



City Council Minutes – October 1, 2007

At 7:30 p.m. Mayor Maxwell called the regularly scheduled meeting of October 1, 2007 to order. Roll call found present: Nick Petrish, Erica Pickett, Brad Adams, Bill Turner, Cynthia Richardson, and Brian Geer. Absent: Loren Hoboy. Roll call was followed by the Pledge of Allegiance.

Minutes of Previous Meeting

Mr. Petrish moved, seconded by Mr. Turner, to approve the minutes of August 20, 2007 as if read. Vote: Ayes – Pickett, Adams, Turner, Richardson, Geer, and Petrish. Motion carried.

Citizen Hearings

No citizens present wished to testify on matters not on the agenda.

Mayor/Council Communications

Mr. Geer reported that the final total for the Relay for Life fundraising activity is \$161,000. He also expressed appreciation for community support of Improv Night at the High School; the event was a fundraiser for the High School cheerleading squad.

Findings of Fact and Conclusions of Law for the Morand Short Plat

Mr. Ian Munce, Planning Director, explained that Council previously voted to direct staff to prepare updated "Council-approved Findings of Fact and Conclusions of Law" for the Morand 4-lot Short Plat. Additional exhibits were called out in the Findings and references were made to the Comp Plan Conservation and Natural Hazard Reduction goals and policies; Mr. Munce then reviewed the revised conditions reflecting Council action. Mr. Petrish talked about condition # 34; he recommended that the Engineering, Geotechnical and Hydrological review be conducted now in order to protect Anaco Beach Road; Mr. Munce explained that the monitoring will be done by third party review on all key project features before construction begins. Further, regarding stabilization, the City will issue an action notice to the owner stating that corrective work needs to be done on the slope now. Mr. Petrish also expressed concern regarding water coming out of the bank; the applicant has maintained that adding drainage improvements will provide stabilization. Details on stabilization of the toe of the bank are complete and have been reviewed by the City and State agencies. Mr. Geer discussed the City's responsibility to protect Anaco Beach Road. Mr. Turner said that the proposed conditions are in place to oversee the project development; Mr. Morand has the opportunity to correct environmental concerns while developing his property.

Mrs. Richardson proposed additional changes: Condition 33: add: *and all homes shall be accessed directly from Anaco Beach Road*; Condition # 34; add: *throughout site stabilization*; Condition # 35 add: *and Condition 36 has been complied with*. It was agreed that, at least 10 days before final short plat approval, the Subdivision Administrator will consult with the Council regarding project compliance. With that, Mr. Turner moved, seconded by Mr. Geer, to approve the Morand 4-lot Short Plat and to adopt the Findings of Fact and Conclusions of Law with the corrections recommended by Mrs. Richardson. Vote: Ayes – Adams, Turner, Richardson, Geer, Petrish, and Pickett. Motion carried.

Consent agenda

Mr. Richardson moved, seconded by Mr. Petrish, to approve the following Consent Agenda items. Vote: Ayes – Turner, Richardson, Geer, Petrish, Pickett, and Adams. Motion carried.

Approval of Vouchers/Cancellation of Warrants

Council voted unanimously that the following vouchers/warrants audited and certified by the City's Auditing Officer (Finance Director) and subsequently reviewed and approved by the Council Finance

Committee on September 20, 2007 and September 27, 2007 are approved for payment as of this date October 1, 2007.

Claims Warrants

Sept, 2007: Warrant Numbers 43068 through 43234 in the total amount of \$4,643,897.04

EFT

Sept, 2007: Warrant Numbers 43065 and 43066 in the amount of \$56.00

Payroll # 1 for September 21, 2007 in the total amount of \$507,235.75

Warrant Numbers 31353 through 31426 in the total amount of \$68,292.28

Direct Deposit Numbers 23692 through 23853 in the total amount of \$270,005.73

EFT Numbers 756 through 761 in the total amount of \$168,937.74

In the same motion Council:

Approved the Anacortes High School Homecoming Parade Street Fair Application for October 12, 2007 from 3:00 p.m. to 4:00 p.m.;

Accepted the Cap Sante South Pile Removal project (06-060-IDS-001) as completed thereby initiating the mandatory 30-day lien period;

Adopted **Resolution No. 1744** setting November 5, 2007 as the Public Hearing date on a petition to vacate a portion of 5th Street in the First Plat of Ship Harbor, and **Resolution No. 1755** setting November 5, 2007 as the Public Hearing date on a petition to vacate a portion of Park Avenue in the Woods Addition; and

Adopted **Ordinance No. 2770** entitled "An Ordinance Extending the Franchise for Curb-side Yard Waste Collection within the City Limits".

Interlocal Agreement with Skagit County for Library Services

Mayor Maxwell introduced the Interlocal Cooperative Agreement with Skagit County for Library Services for Council review and approval; the funding will assist in providing library services to the citizens of unincorporated Skagit County. Mrs. Richardson pointed out that, over time, the funding level has been reduced. After discussion, Mr. Geer moved, seconded by Mr. Adams, to authorize the Mayor to enter into an Interlocal Cooperative Agreement with Skagit County for library services in the amount of \$16,456. Vote: Ayes – Richardson, Geer, Petrish, Pickett, Adams, and Turner. Motion carried.

Woods at Sunset Cove PUD Final Plat

Mr. Don Measamer, Assistant Planning Director, used an overhead display to highlight the key features of the Woods at Sunset Cove PUD located on Pacific Avenue just east of Washington Blvd. The PUD includes 26 lots; Lot 26 is dedicated to the City as open space, wetland, and wetland buffer totaling approximately 7.5 acres. A trail, funded by the applicant, will be developed and designed by the Park Department. The Planning Commission reviewed the Final Plat and recommended approval. All infrastructure is complete; a standard maintenance bond will be required. On a question from Mr. Turner, Mr. Fred Buckenmeyer, Public Works Director, described the project drainage system. With that, Mr. Adams moved, seconded by Mrs. Pickett, to approve the Woods at Sunset Cove PUD Final Plat subject to a maintenance bond. Vote: Ayes – Geer, Petrish, Pickett, Adams, Turner, and Richardson. Motion carried.

Closed Record Meeting: conditional Use applications – Barton – LM 1 Zone –

Mayor Maxwell initiated the Closed Record Meeting for two Conditional Use Applications submitted by Mr. Randall Barton to develop single family homes in the LM 1 Zone. The properties are located on Fidalgo Bay Road. Mr. Don Measamer, Assistant Planning Director, used an overhead display to show the footprint for the 2 single family homes proposed by Mr. Barton. By way of background, Mr. Measamer referenced the Vesser and Roestel Conditional Use Permits issued by the City for single family homes at this general location. A site visit was held; the applicant submitted contour drawings highlighting building

location, setbacks, and the Ordinary High Water Mark. The Planning Commission held Public Hearings on both applications and recommended approval subject to conditions; no appeals were filed.

During discussion parking was addressed; the Building and Engineering Departments will review parking designs during the standard review process. Mrs. Pickett referenced the R-2 standards; Mr. Measamer responded that the applicant not yet shown a site plan corresponding to the proposed conditions. Mrs. Richardson pointed out that the applicant would have an opportunity to seek a Variance from Board of Adjustment for a specific design. Mr. Petrish stressed that this terrain poses a challenge to development. Mr. Geer referenced the applicant's assertion that imposition of the R2 zoning restrictions would constitute a takings. Mr. Ian Munce, Planning Director, replied that the applications, if approved, will be vested under the existing statutes; the applicant will then have the option to apply to the Board of Adjustment for modifications to the existing R2 setback requirements. This scenario would defeat any takings claim and the Council will have discharged its responsibility. However, the upcoming proposed shoreline master program revisions will provide for larger setbacks; under these new standards the Barton sites would be unbuildable. With that, Mr. Geer moved, seconded by Mrs. Pickett, to approve the Barton Conditional Use applications for single family homes in the LM 1 Zone and to adopt the Findings of Fact and Conclusions of Law. Vote: Ayes – Petrish, Pickett, Adams, Turner, Richardson, and Geer. Motion carried.

Deliberation/Decision: Leeward Conditional Use Permit

Mr. Ian Munce, Planning Director, explained that the Planning Commission issued a Shoreline Permit for the Leeward Project located on the shoreline at the base of Edwards Way on the Guemes Channel. The project includes 40 condo units on the upper slope and a proposed 20-unit hotel. The applicant proposed a 50' height for the hotel; the Planning Commission, concerned for setting a precedent on shoreline construction, limited the hotel height to 35' through the Shoreline Permit process. A new design for the cul-de-sac was presented moving it back from the shoreline; this staff-approved design would free up the area along the shoreline for the Guemes Channel Trail. The Council's information packet also contains proposed amendments from both Mrs. Richardson and Mr. Hoboy. A key issue is that the wetland and wetland buffer shall be transferred to the City before any clearing begins. The record shows that most of the trees of significance are in the buffer area that will be protected; the osprey nest is located in the buffer and will be protected by a 60' setback.

Mrs. Richardson initiated the deliberation. She discussed the historical significance of the condition requiring the wetland transfer to the City. Mr. Petrish asked if the applicant will pursue the hotel construction with the 35' height restriction. Mr. Geer pointed out that a 12-unit hotel would not be viable; the applicant said they will move ahead with the condo development. Mrs. Pickett pointed out that development of any permitted uses in the CM zone would preclude the opportunity to negotiate for amenities; the public benefits of the trail and connector would then be lost. Mr. Adams pointed out that the Planning Commission held a remand hearing to address issues of height of the hotel, trail, and the condo configuration. The applicant prefers the two building option; the Planning Commission recommended approval of the one building option. Mr. Turner spoke in favor of the 50' height and that a hotel is needed in the west end of town; otherwise, the Council has the option of denying the project outright if this should become a condo-only development. Mr. Petrish pointed out that the current cul-de-sac layout is in conflict with the trail; the applicant suggested moving the cul-de-sac up the hill thereby freeing up additional public access benefits. Discussion followed regard the protection of trees and methods of measuring building height.

Mr. Munce then reviewed the proposed condition amendments: (1) ...alternative Site Plan Maps S1A ~~and S1B~~; (10) add: *All such releases and/or easements shall be completed and recorded with Skagit County prior to beginning any clearing or construction activities.*; (13) shall be secured prior to any *clearing or construction activities* beginning; (15) add: *...future plans to relocate the portions of the pump station...must be completed prior to issuance of any occupancy permits.* (16) add: *The relocated improvements must be completed prior to issuance of any occupancy permits.* (18) delete: ~~the 15 parking spaces shall be on Lot 3.~~ (21) language clarification regarding reference to trail/fire lane location; (28) add: *...a Utility Easement shall be signed and recorded for storm water recharge...*; (30) language regarding shielding glare to the wetlands, wetland buffer, shorelines, and residences; (31) delete:

~~resulting in the following elevations. Maximum elevation for Building A 1 96.5 foot; Building A2 80.5 foot; Building A3 83.5 foot; and Building A4 75 foot; (32); delete: ...as shown on Exhibit A to Exhibit 75 (Attachment K to Exhibit 1 of the permit), to specifications established by the City Public Works Director; (33) bike/pedestrian path easement. .. to the extent that the final trail design includes a route through the development; (34) add: Where the fire lane is along the shoreline, the public trail shall be on the fire lane. 35: Add: An easement for the sewer line running from the pump station eastward shall be signed and recorded prior to beginning any construction or clearing. Add conditions 36-42: 36. The six large evergreen trees near the northwest corner of Building A condominium shall be retained and protected. A professional arborist shall specify how these trees need to be protected and construction methods shall be modified if necessary to protect these trees. 37. The hotel fire lane shall extend no closer to the shoreline than as shown on Site Plan S.1A dated July 18, 2007. The shoreline interpretive trail and the fire lane shall occupy the same area and shall not be separate structures. The fire lane paralleling the shoreline shall be a permeable surface. The area between the fire lane and the shoreline shall be reserved as a NGPE vegetated shoreline buffer, including beach shading vegetation. The existing shoreline buffer vegetation shall be retained where possible and enhanced as appropriate to restore natural shoreline vegetation. 38. The Guemes Channel non-motorized trail may utilize public right-of-ways within the project including the public access fire lane/driveways between buildings. The trail may encroach on the wetland buffer to the extent agreed upon by the City in approving the final trail design. The trail shall use the existing dirt road within the buffer to the extent possible and buffer impacts shall be mitigated. There shall be no other pathway into the wetland buffer. 39. The wetland buffer and the trees to be preserved shall be delineated by construction fencing prior to commencement of any site grading or construction work and the buffer shall be protected from impacts of grading and construction activities. 40. The hotel shall not be converted to a private residential facility unless Shoreline and Conditional Use Permits are secured for that use and all public amenities are preserved. 41. The City Tree Preservation Ordinance shall be strictly adhered to as supplemented by Leeward's Tree Preservation Guidelines. 42. The cul-de-sac shall be located as shown on Exhibit 86 with the addition of two handicapped parking spaces located on the north end of the cul-de-sac. After discussion, Mrs. Richardson moved, seconded by Mrs. Pickett to approve the Leeward Conditional Use Permit subject to the conditions as reviewed and amended. Vote: Ayes – Pickett, Adams, Turner, Richardson, Geer, and Petrish. Motion carried.~~

Final Modifications to Shoreline Master Program (SMP) Draft (prior to DOE for their review and comment)

Mr. Ian Munce, Planning Director, presented the SMP Draft incorporating and responding to comments received on the shoreline buffer issue. If approved, the Draft will be forwarded to the Department of Ecology to be followed with SEPA Review and one more round of written comments on any changes proposed. Mr. Munce noted that the DOE will not be expecting buffers for water dependent uses. The City wants to see the shoreline used for water dependent endeavors; for non-water dependent uses there will be significant buffer requirements. In that regard, there will be a public review process to discuss relocating buffers in the most appropriate place. Mr. Munce thanked the Council, Mrs. Richardson, and citizens for helping craft the Draft language. Mr. Petrish inquired about any DOE references to the effect of global warming to the shoreline; Mr. Munce said that research studies are underway and a number of jurisdictions are factoring in climate changes into their ordinances. Mr. Munce then reviewed the approval process timeline. Ms. Carol Yates, Legal Department, will have all documents and exhibits scanned and available on the City's website within the week. With that, Mr. Turner moved, seconded by Mr. Petrish, to forward the Shoreline Master Program Draft to the Department of Ecology for review and comment. Vote: Ayes - Adams, Turner, Richardson, Geer, Petrish, and Pickett. Motion carried.

Update: Airport Noise Berm

Mr. Don Measamer, Assistant Planning Director, explained that the Port of Anacortes submitted an application for a grade and fill permit for the installation of the berm at the Anacortes Airport. In reviewing those documents, Mr. Measamer raised concerns regarding the design of the berm relative to the engineering specifications of Section 24.2 of the Development Agreement. Mr. Bob Hyde, Port Director, explained two facilities will be constructed; (1) A screening berm at the south end of the runway to block noise and light from Bryce Court, and (2) an alternative run-up and wash down area. The berm will be 250' long using 6,500 cubic feet of material; the base will be 100' wide and between 8 and 15' high with a

25' wide bench at the top. Mr. Hyde said that the Port has sound metering equipment at the airport and will conduct baseline testing and monitoring after the berm is installed. The Mayor said that engineering would be required to determine whether or not the berm would reflect sound to the other side of the airport; the Port of Anacortes airport consultants will not certify that the berm will block noise as it is located too far from the runway. Mrs. Richardson said that the intent is to make sure that the berm didn't bounce noise to other neighbors. Mr. Turner clarified that the discovery of the wetland area after the Agreement was in place is the reason for moving the berm up the hill. He suggested pursuing the wetland mitigation process should the proposed berm location prove to be ineffective. Mrs. Richardson suggested taking noise readings from the yards of the affected neighbors. Mr. Ian Munce, Planning Director clarified that this discussion is being held in the interest of full disclosure and Agreement language clarification. Further, the City is not accepting the current berm configuration as meeting the Agreement specifications; if it the berm does not meet the specifications, the Port will do additional work to meet this condition – perhaps moving the berm closer to the wetland buffer or with wetland mitigation if necessary. The Mayor thanked the Port for attending the meeting.

There being no further business, at approximately 9:30 p.m. the Mayor adjourned the regularly scheduled meeting of October 1, 2007.