

**Langley Passage Preliminary Plat
City Council Closed Record Review
Answers from Applicant Whidbey Neighborhood Partners
To Supplemental Council Questions to the Record of Councilmember Robert Waterman**

Councilmember Waterman's Questions:

Sewer

1. Where in the record is the agreement between the applicant and the Woodside subdivision to tie into the latter's sewer and lift station documented?

Answer: No reference to an agreement is found in the record.. But see the following:

References in the Record:

WNP Responsive Briefs, Exhibit A.1, Cort, Staff Report, 3/18/10, p. 13, paragraphs 1-2

Quote from the Record:

Sanitary Sewer Service

The availability of sanitary sewer in the Edgecliff neighborhood is limited. On Edgecliff Drive, the sewer main terminates just east of Noble Creek and on Sandy Point Road at a private lift station at the entrance to the Woodside subdivision. The public sewer on Sandy Point Road terminates near Cork Lane at the top of the hill just east of Camano Avenue.

Langley Passage is proposed to be served by acquiring and tying into the private force main and private lift station at Woodside Drive and extending this line to the eastern edge of the subject property. Obviously, the ability of the applicant to tie into the existing private system is subject to the consent of the current owner and approval to connect to this line is conditional upon the applicant gaining consent for transferring ownership to the City. The City has indicated that it would be willing to accept the private lift station and low pressure line subject to confirmation that the system is found to meet municipal standards.

Waterline

2. Where is it documented that the City is legally required to explore options for waterline options?

References in the Record:

LMC 16.20.080(C), p. 16.20-21, Public Agency and Utility Exceptions, paragraph B2, sections a, b and c.

Quote from the Record:

"Applications for a utility exception shall be reviewed based on the following criteria:

- a. There is no other feasible and reasonable alternative to the proposed development with less impact on the wetland and/or stream and the associated buffer. A description of alternatives considered must be included in the exception requests; and

- b. The proposal minimizes the impact on the wetland and/or stream and buffer and incorporates all reasonable mitigation measures as identified in 16.20.085.B.8; and
- c. Construction techniques shall minimize both long and short-term impacts to the wetland and/or stream and its buffer.”

Goodman, PAB Meeting Minutes, 7/14/10, p.8, paragraph 3

Quote from Record:

Kelly asked if Goodman was the individual that reviewed the Davido engineering report. Goodman said that he was. Kelly asked what other studies Goodman considered. Goodman said that he considered the report from Davido about the plat design and utilities, a HWA report about hydrogeology, two peer-reviews from Mark Varljen, and the submittal by Aspect Consulting. Kelly asked if Goodman could explain the sequence of the studies. Goodman said that first items that were submitted were the plat and the preliminary engineering, which showed the preliminary water, sewer and stormwater treatment on the site. Goodman said that subsequent to that, after the City had commented about low-impact development (LID), a hydrogeologist evaluated the site for LID and there was an additional report showing the design of the potential stormwater treatment system. Goodman said that there was then the Aspect report and a peer-review of the report, which were followed by additional studies and a peer-review. Kelly asked Goodman at what point the borings were called out in the process. Goodman said that the borings were sought toward the end of the process to find out more about the subsurface of the site. Kelly asked who conducted the boring study. Goodman said that HWA conducted the study. Kelly asked if that study was peer-reviewed by Varljen. Goodman said yes.

Goodman, PAB Meeting Minutes, 7/14/10, p.9 paragraphs 2-3

Quote from Record:

Kelly asked Goodman if it was possible for the City to condemn property for the placement of a water line if there was a reasonable alternative for the location of the line. Goodman said that he did not believe so, if there was a reasonable alternative. Kelly asked if there was a reasonable alternative for the placement of the water line on the subject property. Goodman said yes. Goodman said that the initial design of the site had been changed to minimize the impact to the wetland, and the layout was taken to a biologist to determine if the impact could be mitigated. Goodman explained that this combination of the installation of the water line and mitigation on the site provided an alternative that was available for the project. Goodman noted that based on his experience this alternative would likely preclude the possibility of condemnation of another property.

Kelly asked Goodman about the discrepancy in the number of properties that would benefit from the water line loop as discussed at the last meeting. Goodman said that the water line map from the Comprehensive Water Plan showed an error that was discovered after the adoption of the plan, which he neglected at the last meeting. Goodman said that the line shown as connected on Decker was not actually connected and that there was no loop on Decker. Goodman explained that the map (Exhibit P-7) was created with this disconnect in mind, and was meant to show how many properties would be affected if the City had to shut of the water line east of Decker. Kelly asked how many properties would benefit from the water line loop in this circumstance. Goodman said that over fifty properties.

PAB Meeting Minutes, 8/11/10, Exhibit A5, Recommendation: Mitigation Measure Addition

Quote from Record:

Mitigation Measure addition: City and Applicant will jointly further explore feasibility of securing an alternate route for the water line “loop” installation, and report findings before waterline construction begins. Final feasibility will be determined by the Department of Public Works.

3. Where in the record are the relative environmental effects to the wetland and buffer of the various waterline options discussed (underground waterline, line raised on pillars, alternative location)?

References in the Record:

WNP Responsive Briefs, Exhibit A.1, Cort, Staff Report, 3/18/10, p. 22, #3

Quote from Record:

- “3. All construction practices at the Langley Passage site shall conform to Best Management Practices as described in the State Department of Ecology’s Stormwater Management Manual for Western Washington and, as applicable, in other standards described in LMC 15.01.025.”

WNP Responsive Briefs, Exhibit A.5, Cantrell & Associates Critical Areas Assessment Report: Preliminary Wetland/Buffer Mitigation Plan, p. 1-12

Water to bluff

4. Where does the record document that the City is responsible for exploring alternative routes/mechanisms for conducting any increase in runoff from the development site?

Answer: There is no specific City requirement. An evaluation pursuant to State Environmental Policy Act (SEPA) by the SEPA Responsible Official is required. But see the following:

Reference in the Record:

Applicant Whidbey Neighborhood Partner’s Brief in Response to WEAN’s SEPA Appeal, p.3-8, III. (SEPA Overview, IV. Issues on Appeal, V. Arguments; re; PAB’s affirming City Planner’s MDNS)

5. Where is it stated what would constitute “best available science” in establishing the pre-and post-development amount of runoff reaching the bluff?

References in the Record:

Cort, PAB Meeting Minutes, 4/28/10, paragraph 6 through top of p.7

Quote from Record:

“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.”

City of Langley, Staff Brief, Langley Passage SEPA Appeal, 5/28/10, p. 4-10

6. The record documents that there is agreement that slides of the bluff have periodically occurred along the north side of Edgecliff Drive. Since slides may reasonably be expected to occur in the future, **where in the record is it documented how future slides would be determined to be the direct result of alterations resulting from the proposed development.**

Answer: There is no specific explanation in the record of how or if future slides would or could be determined to be the result of the proposed development. But see the following:

Reference in the Record:

Sugar, PAB Meeting Minutes, 8/4/10, p. 4, paragraphs 5-7

Quote from Record:

“Kelly asked if Sugar had done any studies about whether slides would occur as a result of this project. Sugar said that HWA had not done a slope stability analysis, but had provided a written analysis of slope stability issues. Sugar said that HWA did not believe that the development warranted a slope stability analysis for several reasons including: the distance of the project from the slope; the minimal increase in groundwater levels; the distribution of the groundwater; and the locations where the water would discharge.”

“Kelly asked if the increase in the groundwater would exacerbate slope failures in the area. Sugar said that he did not believe so, because the increase in surface water would likely discharge to the wetlands and then travel into the roadside ditch. Sugar said that, while it could be argued that some of the water may reenter the ground from the ditch or the wetland, the area surrounding the ditch and the wetland was basically the same elevation and the water would likely reemerge elsewhere as surface water. Sugar said that he also did not believe that the water would increase the pore pressure behind the bluff.

Robin Adams, representing the Langley Critical Areas Alliance (LCAA) began to question Sugar. Adams read a statement from Rex Baum from the United States Geological Survey (USGS) that said “necessary steps should be taken to ensure that the future developments south of Edgecliff Drive are designed and constructed in a manner that prevents additional or concentrated surface-water infiltration.” Adams asked if Sugar agreed with that statement. Sugar said that HWA had read and agreed with the report.

Sugar said that he would like to respond to the sentence piece by piece. Sugar said that the applicant was not creating surface water infiltration; the applicant was proposing ground water infiltration that was then presumably discharging as surface water at the wetland. Sugar also said that he felt that applicant had proposed a solution that was in the spirit of the letter, which was that you should not add water behind a bluff where it would increase pore pressures and destabilize the bluff. Adams said that he did not understand, because he thought that the applicant had proposed infiltrating all of the water on the site. Sugar said that he would like to read from the sentence after that section. Adams read the sentence, which included the statement that “surface water should be collected, conveyed and discharged through structures that prohibit increases in ground-water levels and erosion of the bluff.” Sugar said that he thought the proposal met the intent of that statement, even though there would be a slight increase in the level of the aquifer. Sugar reiterated that the intent of the report was that development should take steps to prevent impacts to the stability of the bluff and he said that the development had met that intent.’

7. Where are the reasons that led the City Staff to “steer” the applicant to consider mitigation via infiltration vs. a tight line to conduct water to the toe of the bluff documented?

References in the Record:

WNP Responsive Briefs, Exhibit A.1, Cort, Staff Report, 3/18/10, p.12, paragraph 1

Quote from the Record:

In general, the City has adopted low impact development standards as the default means of mitigating runoff from development. These standards are to be used whenever feasible. This approach entails limiting impervious surfaces, keeping the stormwater on-site, and decentralizing the drainage system to mimic the existing drainage regime as closely as possible. Soils on the subject site have been demonstrated to have the potential to retain and infiltrate moisture.

Goodman, PAB Meeting Minutes, 4/28/10, p. 3, paragraph 7 (through top of p. 4)

Quote from Record:

“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.”

WNP Responsive Briefs, Exhibit A.1, Cort, Staff Report, 3/18/10, p.10-12

8. Where in the record is the “wetland mitigation plan” presented? (see May 13, 2020 revised MDNS document).

References in the Record:

WNP Responsive Briefs, Exhibit A.1, Cort, Staff Report, 3/18/10, p.24, conditions 12 & 13

12. Applicant shall use the modified wetland delineation line for the western boundary of Wetland A as identified by Steward and Associates Wetland Delineation and Review memorandum dated April 6, 2007, and shall comply with the revised mitigation implementation plan and monitoring and maintenance plan in the August 13, 2007 Cantrell and Associates, Inc. Report.
13. Applicant shall contract with a licensed and qualified wetlands scientist to monitor and oversee installation and restoration of the water line corridor and implementation of the revised mitigation and monitoring plans. The wetland scientist shall provide written field notes that document site conditions, plantings and progress on implementing the mitigation plan.

WNP Responsive Brief, Exhibit A.5, Cantrell & Associates, Critical Areas Assessment Report: Preliminary Wetland/Buffer Mitigation Plan, 8/13/07

Drainage ditch

9. Where does the record document Island County’s agreement to maintain and/or modify the portion of the drainage ditch east of the Langley City Limits?

References in the Record:

WNP Responsive Briefs, Exhibit A.15, Email from Phil Cohen (Island County Public Works) to Rolf Seitle, 5/17/10, 9:38 p.m.; Reply regarding County outfall

Quote from Record:

“The County’s position is that the development causes no additional flow increase for all storm sizes up to the 100 year storm. If the applicant can’t do that, then the County will ask that an outfall conveyance be created that does handle the increase in flow.”

City of Langley, Staff Brief, Langley Passage SEPA Appeal, 5/28/10, p.7, footnote #11

Quote from Record:

¹¹ LCAA’s appeal brief – Exhibit 29 - contains two emails from Phil Cohen, Island County Surface Water Manager, about the County’s position on the proposed development. Mr. Cohen confirms the City’s understanding from our discussion with him in 1997 and also confirms that the County will base its evaluation on the potential flow increase for all storm sizes up to the 100-year storm.”

WNP Responsive Briefs, Exhibit A.1, Cort, Staff Report, 3/18/10, p. 23, Condition #8

Quote from Record:

8. Applicant shall gain approval from Island County and provide documentation to the City that the County-owned section of the downstream conveyance system, from the Langley City Limits to the bottom of the outfall in the 900 block of Edgecliff Drive, is adequate to accommodate any increase in the volume of flow from the build out of Langley Passage. The applicant shall be solely responsible for making any improvements to the Island County portion of the system that may be identified by Island County to accommodate likely impacts.

10. Where is it documented that “reasonable efforts” were made to quantify the destination of water collecting in the wetland?

Answer: No specific quantity of water was determined at a destination in the record. But see:

References in the Record:

WNP Responsive Briefs, Exhibit A.11, HWA Geosciences, 12/19/08, Letter Re: POTENTIAL IMPACT OF ON-SITE STORM WATER INFILTRATION

City of Langley, Staff Brief, Langley Passage SEPA Appeal, 5/28/10, p. 5, paragraph 1

Quote from Record:

“...Further, while the borings did reveal an impermeable layer that could allow infiltrated precipitation to perch and then move horizontally, the elevations of this layer indicate that the water will not discharge to the bluff as feared by the project opponents. The data indicate that infiltrated precipitation will most likely discharge to the wetlands and the ditch on the upland (south) side of Edgecliff Road, well above the elevation of the bluff.”

Sugar, PAB Meeting Minutes, 8/4/10, p. 4, paragraphs 6

Quote from Record:

“Kelly asked if the increase in the groundwater would exacerbate slope failures in the area. Sugar said that he did not believe so, because the increase in surface water would likely discharge to the wetlands and then travel into the roadside ditch.”

Cort, PAB Meeting Minutes, 7/14/10, p. 5, paragraph 5

Quote from Record:

“...Cort said that Varljen had concluded that the project would have no impact to bluff.”

Sugar, PAB Meeting Minutes, 8/4/10, p. 4, paragraphs 4-6

Quote from Record:

“...Sugar said that HWA had not done a slope stability analysis, but had provided a written analysis of slope stability issues. Sugar said that HWA did not believe that the development warranted a slope stability analysis for several reasons including: the

distance of the project from the slope; the minimal increase in groundwater levels; the distribution of the groundwater; and the locations where the water would discharge.

Kelly asked if Sugar knew about bluff failures in the area. Sugar said yes, the area was mapped as unstable on Island County's Critical Areas Map and he was aware of historic slides along the bluff. Kelly asked if Sugar expected slides to occur in the future. Sugar said, depending on the time frame, yes. Sugar said that the bluff was unstable and erosion was being driven by the undercutting of wave erosion at the toe of the bluff. Sugar said that whether a failure would occur in human terms or in geologic terms was difficult to guess.

Kelly asked if the increase in the groundwater would exacerbate slope failures in the area. Sugar said that he did not believe so, because the increase in surface water would likely discharge to the wetlands and then travel into the roadside ditch. Sugar said that, while it could be argued that some of the water may reenter the ground from the ditch or the wetland, the area surrounding the ditch and the wetland was basically the same elevation and the water would likely reemerge elsewhere as surface water. Sugar said that he also did not believe that the water would increase the pore pressure behind the bluff.

WNP Responsive Briefs, Exhibit A.16, Staff Report, 5/20/10, p. 3 (quote in paragraph 2)

Quote from Record:

"The data indicate that infiltrated precipitation will most likely discharge to the wetlands and the ditch on the (south) side of Edgecliff Road, well above the elevation of the bluff. Therefore, while I disagree that it has been proven that the increase in groundwater recharge will be 'proportionately insignificant', it is my opinion that whatever the discharge is, it doesn't matter as long as the wetland system and/or conveyance system on the south side of Edgecliff Road can handle the additional input (estimated 2600 gallons per day-be sure to acknowledge that is an average-peak flows must be considered). If this additional water is properly managed at these discharge points (above the bluff), I do not believe there will be any negative impacts from this project with respect to additional groundwater seepage along the face of the bluff." –Mark Varljen, LG, LHG, March 1, 2009

City of Langley, Staff Brief, Langley Passage SEPA Appeal, 5/28/10, p. 7, paragraph 1, third sentence (see pages 5-8 generally)

Quote from Record:

"...even heavy precipitation events do not cause the ditch to overflow."

Note 12: "The Langley Public Works Director reports that the ditch typically flows one-third full during heavy precipitation events since the maintenance regime was instituted."

City of Langley, Staff Brief, Langley Passage SEPA Appeal, 5/28/10, p. 5-8

Mitigation

11. Where is it documented that the SEPA Responsible Officer has the option to require mitigation to address possible potential adverse effects for a proposal that is judged to have no probable significant adverse environmental effects?

Answer: In *Levine v. Jefferson County*, the Washington Supreme Court read WAC 197-11-350 in conjunction with WAC 197-11-340 to allow an agency to attach mitigative measures prior to the issuance of a MDNS. See *Jefferson County*, 116 Wash. 2d 575, 579, 807 P.2d 363, 365 (1991).

References in the Record:

WNP's Brief in Response to WEAN Supporting PAB's Final SEPA Recommendation, p. 3, Section III, SEPA Overview, p.3-5, paragraph at top of p. 5, second sentence.

Quote from the Record:

"...If the proposal can be modified to reduce the environmental impacts below the level of significance, a mitigated DNS (MDNS) will be issued. WAC 197-11-350. It should be noted that agencies have authority to impose mitigating measures, even over the objections of the project proponent. *Levine v. Jefferson County*, 116 Wash. 2d 575, 807 P.2d 363(1991).

PAB Meeting Minutes, 7/14/10, p. 4, paragraph 6 through p. 5, paragraph 3

Quote from Record:

"Kelly summarized that Cort had said that he did not feel that the project had adverse environmental impacts. Cort corrected him and said that he had stated that the project did not have probable significant adverse impacts, which was the threshold for an EIS. Kelly asked if Cort felt that he could apply mitigation without finding a probable significant adverse impact. Cort said yes. Kelly asked Cort what gave him that authority. Cort referenced the exhibit passed out by Erickson (Exhibit A-2). Cort drew the Board's attention to the bold and underlined portion of the document and said that the section did not state that mitigations only applied to probable significant adverse impacts. Cort said that the section specially dealt with "adverse impacts." Cort said that all projects had positive and adverse impacts and that SEPA could be used to mitigate adverse impacts that did not rise to the level of a probable significant adverse impact.

Cort said that this position was reiterated in WAC 197-11-660 and he read from the section. Cort summarized by saying that you could apply mitigation to "specific adverse environmental impacts" and he explained that this phrase broadened out the responsibility of the SEPA official to condition applications using the substantive authority of SEPA. Cort said this position was lastly reiterated by the Department of Ecology in the SEPA Guidebook, in Section 2.8.1 under Mitigated DNS, which stated that an MDNS could be used to condition impacts that were less than significantly adverse. Sundberg said that the matter was important because previously Erickson had asked Cort where his position regarding MDNS conditions could be found in law. Sundberg said that he was editorializing, but that he assumed that the guidebook from the state was consistent with State law. Cort said that he believed that there was consistency in all the documents.

Kelly asked if mitigation measures could also be applied if the applicant agreed with the measures. Cort said yes. Kelly asked if the applicant had agreed to the mitigation measures proposed for the site. Cort said that the applicant had agreed to the measures.

Kelly asked why Cort had applied the mitigation measures if he felt that there were not significant adverse impacts from the project. Cort said that staff felt that there were some adverse impacts that could be addressed through the use the substantive authority of SEPA. Cort provided the example of impervious cover on a site, and explained that the LMC said nothing about the issue. Cort explained that the limit on impervious cover in this instance was an effective use of SEPA.”

12. Where is it documented that imposition of mitigations automatically means that the proposal will have probable adverse effects on the environment and prohibit issuing a MDNS?

Answer: There is no reference found in the record regarding such a proposition.

Pedestrian facilities

13. Where is it documented that alternative sites exist for park or pedestrian walkways “within one-half mile of Langley Passage”?

References in the Record:

WNP Responsive Briefs, Exhibit A.1, Cort, Staff Report, 3/18/10, p.17-18

Quote from the Record:

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.**

Staff Analysis: The established Level of Service for major arterials (termed “major collectors” in the Transportation Element – page 134) is LOS “C” at peak hour traffic. This standard must be applied to Sandy Point Road and Camano Avenue. The traffic analysis prepared to measure the impact of the proposed Langley Passage development indicates that post-development levels of services will remain at LOS “C” or better along these streets. As a result, the development will not lower the transportation level of service below the minimum standards in the Comprehensive Plan.

The level of service for neighborhood park facilities is measured at 1.6 acres per 1,000 residents. To calculate a proportionate share of the impact of new Langley Passage residents on the City's neighborhood park system, staff multiplied 20 (the number of proposed lots) by 1.9 (the current persons per household average) to arrive at a total of 38 expected new residents. Based on the level of service ratio of 1.6 acres per 1,000 residents, the addition of 38 new residents would create a need for 2,648 square feet of neighborhood park facility.

No neighborhood park facilities are proposed inside Langley Passage and 2,648 square feet is insufficient area to create a new park facility inside the proposed subdivision. In lieu of an on-site improvement commensurate with the level of impact, the City will require payment to be earmarked specifically for park or trail improvements within one-half mile of Langley Passage. The amount shall be established at the time of final plat review and payable prior to final plat approval and shall be calculated pro rata on the land value of 2,648 square feet from land sale comparables within Langley.

The open space level of service of 25% citywide will be met within the Langley Passage subdivision by the combination of the wetland/buffer tract and two buffer tracts.

Proposed Staff Finding: The proposed Langley Passage development does not lower the level of service of transportation and/or neighborhood park facilities below the minimum standards established within the Comprehensive Plan.

Responsibility of SEPA responsible officer

14. Where in the record is it documented that the SEPA Responsible Official adequately considered a tight line alternative for conducting any runoff from the development site?

Answer: The Applicant's proposal included a tightline for storm/sewer drainage to Edgecliff Drive. The City determined such a line through the wetland was not consistent with the Critical Areas Ordinance and a second submittal was made.

References in the Record:

David Consulting, Engineering Report, September 15, 2006, Sheet C-03 of 11; water line to Edgecliff Drive.

Langley Passage Water, Sewer and Storm Drainage Plan, 9/17/09, sheet C-04 of 8; shows establishment of water line at a different location

Goodman, PAB Meeting Minutes, 4/28/10, p. 4, paragraph 1

Quote from Record:

"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.

Goodman, PAB Meeting Minutes, 6/9/10, p. 9, paragraph 6-8

Quote from Record:

“Adams showed Goodman LCAA Exhibit 16, LMC Section 15.01.430.B, and questioned what Goodman thought appropriate meant. Goodman said that he thought appropriate meant that a system would function and work properly. Adams asked if there could be an inappropriate low-impact development technique. Goodman said yes. Adams showed Goodman Policy j of Exhibit 15, an excerpt from the Langley Comprehensive Plan, and asked if the policy suggested a case where low-impact development would be inappropriate. Goodman said that the policy did suggest an instance where low-impact development could be inappropriate. Adams questioned if the site was located in such a way that the water from the area may move to or through a steep slope. Goodman said that the issue was one of the items studied in evaluating the site for the appropriateness of low-impact development.

Adams questioned if the code and the Comprehensive Plan required the City to reject the tightline solution. Goodman said that the code required him to investigate the low-impact development approach. Adams said that that was not what he asked and he restated the question. Goodman said that the City did not reject anything; the City told the applicant to investigate low-impact development and if the approach proved to be unfeasible, then the City would have told the applicant to utilize to another approach. Goodman further clarified that the City did not have a system to reject at the time of the letter.

Adams asked if the applicant talked to Goodman about cost of a tightline. Goodman said that the applicant talked about it in the letter, but there was no discussion with City staff about the cost. Adams said that a discussion about cost with staff wouldn't have been an appropriate conversation. Goodman said that he would not have entertained the conversation.”

15. Where is it documented that the SEPA Responsible Official concluded that, as of January 30, 2007, the proposal would have a “probable significant adverse environmental impact on neighboring properties and the Edgecliff bluff? (Initial appeal brief of LCAA, 75.5; May 10, 2010).

Answer: No reference found in the record.

16. Where in the record is the SEPA Responsible Official's “worst case scenario” presented?

References in the Record:

Cort, PAB Meeting Minutes, 4/28/10, p. 4, paragraph 1, third sentence.

Quote from Record:

“...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.”

Goodman, PAB Meeting Minutes, 7/14/10, p. 8, paragraph 7 (through top of page 8)

Quote from Record:

“Kelly questioned what the worst case scenarios were on the site. Goodman said that there were two worst case scenarios: all the water could go into the ground or all the water could go out to the wetland. Kelly asked Goodman how these worst case scenarios were considered in his analysis. Goodman said that the HWA report had conducted a groundwater mounding analysis based on the 4200 square feet of impervious surface per lot. Goodman explained that the study looked at the increase to the groundwater that could occur from the project and the potential that this increased groundwater would put pressure on the bluff, or effect slope stability. Goodman said that Varljen peer-review of that report had also encouraged the City to consider the possibility that all the water would surface in the wetland and go out the ditch. Goodman explained the findings of these worst case scenarios by saying that if the water went into the ground the increase would not be significant, based on the dynamics of what was occurring underground, and if the water surfaced the City felt the ditch had the capacity to handle the additional water. Goodman noted that while the City staff believed that the ditch had sufficient capacity, additional mitigation was added to the ditch to ensure its ability to handle the water. Kelly asked Goodman what mitigations were proposed to reduce the impacts associated with the worst case scenarios. Goodman said that the mitigations included reduced impervious surfaces, added raingardens, tree retention, and downstream bonds.”