BLACK DIAMOND
PLANNING COMMISSION
MINUTES OF APRIL 6, 2010 MEETING

CALL TO ORDER

Chairman Bob Kaye called the meeting to order at 7:02 p.m. with the introduction of the role and duties of the Planning Commission.

ROLL CALL

Present:	Commissioners Bob Kaye, Keith Watson, Greg Thesenvitz, Daryl Buss, Ron Taylor; Sheri Roth
Absent:	Pam O'Brien
Staff:	Community Development Director Steve Pilcher

APPROVAL OF MINUTES

Moved by Commissioner Buss, seconded by Commissioner Watson, to approve the minutes of the February 9, 2010 meeting as drafted. Passed 6-0.

PUBLIC COMMENTS

None.

WORKSESSION ON POTENTIAL AMENDMENTS TO BLACK DIAMOND MUNICIPAL CODE 18.08 REGARDING APPLICATION PROCEDURES

Mr. Pilcher stated staff has determined there are some issues with the procedural provisions of the code that need to be clarified. He noted that often these types of issues do not become evident until a code is put into use; that is primarily the case here. He then reviewed the major areas being proposed for amendment.

18.08.020, Supersedence, is proposed for elimination. This section states that the provisions of Chapter 18.08 supersede all other procedural requirements that otherwise may exist in other portions of the municipal code. In January 2010, the City Council adopted an ordinance clarifying the SEPA appeal process, which states that the provisions of that section "trump" anything else otherwise found in the code. Deleting this section will eliminate that apparent conflict.

The code defines 6 different types of decisions, which relate to the nature of an application, who makes the decision, whether public notice is required, etc. Staff is recommending that all references to the SEPA process be deleted from Chapter 18.08, as it is otherwise addressed in Chapter 19.04.
Type 1 "Ministerial" decisions are made by staff and require no public notice (as long as they are exempt from the SEPA process. If not SEPA exempt, notice of the SEPA action is provided). These include process such as single family building permits, shorelines exemptions, boundary line adjustments, etc.

Type 2 "Administrative" decisions are typically made by the Community Development Director and do require notification to the public. A hearing is not required, but the notice

allows for public input and the opportunity to appeal the decision of the director. Any appeal would be sent to the Hearing Examiner.

Type 3 "Quasi-judicial" decisions are made by the Hearing Examiner following an open record public hearing. Decisions falling within this category include conditional use permits, variances, preliminary plats, etc. The decision of the Examiner is final, unless appealed to Superior Court.

Type 4 "Quasi-judicial" decisions are similar, but in this case, the Hearing Examiner's decision is in the form of a recommendation to the City Council. This includes Master Planned Developments and site-specific rezones. Staff is recommending that Development Agreements go straight to the Council, rather than having the Examiner first conduct a hearing. Anyone dissatisfied with the final action by the Council may appeal that decision to Superior Court.

Type 5 "Legislative" decisions are first presented to the Planning Commission, which conducts a public hearing before making a recommendation to the City Council. These types of actions are not subject to the rules of quasi-judicial procedures (e.g., ex parte communication limitations) and include items such as code amendments, comprehensive plan amendments, area-wide rezones, etc.

Type 6 "Quasi-judicial" decisions go directly to the City Council for action. There are only two: acceptance of a final plat and (per staff recommendation) Development Agreements.

The public notice requirements for the various types of actions are addressed in 18.08.120 and .125. Mr. Pilcher noted that when the Council first reviewed this section of code, it opted for a high degree of public notice, typically requiring mailed, published and online notices, plus mailing to property owners within 300 feet.

In 18.08.130, staff is recommending that the decision of when consolidated permit review will not be required should be left to the director to determine, as opposed to an applicant.

The remaining sections of the proposed amendments primarily relate to deleting references to the SEPA process.

Mr. Pilcher also presented some proposed minor changes to the SEPA chapter (BDMC 19.04). He noted that 19.04.040 is proposed to be amended to identify the community development director as the "Responsible Official," with reserving the ability for the Mayor to name another individual.

19.04.180 deals with the notice requirements required for SEPA actions. Staff is recommending adding a requirement that notice of SEPA actions be mailed to all property owners within 300 feet of a proposal.

19.04.250 is the section of this code that was amended earlier this year. Subsection "I" includes the language that the provisions of this chapter supersede any other provision of city code.

In 19.04.300, staff is recommending that the current fee levels be deleted and refer to the fee schedule instead. Also proposed are changes to the funding of EIS preparation that is more consistent with practices of other jurisdictions.

Bob Rothschilds addressed the Commission and suggested that additional language be added to the Type 6 decision section (18.08.090), noting the need to conduct a public hearing and also what appeal rights exist. He also stated his belief that Sensitive Area Buffer Reductions not be an administrative decision, but be considered by the City Council as a Type 6 decision.

Mr. Pilcher indicated that the latter may not be consistent with the Council's desire to minimize its role in quasi-judicial proceedings. He noted that when they are involved, they cannot talk about these issues with their constituents, which has been a source of concern during the MPD process.

Joe May asked how a citizen might make any comments on the proposal. Chairman Kaye noted anyone could contact the staff and that the Commission also intends to conduct a public hearing next month, which also provides an opportunity for input. Mr. Pilcher noted that the proposed changes will be posted on the website prior to the public hearing.

DEPARTMENT REPORT

Mr. Pilcher commented that the MPD hearings (including the FEIS appeals) had taken much longer than initially anticipated. The Hearing Examiner is due to make a decision on April 15th. If he determines the FEIS documents were adequate, then the City Council will need to establish a date for the closed record hearing on the MPDs. Formal action on that cannot occur until their May 6th meeting.

Mr. Pilcher also noted that applications are being accepted for proposed amendments to the Comprehensive Plan. Notice has been placed on the city's website.

Commission member Roth noted there is an upcoming meeting regarding a proposed T-Mobile cell tower being proposed just east of the city limits on the south side of 288th. The meeting will be held on April 27 at 6:30 p.m. at Glacier Park School.

ADJOURNMENT

Moved by Thomas, seconded by Thesenvitz to adjourn. Passed 6-0. The meeting then adjourned at 8:40 p.m.

Bob Kaye, Chairman

ATTEST:

Planning Commission Secretary