



## MINUTES OF THE PLANNING COMMISSION

*MARCH 15, 2006*

*Council Chambers, City Hall  
900 E. Fairhaven Avenue, Burlington, WA*

**MEMBERS:** Rebecca Bradley, Chair; Marianne Manville-Ailles; Brian Hanson, Jana Vater, and Steve Sexton  
Ken Frye was excused; Eddie Tjeerdsma, absent.

**STAFF:** Margaret Fleek

Motion by *Vater/Sexton* to approve the minutes of the *February 15, 2006* meeting as written.

The meeting was called to order by the Chairperson, Rebecca Bradley.

### **PUBLIC HEARING**

#### **10-LOT SUBDIVISION**

#### **ASPEN LANE WEST OF 935 E. GILKEY ROAD**

#### **LANDED GENTRY, APPLICANT**

Public hearing on proposed 10-lot subdivision to be added to the existing 9-lot subdivision located west of 935 E. Gilkey Road on Aspen Lane; including private road extensions by easement to serve the lots.

*Fleek* stated this project has been to the Planning Commission twice before, first with a 2-lot short plat, to plat off the house at on Gilkey Road, then for a preliminary 9-lot short plat. At that time there was a lot of debate whether to make Aspen Lane a private or dedicated street; it will be a public right of way. There are 19 conditions listed in the Staff Report. This is considered an infill project, and it does require a lot of fill, there is concern with existing homes and how drainage is handled. *Fleek* read through the conditions.

*Manville-Ailles* asked if there is emergency vehicle access to Miracle Lane. *Fleek* stated they have an easement.

Public hearing opened.

*Tim Garrison, 18579 West Lakeview Lane, Mount Vernon, Engineering Consultant for the applicant* – has reviewed the conditions and is working with the city to make sure each one is addressed.

*Jim Engberg, 320 S. Burlington Boulevard* – originally started the process with the 9-lot short plat, since that time, the adjacent neighbor approached him with his vacant property to the west, which is how the additional 10 lots came about. They will be extending sewer service to the adjacent neighbors who do not have access to sewer. They have addressed neighbors concerns about fences and sewer stubs. Landed Gentry is the owner of this proposed subdivision and they are working jointly together to develop all the lots.

*Darrell Johnson, 960 S. Anacortes Street* – owns the property immediately to the north, and is concerned about the amount of fill needed, as his property slopes into the proposed subdivision. He also does not want a view of a two or three story house with blank walls. *Manville-Ailles* noted that one of the conditions is the project is required to go before the Design Review Board. *Fleek* advised the applicant they will need to meet prior to any fill being added to the site.

**PUBLIC HEARING  
CONDITIONAL USE PERMIT  
855 MIRACLE LANE  
ED GEORGE, APPLICANT**

Public hearing on a proposed conditional use permit to establish a duplex in a single family zone. The single family zoning district allows for a duplex if a conditional use permit is authorized. The site is 320 feet as measured along the right of way from an existing duplex on South Anacortes Street, meeting the separation requirement of the code. Currently a mobile home sits at this location, which the applicant will remove and replace with a duplex. Staff recommends approval.

Public hearing opened. No comments. Public hearing closed.

Motion by *Manville-Ailles/Vater* to recommend approval of the Conditional Use Permit. Motion carried.

**PUBLIC MEETING  
FENCE REQUESTS**

- 1) **HOMESTEAD PLACE SUBDIVISION  
1164 HOMESTEAD DRIVE, RAY & ROBIN VANLEER**
- 2) **WESTVIEW EAST SUBDIVISION  
774 HAMLIN PLACE, JULIA JAMES  
775 HAMLIN PLACE, SANTIAGO LOZANO-CHAVEZ  
770 HUMPHREY PLACE, WILLIAM & JACQUILYNE ZABELKA  
771 HUMPRHEY PLACE, DAVID & MICHELLE ANDERSON**

1) This is a corner lot facing Homestead Dive and S. Skagit Street, a new home in the Homestead Place subdivision. *Fleek* stated this request is identical to the house across the street, which was approved by the Planning Commission in June 2005.

2) These are four lots in the Westview East subdivision off Woollen Road, and are located on corner lots on Hamlin Place or Humphrey Place.

*Fleek* stated the four homes on corner lots in the Westview East subdivision have constructed fences in one or both of the front yard setback areas.

*Dave Anderson, 771 Humphrey Place* – stated the fence poses no visibility problems from the stop sign.

Staff has made a field inspection of all the sites, and the new fences will not obstruct the vision of drivers leaving Homestead Drive, Hamlin Place or Humphrey Place.

*Manville-Ailles* explained to the applicants that in the event there is a need to access utilities in the right of way they are responsible to remove and rebuild their fence.

Motion by *Hanson/Manville-Ailles* to approve the fences subject to the following conditions:

1. If the fence is constructed in the utility easement or right of way, the fence will be removed at the owner's expense in the event of access or improvement to the right of way or utilities.

Motion carried.

**PUBLIC HEARING**  
**MAJOR AMENDMENT TO CONDITIONAL USE PERMIT #3-04**  
**1262 S. ANACORTES STREET**  
**GREG & DAWNELL KREIDER**  
**RAVNIK & ASSOCIATES, REPRESENTATIVES**

Proposed major amendment to the conditional use permit that was approved for a duplex in the R-1-8.4, Single Family zone to move it from Lot 5 to Lot 2. The duplex on Lot 2 will be subdivided for sale as two zero-lot line residences, for a total short plat of six lots. Fleek noted that the short plat has not yet been recorded, although most of the street and utility improvements have been installed.

Public hearing opened.

*John Ravnik, P.O. Box 361, Burlington, representative* – stated the applicant would like to shift the duplex from one lot to another, subdividing under the zero-lot subdivision so they can sell these off as individual units. Lot 5 will be increased to 8,400 square feet in size to meet the zoning of R-1-8.4.

*Bradley* asked if they meet the code separation of duplexes, can they come back and get another conditional use permit on Lot 5 for a duplex. *Fleek* explained that they would be too close together to meet the requirements.

Public hearing closed.

Motion by *Manville-Ailles/Vater* to recommend approval of the major amendment to the Conditional Use Permit to relocate the approved duplex lot to Lot 2 and to add one lot to the short plat for a total of six lots. Motion carried.

**2-LOT SHORT PLAT**  
**510 W. FAIRHAVEN AVENUE**  
**MARV HEINRICHS, APPLICANTS**

Proposed short plat to create one new single family lot, adjacent to an existing home. The entire lot is 26,871 square feet in size. The site with the existing structure would be short platted to 14,109 square feet, and the new lot would be 12,762 square feet with the existing garage. This site has an unusual access driveway adjacent to the lot along Interstate 5 that is grandfathered in and will remain in use until such time as I-5 is widened. At that point, access by easement through Lot 1 will be required and is provided for in this proposed short plat.

Fleek indicated in January 2006, the applicant applied for a variance to create a small lot and keep the garage with the existing house, which was denied by the Board of Adjustment, because there was no demonstrated property related hardship, and the area was the subject of a failed rezone before the land to the west was subdivided. The Board did grant setback variances as needed to accommodate construction on the new lot because of its unusual relationship to the street, access easement and existing garage.

Marv Heinrichs, 510 W. Fairhaven Avenue – has over 26,000 square feet to short plat into two lots. Engineering has been completed, and the sewer stubbed to Lot 2, which will serve both lots.

Motion by Hanson/Sexton to approve the short plat subject to the following conditions:

1. Complete infrastructure construction of any improvements required by the City Engineer.
2. Review site plan for setbacks and compatibility with the neighborhood prior to building permit issuance.
3. Provide a fire hydrant per Fire Department recommendations.

Motion carried.

**PLAN REVIEW  
120 CASCADE MALL DRIVE  
STEVE STAFFORD & ASSOCIATES, APPLICANT**

Plan review of general site plan for new multiple tenant retail building to be constructed on the site of the old Burger King restaurant. The Burger King building would be demolished.

*Fleek* indicated that detailed elevations and landscaping plan will be provided at a later date.

*Steve Stafford, 408 E. Fairhaven Avenue* – stated that keeping the building as a restaurant is not feasible. The proposed building (150 feet by 60 feet) will be located to the north side of the lot.

*Manville-Ailles* asked if the parking at Cascade Mall was tracked. *Fleek* stated there is an abundance of parking in the mall area. Mr. Stafford stated they will have parking on their site separate from the mall. Vater asked if we could add a condition that they follow the mall rules for loitering.

*Mark Kramer, 506 S. Cherry Street* – asked where the access to the site would be located. *Fleek* stated from Cascade Mall Drive; no curb cut will be approved on Burlington Boulevard.

Motion by *Manville-Ailles/Hanson* to approve the plan review subject to review of the final building and landscaping design. Motion carried.

**PUBLIC MEETING  
201 LILA LANE  
LAND USE CLASSIFICATION OF “HEALTH-CARE”  
IN C-1, GENERAL COMMERCIAL ZONE AS IT APPLIES TO  
SKAGIT CO. BEHAVIORAL CRISIS TRIAGE PROGRAM**

Public meeting to gather public comments on whether the land use classification of “health care” is correct as it applies to the proposed Skagit County Behavioral Crisis Triage Program in the C-1, General Commercial zoning district located at 201 Lila Lane. The applicant is Skagit County Human Services. This meeting is being held at the request of the court, and the procedure provides for a decision by the Planning Commission and an appeal by parties

*Fleek* explained that the only logical way to obtain additional public comment opportunities is to look at **A.3** in the following code section below:

**17.68.150** *Plan review, when required, application submittal requirements, review criteria and conditions of approval.*

1. *Parking and loading area plans for all developments except single-family and duplex residential units and the addition of up to five parking spaces in an existing development.*
2. *Landscaping plans.*
3. *Determination of proper classifications of land uses not included in the lists of permitted or conditional uses for the zone.*

Also under code section **17.76.070, Appeal to City Council** – gives an opportunity to appeal to the City Council within 15 days of notifying the parties of record.

*Fleek* noted that this is a public meeting, not a public hearing. The site at 201 Lila Lane is located in the C-1, General Commercial zoning district. The BMC C-1, General Commercial zoning chapter **17.36.020, Item M** provides hospitals and health care, to include small animals, but does not allow outside runs or kennels.

The procedure for determining what permit process is required to change the use of an existing building is to simply read the code and compare it with the description of the proposed use. If the use falls within the list, it is allowed outright without further land use review. This is a **Type 1 decision**, under **Burlington Municipal Code Chapter 17.68**. When a building permit is required, the issuance of the building permit constitutes the final land use action, as stated in Section 17.68.040 A, “The issuance of a building permit shall constitute the land use permit for Type I decisions.”

The Planning Director is authorized under **BMC 17.03.040 A, Administrative Interpretations**, as follows:

*“The Planning Director shall be authorized to interpret the meaning of words, phrases and sentences which relate to the determining of uses permitted in the various districts, approval or disapproval of development plans, or other related zoning actions.”*

In addition, **BMC 17.060.010** states that *“Except where specifically defined in this chapter, all words in this title shall carry their customary meanings.”*

Based on the information provided by the applicant, the Planning Director determined that the use of “health care” would include the Behavioral Crisis Triage program, as further described by the applicant in Exhibit A.

*Fleek* read through the Webster’s Third New International Dictionary of English Language unabridged from the public library, which defines “health” and “care”, and also definitions found online defining “health care”.

Public meeting opened.

*Maile Acoba, Director of Skagit County Human Services, 20448 Penne Lane, Burlington* – stated that both mental and substance abuse is defined by the American Medical Association (AMA) as a medical condition. The Triage facility works closely with the hospital emergency room and patients are cleared by emergency room doctors before being released to the Triage Center, to stay and sleep it off and to get well again. They are not kept involuntarily nor are they criminals. Ms. Acoba stated that this is a health care use with close ties to hospital emergency rooms. This is the part of the emergency room function to watch the vital signs of the patient while they are recovering, to monitor the patients. Patients who go to the Triage Center have ongoing medical monitoring of their vital signs. Once the patient is cleared by the emergency room for medical stability, and cleared to ensure they are not violent, not a sex offender and not in violation of the law, the patient can be referred to the Triage Center. The two staff clinicians on duty at all times have dual certification as both a mental health and chemical dependency certified clinician. There is a consulting psychiatrist on call. The triage center first deals with stabilizing the mentally ill or alcohol/chemical dependent person, then makes a plan as to where to send them from this point.

*Sexton* asked if they were transported by the Police Department. *Ms. Acoba* stated sometimes by police or by family, but they come voluntarily. *Sexton* asked what type of security is on site. *Ms. Acoba* indicated that two staff members are on site 24/7. *Ms. Acoba* explained that this is not a holding facility for violent criminals or anyone who has committed a crime; they would be transported to jail. This is for someone in crisis due to mental illness and maybe is not on medication, and the family needs help getting them stabilized. No sexual offenders are allowed.

*Sexton* questioned whether they have looked into alternate locations such as near a hospital. *Ms. Acoba* – yes, but there were no sites available, as the City of Mount Vernon does not allow this use in that zone. *Vater* asked where their other facility is located. *Ms. Acoba* stated it is near the Mount Vernon YMCA.

**Bradley** commented on the letter dated August 26, 2005 from David Asia of Skagit County Human Services that shows he contacted nine similar services throughout the state and asked what impact they had on the surrounding businesses; none were found.

**Sexton** asked what the percentage of mental vs. chemical dependency was at the center. **Ms. Acoba** noted that Mount Vernon has 6 beds; the majority (70 to 80%) of beds is occupied by mental health patients. During the last two years about five per month were occupied for substance abuse issues. The majority of substance abuse issues are alcohol. Average length of stay for mentally ill is 4 to 5 days; substance abuse stay averages 2 to 3 days. The maximum stay allowed is 5 days.

**Bradley** asked if transportation is provided when they leave. **Maile** noted if they are going to a treatment facility, we provide transportation; otherwise family members pick them up or they catch a bus.

**Ken Dahlstedt, Skagit County Commissioner** – stated that this project is a health care facility. Prior to becoming County Commissioner, he was an insurance agent for 15 years in the life insurance, health and disability business. Certainly alcohol, drugs and mental health issues are included in most health insurance policies, so it is a health care facility. People that have alcohol, mental health and chemical issues have a disease. Staff will be there to try to get them into treatment and get long term help so they do not return. **Mr. Dahlstedt** stated the reason this facility is located in Burlington and not Mount Vernon, as it is centrally located to other surrounding cities. **Mr. Dahlstedt** indicated this will not be harmful to local businesses; supervision is provided 24 hours a day.

**Guy Anderson, Guyline Construction, 205 Lila Lane** – believes this is a flop house, there are no doctors or nurses on staff; they give them a comfortable place to stay while they are high. **Mr. Anderson** has two teenage daughters who work at his business in the summer, and is concerned for their safety, as there is no security and there are patients from all over the county.

**Mitchell Tucker, 200 Lila Lane** – owns and business and lives at this location. Is this going to be a mental health facility or a detox center? Concerns are lack of security; people coming and go as they please; the spouse, boyfriend, girlfriend, family members, etc. showing up uninvited. Also this use does not fit with the other businesses on the street; concerned that this will use prohibit patrons from visiting his businesses.

**Valerie Tucker, 200 Lila Lane** – concern is lack of security, cars coming and going all hours of the night. Understands alcoholism is an illness, but doesn't feel they are going to be helping anyone. Mrs. Tucker noted you would not find this business at the mall; they would go out of business. Who is going to be there to protect them?

**Greg Long, Deputy Director of North Sound Mental Health Administration**, the legal support network for mental health in the five northwest counties (Skagit, San Juan, Island, Whatcom, Snohomish). They contract with the state to oversee mental health care in a five county area. He spoke on the specific question of whether this use is health care. They contract with the State of Washington for mental health services with the counties. This program is part of the regional mental health care system, these are required services under the state mental health plan, submitted for the center for Medicare and Medicaid. Services are provided by a state licensed community mental health center, Compass Health. Services are provided with a staff of licensed mental health professionals, including a state licensed psychologist, and the medical director is a psychiatrist; the staff will have degrees, registered with the state as counselors, During the day or at night, staff will be providing treatment services and turning in encounter codes which we turn in to the state which means they are spending federal and state health care dollars for these services. Triage centers have been set up around the nation and there are a number of these in the state of Washington, first about a decade ago in Yakima, now in Tacoma, Aberdeen, Seattle, one in planning in Bellingham to open this summer. These are well established programs and they have not had adverse impacts on neighborhoods or society. They are small programs, not for everybody, but a very needed part of the mental health crisis system.

**Manville-Ailles** asked how many beds planned for this facility. **Mr. Long** stated 12 beds; 6 for mental health and 6 for chemical dependency. However, it will be a flexible facility, sometimes more beds are occupied for mental health and sometimes more beds are occupied by chemical dependency. **Manville-Ailles** asked if he felt they had adequate staff on site. **Mr. Long** – yes.

**Manville-Ailles** asked if a health care insurance company would pay coverage for a patient at this facility; would they consider this a health care facility. **Mr. Long** stated that at one level at North Sound Mental Health Administration there is a pre-paid health care plan; the billing of private insurance depends on the coverage of the individual. **Bradley** asked for clarification that they are funded by State and Federal monies to provide health services. **Mr. Long** indicated they operate on a managed care basis. They contract with companies like Compass Health; they operate more like Group Health.

**Peggy Green, Highway 9, Sedro Woolley** – stated this is a health care facility. A new law has recently passed that allows facilities to treat mental illness as an ongoing illness.

**Mark Kramer, 506 S. Cherry Street** – only has allegiance is to his pocket book savings, and he believes these facilities save money. **Mr. Kramer** stated that for years, the medical community has agreed that substance abuse and mental illness is a health care issue. **Mr. Kramer** also stated that within a few blocks of this facility there are other health care facilities such as dental, cancer center, walk-in clinic and physical therapy. Burlington has made a commitment to make this a central area for regional shopping, parks, etc.; it makes sense to locate in Burlington.

**Nancy Dode, Mount Vernon** – asked where the “Triage” comes in versus a detox center.

**Ms. Acoba** clarified that the Mount Vernon center has 6 beds; Burlington will have 12 beds. The existing program in Mount Vernon is a few blocks from the YMCA, and they continue to operate. The neighbors are all residential. If you drive past the facility, you can’t tell it is a triage center; it looks like one of the neighbors houses. There is no garbage in the yard, no junk cars hanging around. On occasion, the police do bring people in, but it is not all the time, and they do not use their flashing lights or sirens. This is an in between facility, patients are not a danger to us or themselves. If they are a danger, they are taken to Northern State, where it is a lock-down facility. The Burlington facility is not for criminals. **Ms. Acoba** agrees that society tends to criminalize these types of patients. **Ms. Acoba** is also a parent in this community and is not concerned for the safety of her children. There are other facilities for criminals.

**Manville-Ailles** asked how triage enters into the picture. **Ms. Acoba** indicated that in our community the funding systems for Mental and Drug/Alcohol are separate, although both are through DSHS. If the police have to pick up someone off the street that may be mental or alcohol/drug; they do not arrest these people. The police take them to the Triage Center, they are accessed if they are mental or alcohol or both. The Triage Center first deals with stabilizing the mental or alcohol/drug then make a plan where to send them from this point.

**Vater** – is someone else making a decision as to whether they are a danger to themselves or others? **Ms. Acoba** stated that a County designated mental health professional is brought in, and a determination is made whether they need to be taken to Northern State.

**Sexton** asked if Northern State has a similar facility. **Ms. Acoba** indicated there is one for mental health and one substance abuse (opens April 15, 2006). These are secured facilities, once the patient is admitted, they cannot leave, and they are detained involuntarily.

**Ken Dahlstedt** asked the question, who can use these facilities? We have presidents, president’s wives, nurses, professionals of all types have these problems and been in these facilities. These are not dangerous people. This indeed is a health care facility. We want to be respectful of the neighbors and their safety; the patients will be screened.

**Mr. Dahlstedt** noted many insurance companies are trying to restrict mental and substance abuse coverage, since it is such a prevalent issue. Sometimes people are treated more than one time. The Triage Center is providing health care, whether or not the insurance company pays.

**Guy Anderson** – Violence, they take to Northern State, there was a time when they weren't violent. What if they come in to the Lila Lane facility and become violent for the first time. Mr. Anderson believes the reason it is called Triage, is so they can get licensing. City of Mount Vernon denied them to locate in a retail area. Let's find a place for them where they aren't affecting businesses and kids.

**Bradley** explained that a code issue was the reason the use was not allowed in the City of Mount Vernon at that location.

**Mitchell Tucker** is a non-practicing alcoholic; this is not a health care issue, he feels it is a choice. They have combined these (mental and substance abuse) to make it easier. **Valerie Tucker** stated whether it is a health care issue or not; if the health insurance doesn't want to pay for it, why should we.

**Mark Kramer** stated that "Triage" is a medical term that prioritizes what needs to happen first, in what order. They are evaluating the people on what needs to be done; setting of priorities. Mr. Kramer asked the business owners from Lila Lane if they restrict their clients to Burlington only? Burlington is a regional community.

**Gayle Haggard, 850 Cul de Sac Avenue** – believes that "triage" is already determined before they get to this facility. Ms. Haggard does not feel this use fits in the C-1, General Commercial zoning district. **Fleek** advised that "Health Care" is allowed outright in the C-1, General Commercial zone; it is one of the broadest classifications we have to provide a broad array of facilities such as hospital, medical offices, dentists, veterinary offices, etc.

Public meeting closed.

**Manville-Ailles** asked if residential uses are allowed in the C-1, General Commercial zone. **Fleek** stated that existing homes are allowed and care taker quarters.

**Fleek** indicated that the people who have developed this program have a lot of experience, and have not had problems. If a problem occurs, they have to call the police or a county mental health professional. It is either health care or it is not.

**Manville-Ailles** indicated because of the broadness of the C-1 zone, if this is not a health care facility, what is it? If it wasn't health care, it would probably be allowed in C-1, General Commercial zone any way.

**Bradley** asked for clarification that the physical therapist, dentist, walk in clinic, and veterinarian all located along Burlington Boulevard fit under the definition of health care. **Fleek** – yes.

Motion by **Manville-Ailles/Hanson** to recommend to the City Council that the Planning Commission concurs that the Skagit County Behavioral Triage Center meets the definition of "health care" as pertains to the C-1, Commercial Zoning district. All in favor, **Sexton** abstained. Motion carried.

Meeting adjourned.