



SUMMARY OF THE MINUTES TOWN COUNCIL

Thursday, January 16, 2014 – Council Chambers –Evening Session

CALL TO ORDER

Mayor Lacher called the regular session of the Town Council to order at 5:30 p.m.

ROLL CALL

Councilmembers: Position No. 1, Steve Hushebeck; Position No. 2, Noel Monin; Position No. 4, Farhad Ghatan; and Position No. 5, Barbara Starr.

Councilmember de Freitas was absent.

Others Present: Mayor, Carrie Lacher; Treasurer, Wendy Picinich; Town Administrator, Duncan Wilson; Town Attorney, Adina Cunningham; and Clerk, Amy Taylor.

EXECUSED ABSENCE

Mayor Lacher asked if the Council wished to excuse the absence of Councilmember de Freitas. Council unanimously excused her absence.

FLAG SALUTE

Mayor Lacher conducted the flag salute.

ANNOUNCEMENTS/SCHEDULE CHANGES

Mayor Lacher announced that those present for the rezone application will be given an opportunity to speak during the public hearing.

PUBLIC ACCESS TIME

No public access was forthcoming.

PUBLIC HEARING

Rezone No. 63 – OJC Properties

[Clerk's Note: Video of this of this public hearing shall be available in accordance with State Retention Laws.]

At 5:35 p.m., Mayor Lacher opened the public hearing to consider Rezone Application No. 63 dated October 1, 2013; a request for a zoning designation change from single-family residential to multi-family residential by OJC Properties, Inc. The subject property is approximately .98 acres in size and identified as Tax Parcel No. 351492004, located at 825 Argyle Avenue.

Mayor Lacher asked if any Councilmember wished to excuse themselves from participating. Council answered in the negative. There was no response to Mayor Lacher's inquiry if anyone objected to her or any Councilmember's participation in the public hearing process. Council responded in the negative to Mayor Lacher's inquiry regarding personal interest in the properties or issue. Council responded in the negative to Mayor Lacher's inquiry regarding personal gain or loss of financial benefit. Council responded in the affirmative regarding communication with opponents or proponents regarding said application. *[Council communications were disclosed as follows: 1) Lacher - No response to the voicemail message left at personal phone; 2) Hushebeck – None; 3) Monin – No response to the*

48 *voicemail message left at personal phone; 4) Ghatan - No response to the voicemail message left at*
49 *personal phone; and 5) Starr - No response to the voicemail message left at personal phone.]* Council
50 answered in the affirmative regarding hearing and considering the matter in a fair and objective
51 manner.

52
53 Mayor Lacher asked Land Use Administrator, Mike Bertrand, to present the staff report. Mr. Bertrand
54 entered Exhibits into the record; described the background of the application; and staff evaluation and
55 recommendation pursuant to applicable municipal code.

56
57 Exhibits entered by Staff into the record were: Exhibit A – Map of Concept and Exhibit B – Staff report
58 dated December 31, 2013.

59
60 Staff evaluation is that the Town Council approve the application based on the following criteria: 1) the
61 request is consistent with the adopted 2002 Comprehensive Plan; 2) the request is consistent with the
62 residential classification of the subject property on the Amended 2002 Comprehensive Plan Land Use
63 Map; 3) the proposal meets all criteria of the FHMC that are most applicable to this proposal.

64
65 Staff recommends that the Council approve Rezone Application No. 63 along with a development
66 agreement that limits the density on this parcel to six dwelling units, and direct staff to prepare
67 Findings of Fact, Conclusions of Law and Decision.

68
69 In reviewing the application, the Town’s current regulations and the community comments, it appears
70 that there isn’t a solution that solves all concerns. The Town has approved other development
71 agreements that run concurrently with rezone requirements to condition such zoning requests. The
72 multi-family zoned density of 14 is by far too dense for the parcel, but could be reasonably limited to
73 be compatible with the existing Greenway neighborhood. A slight increase from single family zoning
74 should not have an adverse effect in the area since there are already several lots that have increased
75 density grandfathered.

76
77 At 5:40 p.m., Mayor Lacher asked if the proponents if they would like to comment. Pat O’day,
78 Applicant, stated that the staff recommendation is consistent with the request by OJC Properties and
79 that the O’day family desires to develop the property sensitively and appropriately. Mr. O’day
80 described their vision for developing the parcel, while retaining the aesthetic qualities of the gardens,
81 structure, and surrounding neighborhood.

82
83 Referring to Exhibit A, Stephanie O’day, Applicant, stated that OJC Properties encourage a
84 development agreement to be executed to address any concerns neighborhood residents may have
85 about the rezone application. Ms. O’day commented that subdividing the property would be tragic
86 compared to sensitively planned development.

87
88 At 5:50 p.m., Mayor Lacher opened the public hearing to audience testimony. Each testimony was
89 afforded three minutes. The following testimony was received:

- 90 1. Linda Thompson, 435 Evergreen Way, read letter into record (Exhibit D) opposing the
91 application.
92 2. Heidi Lewis, 823 Argyle Avenue, read a written statement into the record (Exhibit E) opposing
93 the application.
94 3. Philip Smith, 823 Argyle Avenue, stated opposition to the application.
95 4. Paul Kollett, 791 Sutton Road, stated opposition to the application.
96 5. Bonnie Potter, 822 Argyle Avenue, read a written statement (Exhibit C) opposing the
97 application.
98 6. Gary Roberts, 804 Argyle Avenue, stated opposition to the application.

- 99 7. Doris Sumner, 115 Grover Street, stated opposition to the application.
100 8. Chris Burke, 755 Argyle Avenue, stated opposition to the application.
101 9. Joseph Miller, 817 Argyle Avenue, stated opposition to the application.
102 10. Lynn Mercer, 808 Argyle Avenue, inquired why the rezone application shouldn't be conditioned
103 to a four dwelling density that is currently allowable by subdividing into single family lots.
104

105 Mayor Lacher requested additional testimony.

- 106
107 11. Linda Thomas, continued public testimony. See above.
108 12. Heidi Thomas, continued public testimony. See above.
109 13. Bonnie Potter, continued public testimony. See above.
110 14. Gary Roberts, continued public testimony. See above.
111 15. Doris Sumner, continued public testimony. See above.
112 16. Gary Roberts, continued public testimony. See above.
113

114 At 6:26 p.m., Mayor Lacher asked if there were additional comments from Staff or the Applicant.

115
116 Land Use Administrator Bertrand commented that a development agreement could be drafted to
117 address all concerns.

118
119 Administrator Wilson explained the purpose of a development agreement to the Council and public.

120
121 Stephanie O'day stated that the property will get subdivided without the flexibility provided by a rezone
122 and requested that the Council approve the application. Ms. O'day stated that development is
123 inevitable, but OJC Properties is willing to execute a developer agreement to preserve the aesthetic
124 qualities of the property and neighborhood.

125
126 Attorney Cunningham explained the deliberation and decision process.

127
128 At 6:36 p.m., Mayor Lacher asked the audience for additional non-repetitive testimony.

129
130 Gary Roberts questioned the allowable density and zoning on the property due to its acreage. Land
131 Use Administrator Bertrand explained that the property is eligible because land use regulations are
132 measured by feet. Ms. O'day commented on the parcel as it pertains to the official SJC Assessor's
133 records.

134
135 At 6:38 p.m., Mayor Lacher asked the Council if there were any questions of Staff.

136
137 Councilmember Ghatan inquired about planned residential development (PRD). Land Use
138 Administrator Bertrand explained FHMC requirements, commenting that PRD allows for "cluster"
139 development.

140
141 Councilmember Starr inquired about "spot zoning" in relation to the Historic Landmark Map. Land Use
142 Administrator Bertrand explained that zoning issues do not apply to the Historic District, only design of
143 structures. Mr. Bertrand stated that Staff does not consider the property spot zoning because of the
144 transitional area (surrounding zoning) that the parcel is located. Attorney Cunningham explained the
145 legal definition of "spot zoning".

146
147 Councilmember Monin inquired about density and if the structures located on Exhibit A were of relative
148 sale to a future site plan. Mr. Monin went on to question utility connections, street standards, and
149 right-of-way improvements. Land Use Administrator Bertrand explained that the map was for visual

150 purposes only; utilities would be connected in a condominium fashion; and that multi family zoning
151 require improvements.

152
153 Councilmember Hushebeck inquired about how the OJC Properties planned to manage the existing
154 gardens. Ms. O’day explained through an agreement.

155
156 Councilmember Ghatan inquired about preservation of the house and other structures. Mr. O’day
157 explained that the house has issues but could be preserved, noting that contrary to opinion it does sit
158 on a foundation.

159
160 Councilmember Starr inquired about historical preservation. Ms. O’day explained that a plan has not
161 been worked out at this time.

162
163 At 6:51 p.m., Mayor Lacher asked if the Applicants wished to make further comment. Mr. O’day stated
164 that through this application, OJC Properties was sincerely offering to preserve the character of the
165 existing property in the most sensitive manner possible.

166
167 At 6:54 p.m., Mayor Lacher closed the public input portion of the hearing reserving the right to reopen
168 if needed, and opened the hearing to Council deliberation.

169
170 Councilmember took turn expressing their individual opinions of the application. Attorney Cunningham
171 reminded the Council that issues outside of the scope of the application may not be considered or
172 deliberated. Discussion followed regarding legal process.

173
174 At 7:07 p.m., Attorney Cunningham stated that the hearing had become complicated because
175 information (proposed developer agreement) had been presented during the course of the hearing that
176 was not contained in the original application. Ms. Cunningham advised the Council to continue the
177 public hearing for staff and applicant to prepare additional information. Discussion followed regarding
178 the issues that were allowed for consideration. Additional discussion followed regarding the process
179 for setting conditional zoning through the execution of a developer agreement.

180
181 Following deliberations, the Mayor requested a motion to continue the public hearing to a time certain.

182
183 Moved by Ghatan, seconded by Hushebeck, to continue the public hearing, leaving public testimony
184 open, until February 6th, 2014 at 5:30 p.m. Motion passed 4-0 with de Freitas absent.

185
186 **STUDY/WORK SESSION**

187 Mayor Lacher and the Council postponed the scheduled study session regarding the following:

- 188 • Engineer in training
189 • Legal services
190 • 2014 Capital Project Plan
191 • 2014 Holiday Lighting.

192
193 **FUTURE AND NON-AGENDA ITEMS**

194 No future agenda items were forthcoming.

195
196 **CITIZEN RESPONSE**

197 No citizen response was forthcoming.

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199 **ADJOURNMENT** – Hearing no further business and no objection, Mayor Lacher adjourned the
200 meeting at 8:04 p.m. The next regular meeting is scheduled for Thursday, February 6, 2014 at 12:00
201 p.m.

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**These minutes were approved on February 6, 2014. The original document is retained by
the Clerk in the Town Council’s permanent records. Attest: Amy Taylor, Town of Friday
Harbor Clerk**