level of wetland. Sugar referred to the analysis by Mark Varljen, the City peer-reviewer for the project, whose report concluded that: with the absence of a perishing layer, the project conformed to the Mitigated Determination of Nonsignificance, no further exploration or analysis was needed, and the applicant could proceed with project without undesirable impacts. Sugar also referred to Varljen's comment that some uncertainties in the project impacts could be addressed by minor design changes on the site.

Sugar lastly explained some of Varljen's comments about the flow estimates used by HWA, and explained that in the end Varljen had concluded that the relative amounts of water did not matter, because the water appeared to surface in the wetland and turn into surface water along Edgecliff Drive. Sugar said that Varljen had reviewed the changed numbers by Davido Consulting and had agreed with his initial conclusion as referenced in the City's supplemental staff report.

Sugar began to discuss slope stability and said that there were many ways by which slopes fail. Sugar said slopes left alone normally achieve a stable angle, and that, for coastal slopes, erosion at the toe of the slope drives erosion up the bluff. Sugar did not go through the mechanisms that drive particular types of erosion, but said that deep seated rotational slides at the top of slopes were what people worried about the most, and what caused the most damage.

Sugar said that the City had the United States Geologic Service (USGS) come and look at slope stability in the Edgecliff area, and he explained that the USGS report gave a textbook definition of slope failures and the factors that could cause a failure. Sugar said that the USGS identified that surface water runoff was a potential factor in slope failure and he said that the report said that the problem could be mitigated by insuring that the roadside ditch could handle those flows. Sugar also said that the USGS report talked about septic discharge from houses near the bluff as a factor that could destabilize the slope, and he said that the report said that the connection to sewers could mitigate that problem. Sugar lastly said the report identified that irrigation, cutting down vegetation, and French drains that discharge along the bluff face were factors that could contribute to bluff destabilization. Sugar said that French drains that were not tightlined to the bottom of the bluff, or away from the bluff were an especially bad thing, as French drains that discharge onto a slope concentrate the stormwater flows onto the bluff face. Sugar said that, if nothing else came of the hearing, the awareness that these French drain systems should be looked at by property owners in the area was important.

Sugar again quoted the USGS report and said that developments should avoid additional concentrated surface water flow and an increase in the groundwater level. Sugar said that he had calculated the increase in groundwater level, prior to the mitigation measures identified by the City and had determined that the increase would amount to an increase in 2.5 inches in the groundwater level. Sugar said that this increase likely would not be significant, and referred again to the Varljen analysis again by saying that the groundwater would surface into the wetland. Sugar ended his presentation and asked if there were any questions. Sundberg asked if the increase in groundwater level would occur upstream of the current wetland. Sugar said that the increase in the groundwater level would occur under the development.

Doug Kelley, attorney for the applicant, distributed a document (Exhibit P-38) and talked about two items: what is vesting and how do you know if something is in the public interest. Kelly said that he felt that there maybe some confusion about the concepts.

Kelly said that vesting did not mean that an application was permitted. Kelly said that, under the vesting doctrine, when you had submitted a complete application, you were entitled to be heard under the regulations in effect at the time. Kelly said that vesting determined the rules by which an individual was meant to be judged.

Kelly said that the vesting rules were set to allow property owners the ability to know how they could develop their property and he said that this was meant to ensure fairness for the applicant and the City.

Kelly discussed public interest and explained that the concept was an evolving doctrine that was essentially established through the adopted ordinances in a municipality. Kelly said that public interest was also determined in part by whether an applicant had demonstrated good faith in preparing plans and acting in regard to the rules. Kelly said that the applicant had acted in good faith for the project.

Kelly said that a number of public purposes were stipulated in the land use element, and these purposes specified the items that were in the public interest. Kelly said that these items included: density, maintenance of natural areas, maintenance of drainage and water tables, consistency with housing styles, and the provision of public services. Kelly also said that a question related to public interest was: how do you know if there is public benefit derived. Kelly said that there was a way to determine public benefit. Kelly said that the use was consistent with what the zoning provided and prevented the spread of incompatible uses in the neighborhood. Kelly said that the character and use of the site was residential, the drainage was maintained, and public services were provided. Kelly said that 46 percent of the site would be preserved as natural areas, and the wetlands would be monitored and maintained. Kelly also said that the project would provide some low-income housing. Kelly said that, looking at the provisions in the regulations and codes, he believed that it was clear that the project met the City standards and the project was in the public interest.

Jim Sundberg asked about the low-income housing, and said that it was the first mention that he had heard of it for the project. Kelly said that two of the units would be made available to Saratoga Community Housing and explained that Gary Roth would discuss the issue further.

Gary Roth, president of the Roth Company and an associate in Whidbey Neighborhood Partners, spoke about the project. Roth said that he had worked very closely with the city on the project over the past four years. Roth said that he cared about the issue of drainage on the site and said that he had offered to increase the bond for the culvert and outfall improvements, if any improvements were needed, to a quarter of a million dollars.

Roth further said that he wanted to include affordable housing in the development and that he was making two lots available to Saratoga Community Housing. Roth explained that he would construct the homes for Saratoga Community Housing for \$150,000 dollars a piece. Roth said that some houses in the development would cost up to \$400,000 dollars, but that the average home price would be \$250,000. Roth said that this price would be attractive to individuals such as teachers who couldn't afford new homes in the area. Roth said that, with the initial low cost of the land, he could get the lot prices down far enough to build quality efficient homes that could be affordable to individuals such as teachers.

Roth said that a number of individuals had called the subdivision a cookie cutter plat and he argued that the plat incorporated unique features including bends in the roads and lots, and two roundabouts to preserve two large cedars on the site. Roth said that including home sites, only six trees would be removed from the area.

Roth said that under the code, he could have 30 homes on the site and he said that he felt that 20 homes were more appropriate for the area. Roth said that with 20 homes, there could be more open space and better drainage. Roth also said that with the size of the lots, the homes could be made to look attractive. Roth lastly said that he had followed all City, County and State regulations and that he felt that the plat would offer something of value to City.

Sundberg asked if the discussions with Saratoga Community Housing were recent and he questioned how such a commitment to affordable housing would be made. Roth said that he had recently met with Saratoga Community Housing, and that he would deed land to them and build the houses on the land. Roth said that Saratoga Community Housing would continue to own the land, and that the property owners would own the house on the land. Sundberg asked if something like sweat equity would be involved in the housing

construction. Roth said that his company would build the homes to ensure that they would blend in with the other houses on the site. Roth said that the homes would be designed to look as expensive as the other homes.

Julie Buktenica said that she had seen other housing that was for sale in the City of Langley, including individual homes for sale and partially developed subdivisions, and said that the project could add to the surplus housing in the City. Buktenica questioned how adding additional housing could be in the public interest, and said that she did not know if that was supposed to be part of the Board's consideration. Jim Sundberg said that the issue would be part of the Board's discussions, but explained that the project more or less had to be judged within its own boundaries. Gary Roth said that developments such as the Cedars and Woodside had done well, but other developments had spent a lot on the original purchase of the land. Roth said that the project did not have high initial land costs, and as a result the development could be designed to be more affordable for homebuyers.

Roger Gage asked the applicant if he would consider a scale smaller than the 20 houses. Roth said that he would consider a smaller scale, but the reason that he chose 20 lots was the fewer homes that you put on a site, the higher the price the land would be for each home. Roth said that he could have put 30 homes on the site, but chose 20 to ensure that there could be larger lots and larger setbacks. Roth said that some lots were 175 feet deep. Roth lastly said that he had been part of two downturns in the past and, when each downturn came back, there was a shortage of lots and housing. Shafaat questioned how much of a shortage there would be. Roth said that he did not know.

Larry Cort said that the presentation by the applicant was the final piece of the hearing that dealt with the plat and he explained that the applicant would have the burden of proof on the plat itself. Cort said that the legal environment only allowed one open record public hearing, and as a result the PAB was set to continue the hearing to June 2 to start the second part of the public hearing: the SEPA Appeal. Cort said that the testimony in the second portion of the hearing was limited to City staff, appellants and applicants. Cort said that the appellants were required to submit briefs by noon on Friday, May 21 and that they had submitted those briefs in a timely fashion, and that the applicant and City staff were required to submit briefs by noon on May 28. Sundberg reminded the Board that they would have two decisions to make: one decision would be based on the application and the second would be on the appropriateness of the rulings by the SEPA responsible official.

Cort said that the Board would need to make a motion to continue to a special meeting of the PAB on June 2 at 4:00 at City Hall.

Roger Gage made a motion to continue the hearing. Melanie Shafaat seconded. The motion was approved unanimously. The Public Hearing portion of the meeting closed at 5:13.

PUBLIC COMMENTS

Rhonda Salerno commented on City enforcement issues. Salerno said that she had called the Planning Department about a pond on her property three months ago and she said that the City had not had time to consider her call. Salerno said that the City did not have the time or money to enforce issues and she questioned who the specialist would be that would review the plan to restore the wetland. Salerno said that she wanted enforcement on the issue and said that she did not see any enforcement happening. Salerno said that people needed to be told that this was happening. Larry Cort said the issue was under his responsibility, and that the wetland restoration plan needed to be done by qualified individual. Cort said that he would do his best to start monitoring the issue. Sundberg thanked Rhonda for the input and told her that it would be recorded in the minutes.

Gail Fleming asked when the Board would make a recommendation on the application. Sundberg said that the best possible case would be that two meetings would be sufficient and there would be a decision some time at

the end of the meeting in June. Sundberg said that the Board might have another meeting in June to hold deliberation, but that the schedule would be up to the Board, because they would be the only participants.

Kelly asked how long the meeting would be on Wednesday, June 2. Sundberg said that he would try to limit the meetings to 7:00 on both June 2 and June 9. Robin Adams questioned how the testimony would best occur. Adams said that everyone wanted to talk to Larry Cort, and he was curious if there was anyway that the testimony by Cort could all occur at once. The Board and staff determined that it would be least confusing if people questioned the witnesses individually, and that each person called Cort during their time with the witnesses.

ADJOURN

Roger Gage moved to adjourn the meeting. Melanie Shafaat seconded. The motion was approved unanimously. The meeting adjourned at 5:36 pm.

The meeting was held at Langley City Hall. The next meeting of the Planning Advisory Board will be a special meeting on June 2, 2010 (4:00) at Langley City Hall. The next regular meeting of the Planning Advisory Board will occur on June 9, 2010 (4:00 pm) at Langley City Hall. Fred Evander recorded the minutes for the meeting.