



December 8, 2010

Jeff Thomas, Acting Planning Director,
Department of Planning and Community Development
City of Bellingham
210 Lottie Street
Bellingham WA 98225

RE: Report to the Planning Commission, February 8, 2007
SUBJECT: The New Collaborative Planning Process for Neighborhood
Livability

Dear Planning Director Thomas:

In preparation for your meeting with the Fairhaven Neighbors this evening, I began thinking about a report, which I helped to prepare on behalf of the Coalition of Southside Neighborhoods at the beginning of a similar process, almost four years ago.

The 2007 Report, a copy of which is enclosed with this letter, outlined a series of events, beginning with an Agreement, dated January 10, 1989, (Recorded 6-12-89, Auditors No. 1640153) to settle a lawsuit over the siting of a vessel terminal in Fairhaven. The 1989 Agreement outlined a number of promises made by elected officials of the City. To date a number of the promises have not been honored. Research into public records seems to indicate some of the reasons why the promises, likely made with the best of intentions, never came to fruition. The 2007 Report was written to request a new collaborative planning process for neighborhood livability. No reply was ever received.

With your permission I would like to review the promise the 2007 Report addressed, and provide you with a recap of what the research found:

" 17. **Height Limit Ordinance.** The City agrees that within two months of the date of this Agreement it will draft an ordinance which would impose a 35 foot height limit on all structures in any zone adjacent to the Site which is designated Industrial or Commercial under the current Bellingham zoning ordinance. The City agrees to consult with CSC (Concerned Southside Citizens), and to in good faith consider CSC's input, in drafting the ordinance.... and that they will be presented for consideration by the City Council at a regularly scheduled Council

Meeting." *(please see Enclosure A of the 2007 Report)*

The research indicated:

- 1.) A draft ordinance prepared by the City, as specified in the 1989 Agreement, could not be located in a public records search. Instead, in the public record was a draft ordinance prepared by others entitled: Exhibit "A" CSC Proposed Ordinance. *(please see Enclosure B of the attached 2007 Report)*
- 2.) The draft ordinance proposed by CSC, labeled as Exhibit "A", states: "An ordinance limiting the height of structures to thirty-five (35) feet in Area 1 of the Fairhaven Neighborhood. At some point Area 4 was handwritten on the draft.
- 3.) With the draft ordinance was Exhibit 'B', and it is assumed that Exhibit 'B' is a map indicating that the "Site" (the ferry terminal) was located in Area 1B. Therefore, according to this exhibit, the adjacent industrial and commercial Areas would be Area 1, designated Marine Industrial, and Area 4, designated Light Industrial. However, this Exhibit is in conflict with the 1989 Agreement's Exhibit B and Exhibit D.

According to page 23 the 1989 Agreement, Exhibit B and Exhibit D, are written and photographed descriptions of the "Site". *(Exhibit B is located in Enclosure A of the attached 2007 Report, and Exhibit D is located in Enclosure G of the attached 2007 Report.)* The legal Description of the Project "Site" outlines a much larger "Site" description than Area 1B as shown on the draft ordinance Exhibit 'B'.
- 4.) Exhibit 'D' Site Plan (including Padden Creek Lagoon) is listed on page 23 of the 1989 Agreement, but was not attached to our copy of the Agreement. Exhibit 'D' was subsequently located through a public records request to the Port. *(please see Enclosure G in the attached 2007 Report)*
- 5.) In Exhibit "B" and Exhibit "D" of the 1989 Agreement the description of the Site indicates the 'Site' is located in both Area 1, Area 1B. and Area 4. It becomes obvious that Area 5, designated Commercial, is located adjacent to Area 1B and Area 4, and therefore should have been included in the CSC Proposed Ordinance. *(please see Enclosure H in the attached 2007 Report).*
- 6.) The 1989 Agreement states the City "will draft an ordinance which would impose a 35 foot height limit on all structures in any zone adjacent to the Site which is designated Industrial or Commercial under the current Bellingham zoning ordinance." Yet the CSC proposed ordinance indicates only Areas that are Marine Industrial and Industrial. No Areas that are Commercial and located adjacent to the "Site" are listed.

7.) No record could be located that the City Council was presented with the Planning and Development Commission public hearing comments of March 16, 1989. In fact Ordinance No. 9913 indicates the Planning and Development Commission held public hearings on October 20, 1988, November 17, 1988 and December 22, 1988, prior to the 1989 Agreement. *(please see Enclosure F of the attached 2007 Report.)*

8.) Ordinance No. 9913 further states the City Council conducted a public hearing on the matter of "Site Specific Regulations in the Neighborhood Commercial, Planned Commercial and Light Industrial Areas in the Fairhaven Neighborhood Plan" on February 6, 1989, over a month prior to the Public Hearing of March 16, 1989, held by the Planning and Development Commission, per the 1989 Agreement. *(please see Enclosure F of the attached 2007 Report.)*

9.) According to the Record of Proceedings of City Council, dated from March 6, 1989 through April 3, 1989 (*please see Enclosure E in the attached 2007 Report*) it is not clear that the City Council had an opportunity 'in good faith' to review the CSC Proposed Ordinance or the public comments made at the Planning Commission's Hearing of March 16, 1989. *(please see Enclosures C and D in the attached 2007 Report)*

Conclusion: I believe the citizens who signed the 1989 Agreement on behalf of many concerned citizens, acted in good faith based on the promises made by the City of Bellingham's elected officials. In my opinion the Planning Department may have misled the concerned citizens of CSC by not providing a correct "Site" description and a City drafted ordinance, as promised, with Area 1B, Area 4, Area 5, and Area 14 all shown as the "zones adjacent to the Site which is designated Industrial or Commercial" for the City Council to review and make their determination, as promised in the 1989 Agreement.

I am encouraged by the Planning Department's desire, under your leadership, to move forward with the Draft Fairhaven Neighborhood Plan Update. Thank you for taking the time to review the information presented in the enclosed 2007 Report. I would be pleased to answer questions or provide more information, if needed.

As we move forward, it is my hope the City will find a way to honor the important promises made to citizens in the 1989 Agreement in a transparent and accountable public process.

Kind regards,

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cc: Fairhaven Neighbors