

MARYSVILLE CITY COUNCIL MINUTES

April 10, 1989

7:30 p.m.

Council Chambers

PRESENT: Rita Matheny, Mayor (excused)  
Councilmembers:  
 Ken Baxter, Mayor ProTem  
 Mel Schank  
 Dave Weiser  
 Bill Roberts  
 Larry Hots  
 Bob Lashua  
 Lee Cundiff (excused)  
Administrative Staff:  
 John Garner, City Administrator  
 Mike Corcoran, City Planner  
 Phil Dexter, Finance Director  
 Jim Ballew, Parks Director  
 Gloria Hirashima, Associate Planner  
 Doug Ronning, Fire Chief  
 Jim Allendoerfer, City Attorney  
 Wanda Iverson, Recording Secretary

CALL TO ORDER:

Mayor ProTem Baxter called the meeting to order at 7:30 p.m. and led the flag salute.

ROLL CALL:

Finance Director Dexter called the roll with all members present/absent as indicated above.

MINUTES OF PREVIOUS MEETING:

Councilor Lashua noted in the minutes of the 4/3/89 meeting, on page 3, 6th paragraph, in the last line, the word "that" should be "than". Councilor Schank noted on page 6, under the Pearson Annexation, 3rd paragraph, the word "accipted" should be "accepted."

Councilor Schank moved and Councilor Hots seconded that the minutes be approved as corrected. Passed unanimously.

AUDIENCE PARTICIPATION FOR NON AGENDA ITEMS:

None.

PRESENTATIONS:

None.

PETITIONS & COMMUNICATIONS:

1. Department Status Reports.
2. Strawberry Fields Center Open House.
3. Parent Education in Washington 50 Year Celebration.
4. Washington Municipal Treasurers Assn. Certification of Excellence notification regarding City of Marysville's Investment Policy - 4/4/89 letter from City of Redmond.

CURRENT BUSINESS:

1. School District's request for water line along 67th Ave. from Grove Street to Middle School site (continued from 3/13/89 meeting).

City Parks Director Ballew addressed the Council and explained that with the proposal to replace the trees with a cedar hedge, this would not require moving of the fence and the school district would

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repair the cart path, any damage to the fence, remove the trees (but not stumps), and repair any tees and greens damaged. He added that as far as moving of young trees again, that could be done without damage.

Councilor Schank asked about the growth/height of the hedge and Parks Director Ballew stated that they would be slow growth but could attain a height of 15'. He added that this was a staff recommendation and has not been presented to the Golf Board as yet and therefore a final decision cannot be made at this time regarding the replacement of the trees. He said staff is recommending that the school district request be approved at this time (in view of time restraints) with any damages by them to be repaired and including \$2,000 in materials. With the number of trees to be replaced, he noted that it would probably have to go to bid.

Councilor Schank said he thought the approval of the Golf Board regarding the hedges should be acquired first.

Ward Sayles addressed the Council and said that the school district agrees with the staff recommendations on everything except the tree issue. He noted this is a \$70,000 project, however, and they don't want funding to be delayed because of this one issue.

Councilor Roberts asked what the school district's position is regarding recovery and Mr. Sayles said they hoped the City would help pay for the water line going through the golf course as well as for the oversizing but nothing has been discussed regarding recovery.

Councilor Roberts asked if the cost to the City would be based on the frontage of the golf course and Mr. Sayles said yes, that was his understanding of how the cost would be broken down to install the water line.

Mayor ProTem Baxter noted that the issue of traffic mitigation on 67th also needs to be dealt with and Mr. Sayles stated that the Board of Adjustment has requested improvements be made on 88th but nothing has been said about 67th and there will be no access for the school on 67th. He also noted that a recent traffic study determined there would be no significant impact on 67th.

Councilor Lashua asked if there would be any bus turn lanes on 67th and Mr. Sayles said no.

Mayor ProTem Baxter asked if the school district would be acceptable to joining into a TIP/MRIP and contributing towards improvements on 67th and Mr. Sayles stated that he couldn't be positive but that he was sure the school district would probably have to pay their fair share of mitigation.

Councilor Schank moved to approve the request conditional upon the Golf Board and school board approval with a final decision from City Council the first meeting of May, after the Golf Board meeting 4/27/89.

Mr. Sayles pointed out that due to time restraints regarding funding, the school district wishes approval to put the water line in and Mayor ProTem Baxter said the problem is to cover other concerns.

Councilor Roberts noted that the \$20-25,000 recovery issue is a major concern that needs to be settled.

Councilor Lashua stated that he would also like to see some concrete information regarding the school district's participation in traffic mitigation.

Mayor ProTem Baxter stated that he would like to see more concrete information regarding the actual construction costs and how much each party will be contributing. Mr. Sayles stated that the school district wished the City to share in the construction cost along/through the golf course as well as the oversizing cost. He said they wished approval for the water line to go through the golf course and that they felt the City would benefit from it. He added that if the City is not willing to pay half the construction cost, then it would be only fair for the City to pay for recovery.

Councilor Weiser asked about right of way improvements responsibility and Councilor Roberts noted that it depends on who has the most need; that going through the golf course would save money and that it is a little different situation than a straight easement issue.

Mr. Sayles stated that the school district wants to maintain good relations with the City; that they have given the City a lot of easements in the past. He noted they want to start construction of the school at the latter part of this year.

Councilor Lashua stated he wished more information regarding benefit for the City and City Parks Director Ballew stated that according to Bob Kissinger the water line would begin an integral loop system. He added that it would also benefit the golf course in irrigation needs and the impact of the water line going through the golf course will not be severe. He added that Bob Kissinger feels this is a very feasible and preferred way to go, for pressure, capacity, etc.

Mayor ProTem Baxter noted that the benefit would be to the golf course and not the surrounding residents and in view of staff recommendations, would like to see approval of the location of the water line through the golf course.

City Parks Director Ballew stated that Bob Kissinger has calculated the oversizing and construction costs to be in the neighborhood of \$55,000 with half to be about \$20-25,000.

City Attorney Allendoerfer stated that granting of the easement could be done at this time with conditions to be decided later.

There was further discussion regarding what items need to be settled--recovery, tree removal with Golf Board approval, City benefits evaluation, whether approval of the easement could be made and then negotiate other items at a later date in order for the school district to put in their request for funding.

Fire Chief Ronning addressed the Council and noted that with the water line going along 67th, it would provide very necessary fire protection, flow and pressure and with road improvements, they would facilitate better maneuverability of fire equipment along 67th.

Mayor ProTem Baxter agreed there would have to be at least walking paths or something of that nature, along 67th, by the school district in return for the City granting the easement/approval of the water line request.

Mr. Sayles said they will be requested the County to include 67th as part of their walkway system.

Councilor Schank moved to grant the easement to the school district subject to terms being negotiated between City staff and the school district and recommendations backed by the Golf Board. Seconded by Councilor Lashua. Passed unanimously.

PUBLIC HEARINGS:

1. Rezone from RR 7200 to Multiple Family Residential, Medium Density (PA 8811061)  
Location: South side of SR 528, approximately 200 feet West of 53rd Drive N.E.  
Owner: Mark Hebert

City Planner Corcoran gave the staff report and explained the request was recommended for denial by the Planning Commission. He noted that staff recommendation for denial was based on a boundary line adjustment that would have to be made in order to comply with density calculations. He added that at the time the Comp Plan was developed, 528 was not planned to be completed and now that it has been, it has effectively changed the neighborhood and would provide a good arterial for the multi family complex. He noted that the Comp Plan does address (in text) putting multi family zoning adjacent to arterials as well as away from non-established single family zoning and there was no comment from the DOT regarding access onto 528.

Councilor Roberts said he had a concern about this project meeting the Comp Plan criteria, especially with the Comp Plan about to be updated and City Planner Corcoran said he felt it meets criteria of both the City and County Comp Plans.

Councilor Schank asked if the only ingress and egress is on 528 and City Planner Corcoran said yes.

Ted Trepanier, Trepanier Engineering, 1420 Hewitt, Everett, addressed the Council, representing Mr. Hebert. He said that since the Planning Commission hearing, they have presented the Planning Dept. with more detail of the boundary adjustment and said he apologized for this becoming an issue in the first place; that it was due to a miscalculation on his part and it has now been rectified. He noted that an access already has been put in which is compliance and they have provided a landscaping plan as requested, also. He made reference to a real estate report of 3/89 indicating the need for this type of housing and added that that is only a 1.4% vacancy rate in Marysville, compared to a 3.7% vacancy rate in Everett, both of which are very low, the average being about 10%.

Councilor Roberts said he had a concern about the access; that he would like to hear from DOT with regard to possible future left hand turn lanes or deceleration lanes and Mr. Trepanier said that DOT did respond regarding the traffic movement at 528 & 47th and the 4th & State intersections.

Councilor Roberts said he was aware of the traffic movement concern of DOT's but that he would like to hear further from them regarding volume.

Councilor Weiser asked how far below road grade the proposed project would be and Mr. Trepanier estimated 8-10' and explained that about half of the bottom floor would be below that.

Councilor Schank noted that 528 is under State jurisdiction and said he would like to hear further from them also regarding volume because he has a concern regarding the safety of the people in the proposed units.

City Administrator Garner noted that the intersection at 47th & 528 will be having a signal installed because of traffic volume and Councilor Roberts noted that the Cenex development is the one that actually triggered that signalization. He added that one of the main concerns of the Traffic Advisory Committee is access on and off main arterials and they have discussed this issue at length regarding the minimizing of accesses. He added that he was surprised at no response from DOT but City Planner Corcoran noted their response is very slow; that there are other issues awaiting

DOT response such as alignments, also.

Mr. Trepanier stated that the traffic on 528 would be using the right hand turn lane for the Hebert project.

Councilor Roberts noted that the proposal is for a three story structure and Mr. Trepanier said they call it "2-1/2 stories."

Councilor Schank asked about the silhouette shown on the drawings and Mr. Trepanier explained that would be a separate building but part of the complex also.

Mayor ProTem Baxter asked about the minimum height of the trees and Mr. Trepanier said that was not set; probably they would be 5-8' when put in.

Councilor Lashua asked if the fencing on three sides would be board or cyclone fencing and Mr. Trepanier stated that board would probably provide a little extra privacy. Councilor Lashua noted that there is some concern about youngsters getting over the fence.

Councilor Schank asked about the overall height of the buildings and Mr. Trepanier stated about 30' or a little less from the ground.

City Planner Corcoran said that as far as landscaping along 528, there are a number of projects coming up and this may be an ideal time to establish some type of landscaping theme. Councilor Lashua said he didn't think anything that was sight obscuring would be appropriate.

Mr. Trepanier said that concerning turns, the curb on 528 is inset right now and they would be happy to help with striping if necessary until curbs, gutters and sidewalks are installed.

Yvonne Bagley, 5205 Sunnyside, addressed the Councilors and stated that she is opposed because it would allow developers to come in and change the neighborhood. She said she understood that if the majority of the neighbors are opposed, then it wouldn't be rezoned and if it is approved, it would set a precedent and they could end up being surrounded by multi family. She said when they purchased their home, they chose it over a similar one on Armar Road but that one was surrounded by apartments and therefore priced lower than the one they are in.

Mayor ProTem Baxter stated that the Council does try to consider surrounding land owners' wishes in rezones, but it is not a hard and fast rule that a rezone will be denied if the majority of the neighborhood is against it.

Vance Ryder, 5225 Sunnyside, addressed the Council and stated that his main concern is privacy; that his view would change to that of a tall building and they will be able to look into his yard. He said that he also had a concern about the durability of the fence, other than wooden, but that his main concern is privacy. He suggested tightly spaced hedges in lieu of a fence but Councilor Roberts noted that would have an effect on the view also.

Mr. Ryder stated that his view is to the north so he would be concerned about the height of landscaping and buildings but that he also wished to retain privacy.

Councilor Schank asked if his property fronts on Sunnyside and Mr. Ryder said yes.

Margaret Strand, 6030 53rd Av. NE, addressed the Councilors and said she represented the many people who signed a petition, including ten seniors who couldn't attend the meeting tonight. Their suggestion was for the project to have an entrance/exit onto Sunnyside.

Bernie St. Onge, 4812 72nd St. NE, addressed the Council and stated that the same property owner does own one lot on Sunnyside however this lot is completely separate and is not included in the rezone; it will remain a single family lot. The only access for the proposed development will be on 528 which was approved by the City of Marysville for the driveway entrance.

Ms. Strand stated that there are buildings out there that are about the same height as the proposed ones and they don't look good; one story buildings would look better. She said they have six acres in front of Mr. Hebert's property and they don't want a precedent set because it could end up with their being surrounded with as many as 126 people with multi family zoning.

Councilor Schank asked if the property Strands are on is in City limits and she said it was half city, half county.

Barbara Greer, 6210 53rd Av. NE, addressed the Council and said she was concerned about 528 also; that there is not much sight distance when pulling out onto the road and with more volumes, that's going to be a big problem. She asked if duplexes could be put in instead because they would produce less traffic. She also noted that they are an established single family residence neighborhood and said she doesn't see where this is going to fit into the character of the neighborhood.

Ted Schmelzer, 6027 67th Av. NE, addressed the Council and said that as a developer, he is getting some mixed signals; that there was talk about a hearing examiner to free up the Planning Commission so they could work on the Comp Plan and until the Comp Plan is updated, these project proposals are going to continue to have to go through hearing after hearing with all the same concerns, because policies for multi family have not been established as yet. As far as 64th, he said, it's under contract to be widened this summer and will be easily construed as a "major arterial" for the Hebert proposal as well as others in the immediate area.

Councilor Roberts noted that the State has addressed the issue of definition of arterials and are looking at some different standards because of land use and part of the transportation study will be to assess this also. Safety needs to be considered with reference to volumes, he said, especially with growth on the hillside and if there is a problem in the future, the State needs to be responsible and that is why he would like to see DOT's recommendations at this time.

Mr. Schmelzer said if it were developed into single family residences, would only one access be allowed onto 528? Councilor Roberts agreed that some policies must be developed to address this issue of accesses and multi family zoning.

Mayor ProTem Baxter agreed that the issue of where to allow multi family keeps coming up and it's difficult to "make everybody happy."

Mr. Schmelzer concluded that it would be a step in the right direction to have the Comp Plan review completed and policies established.

Bernie St. Onge addressed the Council again and said that with regard to the invasion of privacy issue, there are no windows on the rears of the buildings proposed, there would be patios on the east and on the south sliding doors, patios and decks. A green belt would be a good buffer, he added. As far as the best land use along 528, he said he doesn't think anyone would want to build a single family home along there; the area has changed tremendously in character, it's not included in the Comp Plan and single family wouldn't be the best use in his opinion, he said.

The public hearing was closed after it was determined that no one else from the audience wished to speak.

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Councilor Roberts said his concern is whether they should wait for the Comp Plan update; that he felt the area along 528 is appropriate for multi family but he agreed that the character of the existing neighborhood is in jeopardy.

Councilor Lashua said he thinks it's a good place for multi family also but that he couldn't ignore the neighbors comments, either with 21 signatures on the petition, which includes 13 surrounding property owners. He added that in reading the minutes of the Planning Commission, he noted they would be happier with low density.

Councilor Schank said that he felt the surrounding area is appropriate for a mix of commercial and multi family and that this issue has to be resolved sooner or later. He said he felt the mix of zoning in the area would actually raise the present single family property values.

Councilor Hots said he understands the concerns about privacy, access and the fence; he agreed that the fence should be a more permanent structure.

Councilor Roberts said he was not against the land use but was not sure about the affect it would have on changing the character of the neighborhood. He said he would like to see more information regarding definitive criteria in order to have a contract rezone, criteria such as heavy screening for privacy and an architectural design that will fit in well with the neighborhood.

Mayor ProTem Baxter stated that normally with an apartment complex in a single family neighborhood, they are facing the same direction but this is not the case here and the setbacks are more than adequate. He said he sees this as a good location and the first time he has seen good protection for the single family neighborhood, and would be in favor of the proposal.

Councilor Roberts said he agreed that it may be precedent setting and would be more in favor of medium density, although he also stated he is not against 18 du/acre. Mayor ProTem Baxter noted that with 12 du/acre it may not be cost effective for the developer.

There was a discussed regarding medium versus high density developments and Councilor Weiser suggested approval of a lower density. City Attorney Allendoerfer said with recommendation of a two story structure, a new site plan would have to be provided.

Councilor Lashua asked for Councilor Robert's estimate of the length of time it will take before the Comp Plan review is completed and Councilor Roberts stated it is scheduled to be completed the beginning of next year. He added that with the character of the neighborhood already being in place, that needs to be considered and the Comp Plan review will evaluate a larger area; perhaps 528 will be the most appropriate place to put in multi family but maybe not this particular site, he noted.

City Planner Corcoran added that the Planning Commission will be discussing multi family in a week at a Comp Plan workshop and will be developing some goals and policies.

Councilor Lashua suggested the proposal be sent back to the Planning Commission without prejudice, and they look at low density vs. medium density - 12 du/acre. Councilor Roberts suggested asking for a revised site plan based on the lower density, at this time.

Councilor Schank said with more and more duplexes and commercial development in the area that he thinks the area is in transition and the proposed project is simply a part of the growth process.

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Councilor Lashua moved to continue the public hearing to 5/8/89 with the developer to come back with a plan for 12 du/acre and two story buildings. He gave a lower roof line and less traffic volume as findings of fact for the motion. Councilor Hots seconded and the motion passed unanimously.

Mr. Trepanier then stated that with the price of land, it would probably be easier to develop duplexes and stated that the Council might as well deny the request.

Councilor Lashua withdrew his motion and Councilor Hots withdrew his second.

City Planner Corcoran noted this was to be a public hearing and asked if the main concern on the part of the Council was with the Planning Commission's recommendations or if there was a message regarding land use.

Councilor Roberts stated he felt the Council would be agreeable to low density; that higher density would be appropriate along 528 in other places possibly.

Councilor Weiser moved to deny the Hebert rezone request, based on the Planning Commission's findings of fact. Councilor Hots seconded and the motion passed, with Councilor Schank opposing.

2. Rezone from RR 9,600 to RR 7,200 (PA 8812064)  
 Location: SE corner of 76th St. NE & 67th Ave. NE  
 Owner: Lawrence A. Eaton  
 Applicant: Harvey Jubie

City Planner Corcoran described the location and noted that the request is to rezone Lots 11 & 12 of the Lajoy Homestead from RR 9600 to RR 7200, with a Minority Report along with minutes from the 1/10/89 and 1/24/89 Planning Commission meetings having been included in the packets.

Harvey R. Jubie, 9905 39th Dr. NE, addressed the Council and said the request for rezone is because they are approximately 1400 sq. ft. short per lot for duplexes.

No one spoke for or against the request from the audience and the public hearing was closed.

Councilor Hots said he felt Jubie's existing duplexes in the vicinity of the proposal fit in well with the surroundings and that he would be in favor of approval.

Councilor Lashua said he would be in favor also; that this use (rental) is one of the best uses for the neighborhood.

Councilor Lashua moved and Councilor Schank seconded to approve the request.

City Attorney Allendoerfer asked whether it was within the Grove St. Improvement TIP and City Administrator Garner noted it was not. Mayor ProTem Baxter noted that curbs, gutters and sidewalks are being put in.

After a brief discussion, the motion passed. (Councilor Roberts did not vote.)

3. Jubie Annexation (PA 8901006)  
 Location: North side of 84th St. NE in the 4600 block  
 Owner: Harvey Jubie

Mr. Jubie explained that the request is for approximately 4 acres to be developed into 12 lots for single family homes, single story, residential only, and it's easier to develop if it's in the City. It would be developed 7200 which is consistent with the County



Comp Plan and RUSA and will be improved with curbs, gutters, sidewalks and sewer, he added.

No one spoke for or against the proposal from the audience and the public hearing was closed.

Councilor Schank moved that Resolution #1352 be adopted regarding the Jubie Annexation. Councilor Hots seconded and the motion passed. (Councilor Roberts did not vote.)

4. Adkins Annexation (PA 8902008)  
Location: West side of 83rd Ave. NE (Whiskey Ridge Rd.)  
900 lineal feet south of 75th St. NE  
Applicant: Dale Adkins

City Planner Corcoran explained that this property is in a notch of county, on the west side of 83rd, and the applicant has indicated that they wish city services.

There was discussion regarding the surrounding area not being in the City yet and anticipation of what the Boundary Review Board will decide.

No one spoke for or against the proposal from the audience and the public hearing was closed.

Councilor Schank moved that Resolution #1353 be adopted regarding the Adkins Annexation. Councilor Hots seconded and the motion passed unanimously.

5. Fraser Annexation and establish zoning classification of RMM with a Mobile Home Park Overlay for newly annexed area (PA 8808048)  
Location: 16.3 acre parcel lying west of 67th Ave. NE opposite Cedarcrest Golf Course. The NE corner of the property is near the intersection of 67th Ave. NE & 84th St. NE  
Owner: Robert D. & Eleanore M. Fraser  
Applicant: Bernard Sigler

City Planner Corcoran stated that there was a technical flaw with the application which has now been corrected and explained that a mobile home park can only be approved in a residential medium density zone under the current MMC.

City Attorney explained that this is the second public hearing for establishing zoning and annexation noted that the applicant does not wish to annex unless the rezone is approved. He noted that the hearing should be only for any new evidence to be presented.

Councilor Roberts clarified that the zoning would have to be approved first and City Planner Corcoran noted that medium density would be 18 du/acre as per the ordinance.

Bernie Sigler, 5430 130th Pl. SW, Edmonds, addressed the Council and reviewed which items were covered at the last Council hearing and noted that they were presenting an updated site plan at this hearing with the provision of an emergency access using grasscrete with a gate. He noted that there has also been a small area for children added although the park is for adults 55 and over. As far as traffic, he referred this to Wendell Johnson to address.

Wendell Johnson of Entranco Engineering addressed the Council and stated they had prepared a schematic for a left hand pocket lane according to national guidelines, for left hand turn movements into the site.

Councilor Lashua asked if this would involve painting road stripes and Mr. Johnson said yes, and that a 13' center lane is planned, which is fairly standard.

Councilor Roberts asked about the 44' half street improvement and Mr. Johnson stated that the schematic is not based on that but that would be acceptable to the applicant; the schematic is basically to show feasibility, he noted.

Councilor Schank asked if the schematic took slope into consideration and Mr. Johnson stated the slope doesn't begin until a little further north.

Councilor Roberts said he understood there's a disagreement with the land use designation; that the City Planner has recommended denial without prejudice.

Mr. Johnson stated that they are proposing 88 units. The Comp Plan speaks to density, character of the neighborhood and compatibility, but these are all relative terms, he noted. Density has to do with impacts and they have gone to great lengths to show that the impacts will be no more than and in some cases less, than single family--water, sewer, traffic, these are measurable terms and technically, no it does not meet the Comp Plan designation, but it does fit in with the intent of the Comp Plan, he said.

City Attorney Allendoerfer noted that the ordinance doesn't mention the Comp Plan, it talks in terms of underlying zoning and zoning is a different process than the Comp Plan. In this case, RUSA was developed at 12,500 sized lots and because it's not in the city limits, no land use designation or zoning classification has been adopted and there's no Comp Plan designation, he added.

Councilor Roberts said he thought the Comp Plan extended beyond City limits and City Planner Corcoran said the 1978 Comp Plan did include 67th and outside city limits with this particular area to be multi family (4½ to 6 du/acre) or single family 12,500 and the RUSA is in addition to the 1978 Comp Plan.

City Attorney Allendoerfer said he stood corrected; that the Comp Plan would need to be taken into account and Councilor Roberts asked if the zoning would have to be changed for the mobile home park, then.

Mr. Johnson said that zoning is merely a means to an end, that this project will not have the same impact as 18 du/acre and that they didn't feel it would be precedent setting either.

Councilor Roberts said he knew one of the reasons the developer feels there would be less impact is because of the 55+ age group and asked if that could be construed as discrimination.

Mr. Sigler responded that under the Fair Housing laws there are provisions for those 55 and older and they are using that as one of the criteria for lowering impact.

City Attorney Allendoerfer concurred that under the Fair Housing Act, they may designate themselves as a 55+ park and Mr. Sigler stated they would be happy to be locked into that condition.

Councilor Weiser noted that in view of the difference between the Comp Plan text and map designations, that perhaps the Comp Plan update needs to be done before a decision can be made on this.

City Attorney Allendoerfer stated that was an option or else prove that circumstances have changed and with a heavy burden of proof there, the property can be rezoned if it's inconsistent with the Comp Plan.

Gary Branstetter, Attorney, representing 89 property owners opposing the Sigler prezone, then addressed Council. He first of all

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posed the question, "Why has the applicant not applied to the county for what amounts to a double rezone?" and stated that he would be answering that question later on. He then went on to say that there are four elements that allow the rezoning process and that they don't feel the project meets the criteria and is therefore legally impossible to prezone. Even with a concomitant or contract rezone, this does not change the need for the four elements; it would merely deal specifically with impact. He cited the four requirements as consistency with the Comp Plan or heavy burden of proof to show changes in the area, compatibility with the surrounding area in character and zoning, and public need. He talked about arbitrary and capricious acts of a municipality or governing body that must be proven beyond a reasonable doubt if it is felt that zoning is being withheld and noted that based on several documents, the property is zoned in the city RR 12,500 and in the county RR 20,000. He noted that the property owner chose to stay out of the city and joined in opposition to higher density. As far as the text of the Comp Plan with reference to compatibility, he said that it encourages multi family only if the area does not already have an established single family character and under land use policies, there is allowance of mobile home parks only in areas designated as high density multi family on the plan. Also, he noted it says it will allow mobile homes only if developed on the same underlying zone and to be developed at the lowest density in order to give time for review. He referenced the fact that the City Planner found the proposed mobile home park is inconsistent with the Comp Plan and recommended denial and stated that it was felt the proposal is not consistent with map or text and doesn't meet one element, according to all opposed.

Mr. Branstetter added that there would have to be a heavy burden of proof to show significant changes and as far as zoning regulations, the application was for multi family low density and the City Planner has pointed out that is impossible, so the options are multiple family medium density, high density or commercial and medium density would be the lowest density. He referred to MMC Section 19.30.080 (i) regarding the 10% open space requirement and noted that this is in addition to any buffer or parking and the proposal is for 4500 sq. ft. of open space which equals about .7% of the total 14.9 acres, i.e. less than 1% of the area has been designated recreational area or 1/10 acre. He noted also that the MMC states that mobile home parks must be at least 3 acres in size and a maximum of 15 acres for all contiguous property of this land use and therefore the proposal is in blatant violation of the MMC and would represent a terrible policy decision if approved. As far as compatibility of surrounding area, he pointed out that to the north and south are larger parcels zoned 12,500, to the east the golf course zoned 9600 and single family 9600 to the west. He also noted that if you take the total acreage into account, the density of the proposal actually works out to 9 du/acre and the code only allows 8 and there is also too much disparity between existing density, the character of the neighborhood and the request. He noted that he represents 89 protests and said he noticed that the Council considers surrounding/adjacent property owners' opposition in other cases. He said it is felt the proposal would also be incompatible with the middle school going in and that 55+ age group is very inappropriate to be next to a school and that no amount of buffering is going to make it compatible with the surrounding areas.

As far as public need, there has been no market study, no low vacancy rates in other trailer courts, no waiting list, no shortage established and with roadway traffic, the drainage problem in this area, no sidewalks proposed, there is going to be impact. He said that as far as access, if this project is approved, that he thought the neighbors would prefer no access into the cul de sac.

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Councilor Roberts clarified that the "cul de sac" is actually a hammerhead, denoting that it may be extended as a through street, or at least that was the original intention.

Mr. Branstetter conceded that it is a hammerhead however noted that it has been considered and treated by the neighborhood as a cul de sac and didn't think it was meant as an emergency access. He added that the roadway was done with the idea that future subdivision would be precluded as per the short plat map until approved by the county and the four parties whose property abutts. He restated that there is no public need or protection; it would be spot zoning; it would be "for private gain, not in the best interest of the city, acts to the detriment of the neighbors, arbitrary and capricious" he quoted from a state document. Why is this application coming before the City instead of the County?-- because John Gault would recognize all the factors just presented and he would deny the request, Mr. Branstetter contended and once again reiterated that his group is requesting denial by City Council of the request.

Councilor Roberts questioned the difference in the mobile home park code and the designation of high density on the plan.

Mr. Branstetter explained that yes, according to the Comp Plan, the land must be designated multi family high density on the map and on page 12 of the text. He added that based on the Marysville Comp Plan and zoning ordinance, the request is inconsistent and is not compatible with the surrounding area and has no public need.

Councilor Roberts noted that the Council could, by legislative power, amend the Comp Plan and Mr. Branstetter agreed that could be done however stated he was not sure it is the thing to do.

Councilor Roberts pointed out that with the school going in, there is going to be a change in compatibility and land use and that further, there are other mobile home parks in single family areas that seem to be compatible; he said he thought Mr. Branstetter's opinion that it would not be compatible was a subjective opinion.

Mr. Branstetter pointed out that Mr. Fraser wanted to maintain 12,500 zoning and Councilor Roberts pointed out the original designation was AG and it was changed to 12,500.

Morris Klein, 11611 19th St. NE, Lake Stevens, addressed the Council and said as far as public need, it is very hard for 55+ aged people to find a place to live where there is security, recreation, close to cities, no lawn to mow. He said this sounds like a real nice proposal and he thinks it would be a very appropriate place for a mobile home park. He noted that there is not a lot of protection out in the county and that he likes the idea and believes there is a lot of interest in this project.

Linda Aune, 6115 83rd Pl. NE, Marysville, addressed the Council and said she just didn't feel this type of development should be next to a school because of all the things that go on at schools these days, the noise and rowdy activities, etc. It's just not a practical place for a 55+ mobile home park, she concluded.

Doyle Parks, 8026 67th Av. NE, Marysville, addressed the Council and said there are people who live on the "vacant" land referred to--that's where they raise their crops!

Rocky Yunge, 8112 67th Av. NE, Marysville, addressed the Council and stated that he bought his 6 acres just south of the Frasers several years ago and knows that a lot of people are looking to sell their land because they can't keep it up anymore but that he wants to keep his 6 acres as long as he can. He said he doesn't think the mobile home park is a good idea in that area, mainly because 67th is in very poor condition, it's narrow and has no shoulders.

In Mr. Sigler's rebuttal, he noted that the MMC has been updated and superseded by the mobile home ordinance which allows eight units per acre however he said he feels there's no way you can have multi family and mobile home park zoning both--that the whole issue is a "red herring". As far as being surrounded by single family use, he noted that neither a golf course nor a school would help establish single family character of the neighborhood. He stated that both the MMC and the Comp Plan address areas in transition and that they applied to the City of Marysville, not because of the hearing examiner in the county, but because they are interested in police, fire, water and sewer services of the City. He added that Mr. Fraser elected not to come into the City because of taxes and assessments just as all the other property owners did and that as far as open space, it works out to 7200 sq. ft. which exceeds City requirements, which includes the parks, facilities, RV space. As far as density, Mr. Sigler stated that his calculations come up with 5.9 du/acre by dividing 14.9 acres by 88 units. As far as the privacy issue and rights to the cul de sac are concerned, there is access allowed through Lot 1 and that is where it has been located and there is no burdening of the right of access; that it will probably be used not even ten times a year, he said.

Mr. Sigler said he didn't think this could be called spot zoning because he found all kinds of text and intent for affordable housing; they are participating in road improvements and are prepared to contribute in future possible MRIPS; they believe there is a demand for this type of housing, he also noted.

Councilor Roberts asked again about the 10% open space requirement and noted that the parking area cannot be included. Mr. Sigler stated that the code does give some latitude in that area and said this had been previously discussed; that large open spaces are not very desirable in mobile home parks and an RV storage area has been provided.

City Planner Corcoran quoted from the MMC, noting that parking, buffer, storage area are not to be included in calculation of the 10% open space requirement. Councilor Roberts asked if the proposal meets the criteria of the code and City Planner Corcoran said it does not.

Councilor Weiser asked if 83rd St. was supposed to be a through street and Councilor Roberts stated that it has a 30' easement for the Fraser property; that there are four property owners involved that must give their approval first in order for the street to go through. He stated that it is a logical place to have a road go through.

Councilor Schank asked if it is currently being used as a road or an easement and Councilor Roberts said it is access to 3 or 4 residential homes at present. He added that he had a concern about this being spot zoning.

City Attorney Allendoerfer said he did not want it to appear as though he was an advocate on the case, however suggested that emphasis be placed on the change of circumstances being the test that would justify the rezone. He noted that the second obstacle/test is compatibility and that with the approval for annexation, a resolution would have to be adopted for a rezone ordinance of a mobile home overlay zone. The Boundary Review Board would then hear it; this is a precommitment, he explained.

Councilor Roberts said he felt the only major change would be the school which comes under a conditional use permit.

Councilor Lashua stated that if the school district feels there's a school warranted in that area, then they must feel there's a change/growth in the area.

Councilor Roberts stated that the land has not changed in appear-

ance since 1978 and he said he also feels the tests must be met in order for it not to be spot zoning. With the Comp Plan under review, he said he feels this needs to be evaluated more in that process.

Mayor ProTem Baxter noted that Mr. Fraser's property is included in the annexation; that there is a shortage and need for this type of housing because he has spoken with a lot of people and the 55+ group needs a secure living area with recreation area, very little yard work, etc., he said.

Councilor Roberts said his concern was whether it meets the Comp Plan land use designation and if it does, then the technical aspects can be addressed.

City Planner Corcoran noted that schools require a CUP in any zoning, so the school coming in may not meet the test of change.

Mayor ProTem Baxter clarified that a change in zoning is required if accepted for annexation.

Councilor Weiser asked if schools have the same CUP requirement in the county and City Planner Corcoran stated that they do.

Councilor Lashua said he believes that a school changes the character of the neighborhood no matter how it is located there; it was all farmland in 1978 and it's all changed since then except for the golf course.

Councilor Roberts argued that even if it meets the criteria for change, the recreation area and the emergency access are still concerns.

Councilor Lashua said that in listening to people at previous public hearings, it didn't sound as though they would want any more traffic on 60th and would prefer to have the emergency access.

Councilor Roberts said that if it meets all the criteria, he did not think the public hearing should be continued. He added that the only reason for an extension, he felt, would be to allow the applicant to come back with a new plan.

There was more discussion regarding the open space requirement and other criteria.

Councilor Weiser moved to deny the request because there have not been enough changes to the neighborhood to justify rezoning and also because it doesn't meet the criteria. Councilor Roberts seconded the motion. A roll call vote was taken:

Councilor Lashua - against  
Councilor Hots - against  
Councilor Roberts - for  
Councilor Weiser - for  
Councilor Schank - against  
Mayor ProTem Baxter - against - The motion to deny was defeated 4-2.

Councilor Lashua moved to approve the rezone if it meets the criteria for open space, with a new site plan to be required.

City Attorney Allendoerfer stated that the site would probably require redesign, recreational space, 44' half street improvement and for the revised site plan/request to meet the criteria of the MMC, with the hearing to be continued to 5/8/89. Councilor Lashua included the City Attorney's recommendations in his motion, Councilor Schank seconded the motion and it passed with Councilor Weiser opposing.

6. Appeal of denial of Teen Club license for Chita's (continued from 3/27/89 meeting).

City Attorney Allendoerfer explained that the main purpose of this hearing is for police statistics regarding other comparisons.

Sgt. McKinney, MPD, addressed the Council and gave the following number of complaints for the period 11/87 to 11/88:

California Tavern - 6 (4 were all the same person/same nite)  
Village Restaurant - 9  
Old Friendly Tavern - 21  
Billy Bob's - 50  
Don's - 9 criminal complaints

Councilor Hots asked if any of the complaints involved weapons and Sgt. McKinney stated that yes, there was one assault with a knife but no guns. He also pointed out that these establishments are open seven nights a week vs. Chita's three nights per week with 59 complaints.

City Attorney Allendoerfer asked about security recommendations and how that would compare with two officers as proposed by Chita's.

Lt. Bob Dyer stated that a minimum of six officers would be needed to patrol Chita's. He said that a management representative of Don's was present in the audience earlier and told him they have had trouble with Chita's patrons. He concluded that the nature of the crimes justifies the need for more patrol of Chita's.

Councilor Weiser asked what criteria is used for calling backup and Lt. Dyer stated it would be called for in the case of assault and/or weapons but the MPD can't count on county availability anymore and so it would be preferred that teams of two officers be used to patrol.

Councilor Schank asked if there wasn't automatic backup in a lot of cases and Lt. Dyer stated that yes, but the number of complaints has to be considered and backup is not always available.

Councilor Hots asked if all six officers would be on foot, in vehicles or a combination and Lt. Dyer stated they weren't sure yet, it would probably be split up. He added that the high visibility of the police is not very desirable.

Councilor Hots asked if there are three cars being used for Chita's, can the MPD still patrol the rest of the City and Lt. Dyer said no, three cars would be above and beyond regular police duties. He noted there are enough vehicles available, barring breakdowns but warned that patrol officers run the risk of burning out and they would want to keep at least two out of six from MPD.

Councilor Schank asked if reserve officers could/would be used.

Lt. Dyer stated that there are some well trained reserve officers however he said he felt it would be unfair to use them in view of their experience.

Councilor Hots asked if the billing would be different between regular officers and reserve officers and Lt. Dyer said it would be the same rate for all services; it's one rate no matter whether a sergeant is used.

Steve Mumford, 1225 2nd St., addressed the Council and asked if the statistics research was done in a six block radius as was done for Chita's and Sgt. McKinney stated that Chita's was not done for a six block radius.

Councilor Hots asked if, for example, there were an incident that started at Billy Bob's, where the individual went home, if it was still considered to be at the original place and Sgt. McKinney stated yes, they used the same criteria for all places; some of the incidents took place in the parking lots.

Mr. Mumford stated that he thought six police officers is unreasonable with only two protecting the whole city of Marysville.

Councilor Hots said he would rather see a lot of police officers there and then if it's proven out that that many are not needed, then that number can be reduced.

Mr. Mumford said he just thinks six officers is too many for two blocks.

Councilor Schank pointed out that it was necessary due to the concentration of people in one place; with 300 to 400 people, you need more than two officers, he said.

Mr. Mumford said that they never had that problem before they were required to close at 1:00 a.m.

City Attorney Allendoerfer pointed out that the police department has asked for six officers and Mr. Mumford pointed out that he was recommending two officers. City Attorney Allendoerfer asked Mr. Mumford if in fact he was saying he would not hire six police officers and Mr. Mumford restated that he thought two was enough. After repeated questioning by the City Attorney and no response with regard to six officers from Mr. Mumford, City Attorney Allendoerfer asked that the record show that Mr. Mumford would not hire six officers.

Greg De Los Santos of Lynnwood, previously employed by Chita's, addressed the Council and explained that he had "stood off" two gangs without police assistance, at Chita's, during the summer of 1988. He said there's nothing that he has seen in Chita's where six officers are needed. The people can't come in intoxicated, although sometimes they can slip by him (intoxicated), but not often, and he said he thinks six officers is too many to impose on one club.

Mayor ProTem Baxter said that it was not the City's wish to have to put any officers in there.

Mr. De Los Santos said he understands about protection of businesses and residences but when he was previously employed down there, he didn't see anything that they couldn't handle themselves in the club.

Councilor Lashua noted that the problem is the kids sitting out in the cars, two, three or more blocks away.

City Attorney Allendoerfer asked Mr. De Los Santos how he knew the kids he "stood off" were gang members and Mr. De Los Santos described them as Asian-American youths and said he found out later that they were in fact members of gangs.

John Turner, ex-Marysville Police Chief, 6722 73rd St. NE, Marysville, addressed the Council and said that as far as the statistics, they were taken for the establishment only and not for any surrounding radius. He said that the evidence just given regarding gang activity backs up his (Turner's) previous testimony and as a final point, he said he didn't see any petition from local kids wanting to keep Chita's in business.

Jason Jones of Everett and previously employed by Chita's, addressed the Council and said if there are officers patrolling Chita's the kids will just go somewhere else and do what they do.



Councilor Hots said that's the reason for having police officers there and Mr. Jones said the kids are probably just going to do it before they get to Chita's. Regarding having two officers-- Cascade High School only has two officers to patrol the same targeted age group/dances and they seem to think that two is enough, he noted. It's the same group at the dances as at Chita's, it's high school students that can't understand why Chita's is being shut down, they talk to him all the time about this, he stated.

Lt./Acting Police Chief Dyer stated that the City has adopted a zero tolerance level policy; that he didn't like hearing about Oriental gangs coming to Marysville because they have a propensity to violence.

City Administrator Garner said that based on his experience as a high school principal, there's no comparison between Chita's and a high school dance because at high school dances you have chaperones; you have a few isolated problems but nothing compared to a public dance.

Mr. Jones said he resented everyone thinking the kids are to blame for drugs and alcohol. Why isn't it stopped at the first level (dealers/pushers) instead of the second or third place (users)? he asked and added that the youth and other members of the community need to work together on this problem and not be at odds toward each other.

Councilor Lashua pointed out that there is an ongoing effort in the community to stop drug and alcohol abuse.

Mr. Jones responded by saying instead of downplaying Chita's, everyone should be working together on this; we need to stop it where it starts.

Mr. De Los Santos said he wanted to clarify about the Asian-American kids/gang testimony that he gave--that it was only one incident--that was the only time he found out that they were members of a gang. He added that Chita's provides a place for the kids to go to have a good time dancing, non-alcoholic beverages, music.

Councilor Lashua stated that everyone agrees the teens need a place to go however they have come to believe that Chita's is a magnet for a bad element, they create a litter problem, etc., and these things need to be addressed. He said there has been a lot of testimony regarding the undesirable element and that is not acceptable in this City.

Mr. De Los Santos said he got upset when he found out the kids were from a gang and of the same nationality as he is.

Councilor Hots asked how often they came in and Mr. De Los Santos said he thought twice. There was verbal abuse; they wanted to go heads up on each other, he said and added that the function of Chita's is for a place for the kids to go to dance, similar to clubs all over where kids like to congregate.

Mayor ProTem Baxter pointed out that the police department has asked that Chita's use six officers at least until proven that they are not necessary and Mr. Mumford is against this so where do we go from there? If you want to try six officers, that's the only way we can allow Chita's to operate, he said.

Mr. Mumford explained that it was the city attorney who said that he (Mr. Mumford) had said no to six officers.

Mayor ProTem Baxter pointed out that if Mr. Mumford did not wish to comply with the request for six officers, then the license would have to be denied.

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Mr. Mumford stated then that he would comply and asked if the ordinance was going to be written stating that six officers are required and Mayor ProTem Baxter said no.

Councilor Lashua asked what would be a fair trial period for the six officers and Lt. Dyer stated probably well into the summer months when their busy season is--until September.

Mr. Mumford asked what would happen if there's nothing for the officers to do--will they be sent home? Lt. Dyer said no, that would not be cost effective, in the event they are needed later on and would have to be called out again. It would also not be good response time.

Councilor Lashua asked if a two month trial period would be adequate in Lt. Dyer's opinion and Lt. Dyer said it probably will be but maybe there might be a time when more officers than six are required, too.

Mr. Mumford was obviously shaken by this and asked if this was a communist country--"This is America!" he pointed out.

Lt. Dyer said a couple months is a good guess but that he would like the latitude to change or reconsider because of the high burn off rate of officers.

Mayor ProTem Baxter observed that if six officers are needed for more than two months, it's time to revoke their license again!

Councilor Weiser asked if there hadn't been some discussion regarding if there were only so many arrests, then they wouldn't need the extra officers and Councilor Lashua agreed that the number of officers/trial period should be tied in with the number and type of complaints.

Councilor Schank noted that this type of club will probably always have the same problems and numbers of complaints.

City Administrator Garner pointed out that Buzzy's in Everett has now reopened and Councilor Lashua pointed out that they are also not having the same problems now that they had.

Mr. Mumford pointed out that they closed on their own and reopened on their own (Buzzy's).

Councilor Lashua moved to grant the license on the condition of six police officers and with the same closing time as granted under their previous license. Police Chief to report back to City Council after two months of operation. Councilor Schank seconded the motion and it passed with Councilor Hots opposing.

CONSENT AGENDA:

1. 3/31/89 Payroll in the amount of \$318,719.27
2. 4/10/89 Claims in the amount of \$104,990.79

Councilor Schank moved and Councilor Hots seconded that the Consent Agenda, Items 1 & 2, be approved. Passed unanimously.

LEGAL MATTERS:

City Attorney Allendoerfer presented a contract between the YMCA and City of Marysville for approval. Councilor Lashua moved and Councilor Hots seconded that the mayor be authorized to sign. Passed. (Councilors Schank and Roberts did not vote.)

ORDINANCES & RESOLUTIONS:

1. An Ordinance of the City of Marysville Amending Chapter 3.51 of the Marysville Municipal Code Relating to the Petty Cash Fund.

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Due to the late hour, it was decided to postpone the Petty Cash Fund ordinance until 4/24/89.

CALL ON COUNCILMEMBERS:

None.

ADJOURNMENT:

The meeting was adjourned at 12:45 a.m. April 11, 1989.

Accepted this 24 day of APRIL, 1989.

  
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Rita Matheny, Mayor

  
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Phillip E. Dexter, Finance Director