

BLACK DIAMOND CITY COUNCIL MINUTES

Special Meeting – August 11, 2010

Council Chambers

25510 Lawson Street, Black Diamond, Washington

CALL TO ORDER, FLAG SALUTE:

Mayor Olness called the special meeting regarding the closed record hearing of the proposed Master Planned Developments to order at 6:34 p.m. and lead us all in the Flag Salute.

ROLL CALL:

PRESENT: Councilmembers Hanson, Boston, Goodwin and Saas.

ABSENT: Councilmember Mulvihill (excused).

Staff present were: Chip Hanson, IS Manager; Mike Kenyon and Bob Sterbank, City Attorneys and Brenda L. Martinez, City Clerk

APPEARANCE OF FAIRNESS:

City Attorney Sterbank – asked the following question collectively of all four Councilmembers: Do you have any interest in the property that is subject to the MPD applications? All Councilmembers responded no.

City Attorney Sterbank – asked the following question collectively of all four Councilmembers: Do you stand to gain or lose financially as a result of the outcome of these proceedings? All Councilmembers responded no.

City Attorney Sterbank – asked the following question collectively of all four Councilmembers: Has anything happened since the last proceedings you can think of that could impact your ability to be fair and unbiased? All Councilmembers responded no.

City Attorney Sterbank – asked the following question collectively of all five Councilmembers: Any ex parte contact outside of the proceeding from any proponent or opponent since the last night's meeting? If so, describe contacts. All Councilmembers responded no.

OPEN SESSION:

Mayor Olness reminded audience members to refrain from any interruptions or distractions that may distract Council.

Mayor Olness announced we will be starting with the Public Works Director addressing the questions that were asked on Monday and Tuesday.

Public Works Director Boettcher request for assistance in development of Council condition, in which the applicant shall monitor phosphorus loading, needs to consult with stormwater quality consultant to address this in the development agreement.

Councilmember Goodwin discussed how the phosphorus is monitored would be determined in the development agreement, it requires a third party to tell us what that load number is; it is easy to determine.

Councilmember Hanson asked wouldn't different areas being developed create different phosphorus levels as the Master Planned Development (MPD) application is more conceptual.

Councilmember Goodwin discussed the different basin areas.

City Attorney Sterbank asked Mr. Boettcher if he's anticipating that this condition in the MPD will identify the estimated load or will rather command that work to produce that load....Councilmember Goodwin added prior to any execution of a development agreement.

Public Works Director Boettcher responded to inquiry on how Homeowner's Association (HOA) will take care of stormwater ponds. He noted the City will take care of the maintenance and the HOA would take care of the landscaping maintenance.

Councilmember Goodwin noted for the record that Council's decision was to not have Home Owners Associations (HOAs) handle any maintenance portion of the stormwater ponds.

Public Works Director Boettcher clarified he was speaking in regards to landscaping maintenance only.

Public Works Director Boettcher discussed roof runoff: under the 2005 manual it does not have to be treated; condition #68 addresses runoff. He stated the manual does encourage using the clean water for the recharge of wetlands and water bodies. Roof runoff does need to meet impervious surface or flow control requirements.

Councilmember Goodwin commented on Lawson Hills specifically and the run-off where is it going to go and is it going to be combined with stormwater and if it is, will it be treated. The language needs to be cleaned up in the conditions.

City Attorney Sterbank commented on what condition is being referenced and clarified Councilmember Goodwin wanted City control over decision of any direct discharge.

Councilmember Goodwin wants the ability to manage the hydrogeology because the potential is there for wells to have problems as the hydrogeology is not balanced.

City Attorney Sterbank replied yes, we can add language to clarify the hydrogeology.

Public Works Director Boettcher responding to question of when do we add new stormwater technologies- he does not feel Black Diamond should be the test place for all new technology, but we should take on when it has been certified; AKART (All Known and Reasonable Technologies).

Councilmember Goodwin does not want to wait until Department of Ecology (DOE) has put new technologies in the manual, but rather apply an AKART approach.

Public Works Director Boettcher defines reasonable as being certified by ecology but it has not been put in the manual yet.

Councilmember Goodwin trying to create a balance here, applicant wants certainty and what is written in the rules, instead we are trying to focus on actual performance and AKART is one way to monitor performance.

Councilmember Hanson commented the East Coast is much further along than we are and can we use AKART if it has been proven somewhere else.

Councilmember Goodwin noted this gives applicant some flexibility as there is monitoring associated with it, applicant has the ability to apply AKART to a specific, and we should be open to it.

City Attorney Sterbank clarified the conversation; stated he will craft language which would include verbiage useful for all known body of works.

Public Works Director Boettcher read the question regarding what part of The Villages are impermeable; referred to map and pointed out areas that are very well suited for infiltration.

Public Works Director Boettcher discussed flooding on Lake Sawyer being addressed; he noted flooding is occurring currently on Lake Sawyer even with a largely undeveloped basin. Storm ponds are not designed to deal with storm attenuation that would be able to store long enough on seasonal type duration to deal with a water body as large as Lake Sawyer.

Councilmember Saas asked about corrective action for flooding.

Councilmember Goodwin corrective action would be to change the size of the ponds so you don't discharge very much.

Public Works Director Boettcher discussed definition of sustained; the Hearing Examiner defined it as six month of sustained.

Councilmember Goodwin discussed options for a buffer such as a berm or fence as a noise mitigation measure.

Public Works Director Boettcher discussed definition of existing residence; developed properties that are occupied and adjacent (within 200 ft) to the MPD where homes, utilities or roads will be constructed.

Councilmember Goodwin commented he does not understand why we are discussing this, as there have already been mitigated areas identified;

Public Works Director Boettcher discussed question regarding how close is the access road to the Taylor's property.

Public Works Director Boettcher responded with approximate measurements from the conceptual drawings.

Public Works Director Boettcher addressed the question regarding how the soil effects ground vibrations: He noted areas in the record that identify this.

Councilmember Hanson feels this will need to go in when they mitigate and would like to see something on referring what size of equipment will cause what type of vibrations.

Public Works Director Boettcher reported that King County has online baseline data as to what the traffic count on Green Valley Road is and recapped questions to address tomorrow: 1) traffic counts at various locations and how often is monitoring needed for level of service, 2) roundabouts should be considered in the model, and 3) Botts Drive stopping at a cul-de-sac.

Mayor Olness stated tomorrow Mr. Boettcher has four additional questions to answer; and also asked if Council would like Mr. Sterbank to give the information requested on the Community Facilities District.

Councilmember Hanson would like to hear this now along with Councilmember Boston.

City Attorney Sterbank replied the brief answer is that no, it does not affect existing residents unless they choose to participate in the petition; he further noted that in order for existing residents to participate they would have to sign the petition and give it to the Council stating they would like to be included within the Community Facilities District; he noted the bill number for easy reference; he highlighted section 205 of the bill and read the applicable language.

Councilmember Saas asked how this differs than a Low Impact Development (LID).

City Attorney Sterbank explained the difference.

Councilmember Goodwin commented on what Council has discussed and making it clear in the conditions it is solely at the discretion of the City to use Community Facility Districts and concerned with “mays” becoming “wills”.

Mayor Olness called a recess at 7:54 p.m. for approximately 5 minutes.

Meeting was called back to order at 8:03 p.m.

Mayor Olness announced the next order of business to discuss is density.

Councilmember Goodwin stated one of the questions he asked of the applicant specifically dealt with the comparison of open space provided here as compared to other MPDs and stated it made him step back and look at the entire open space we are dealing with here in a more objective way; discussed using the Black Diamond Urban Growth Area Agreement (BDUGGA) and the Open Space Agreement and passed out a map; looked at first how much open space is really being provided within the City, this ties to what the BDUGGA is and it is important to realize 135 acres that come with this agreement that we recognize as open space with the addition of Lake Sawyer Regional Park to the City and this is worth a lot and needs to be recognized. Next thing is looking at in-city forest and Ginder Creek were also provided as open space, and the 50 acres of the in-city forest as part of the agreement and so was Ginder Creek. In addition to the open space and sensitive areas as provided in The Villages there are some significant open space provided within the city and the applicant duly pointed out in their response to his question. Next thing that caught his attention over the last nine months enthralled with the importance of Ravensdale Creek and the open space that is also being provided as part of this agreement. This is a very important part as this area is added as well; discussed King County open space related to the Green River Gorge, important to recognize as it was added by the agreement too; discussed Ravensdale Ridge area and the TDRs coming out of this area is only 67 TDRs and it is being preserved as a forest conservation area. He does think in the context is our density here that much more than the other MPDs we have to give due consideration that is beyond The Villages. Applicant makes a very important point here as it is important to our community. Found there is some real value being brought to the equation; very important and valuable real estate being preserved for our community. Second thing, BDUGGA (passed out Map 1 of the BDUGGA) this helped him understand that the BDUGAA does not address the other areas of the MPDs as it only pertains to the annexation areas (pointed out west and south annexation areas). We have open space being provided and as a condition was bringing both the west and south and east annexation areas; important as we look at the context of the agreement the BDUGGA is focused only on the divisions of the west, south and a small portion of the east annexation areas (distributed another handout), showed the acreage and encouraged all to look at the language within the west annexation area, the entire 328.6 are not intended for urban development, only 265.3 acres is meant for urban development excluding open space, east is all defined at urban development. In the BDUGAA is where we see the reference to 4 units per acre. His interpretations of this are the urban development acres, not the non urban development area. Referred to areas on the handouts, what it is really saying in the BDUGGA it defined what the urban developments were going to only apply to the urban development areas minus open space

and does not apply to those areas that have not been identified in the MPDs. The Comprehensive Plan is the only document that has 4 units per acre to the entire MPD area, comp and code relates to 4 dwelling units per gross acre and cannot find how this got into those documents; discussed net developable acre reference in the BDUGAA and gave the calculations; pointed out we are not talking about 4 dwelling units per acre but rather 9 dwelling units per acre; discussed proposed dwelling units on 535 acres in an average of 9 dwelling units per acre on the ground excluding open space. The applicant is well within their rights not to propose just the minimum and does this type of density really fit with city code and rural by design.

Councilmember Hanson 6.3 of BDUGAA referenced the last two sentences; wonders how we got from 4 to 9.

Councilmember Boston noted wouldn't this be averaged throughout the development.

Councilmember Goodwin encourages us to look at the TDR program (put up a map); referenced areas on the map; sending areas in the green are really sensitive areas today that could not be developed today.

Councilmember Hanson pointed out this has changed drastically in the last few years as the buffers have been increased from 75 ft. to 225 ft.

Councilmember Goodwin stated that reality is the dark areas would not have been able to be developed and to some extent the statement of saying you will preserve all this open space is somewhat overstated; the TDR program is meant to help land owners as opposed to really preserving open space.

Councilmember Hanson disagrees with Councilmember Goodwin and explained that the program is helping both.

Councilmember Goodwin stuck on (referred to The Villages) in terms of density the ultimate test is whether the submittal meets the criteria of what is in the code and is in contrast to rural by design. We see in terms of open space being preserved in The Villages is really the sensitive areas, there is some additional that is not sensitive, but is not a lot only 77 acres. Referred to Comprehensive Plan not providing for high density and it only calls for low and medium density; and now we have 54 acres of the total being proposed for high and ultra high density. The way it is currently written there is no clustering required and does not see clustering as not aware of conditions that require clustering and the amount of high density development being provided is added on to that it is really just an awful lot of apartment complexes around the town center. The only significant open space that isn't wetland and buffers is minimal and is this consistent with a village concept. One of the arguments made by the applicant for high density is it promotes affordable housing, feels some higher density does allow this, but in this layout with the ultra high density potential is you want to avoid ghettos. He struggles with areas that are proposed to be ultra high density for up to 30 units per acre.

Councilmember Hanson referred to design guidelines and a mix of different types of uses being the intent, and noted Councilmember Goodwin brought up a good point.

Councilmember Goodwin discussed what is meant by clustering and the intent of it; one tool we have as a Council in the code we are not required to approve high density housing, and way we might be able to accommodate the applicant objectives as well as to ensure we have mixed development and creating more open space is to indicate if any high density housing is to occur there must be some clustering and open space provided (created).

Councilmember Saas questioned what Councilmember Goodwin's vision does to this picture.

Councilmember Goodwin responded we can accomplish a reasonable amount of affordable housing without utilizing the high density; he suggested two options, 1) allow a level of low and medium density or, 2) allow a level of high density housing but get more open space for that.

Councilmember Boston commented on high density housing centered around a town center; and as he recalls it was looked at at one time giving that commercial area a benefit of having higher density to support and make those retail services viable.


Councilmember Boston referred to seeing verbiage that refers to clustering.

Councilmember Hanson commented on wanting to make sure the vision of rural by design is adhered to.

ADJOURNMENT:

A **motion** was made by Councilmember Hanson and **seconded** by Councilmember Saas to continue the special meeting regarding the closed record hearing of the proposed Master Planned Developments on August 12, 2010 in the Council Chambers from 4 p.m. to 7 p.m. Motion **passed** with all voting in favor (4-0).

ATTEST:



Rebecca Olness, Mayor



Rachel Pitzel, Deputy City Clerk