

**BLACK DIAMOND
PLANNING COMMISSION
MINUTES OF JUNE 8, 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, Pam O'Brien, Ron Taylor, Sheri Roth, Greg Thesenvitz, Darryl Buss,
Absent: Keith Watson (ill)
Staff: Community Development Director Steve Pilcher

PUBLIC COMMENTS

Cindy Proctor, 2950 Sun Mountain Drive, Enumclaw, confirmed that the Commissioners had received a copy of an email she sent on June 6th. She stated that the minutes of the May 11th meeting should not be approved, as they did not include important statements, as noted in her email.

Mr. Pilcher provided the Commission with information from the website of MRSC (Municipal Research and Services Center) that indicates verbatim minutes are not required by law.

Ms. Proctor stated her opposition to the proposed amendment to Chapter 18.08 which would remove the Hearing Examiner from reviewing a proposed Development Agreement.

Chairman Kaye noted that at the public hearing, the Commission had provided ample opportunity for public comment and then had closed the hearing to further testimony. He noted that the purpose of the Public Comment portion of this meeting is for individuals to comment on issues not on the meeting agenda.

Cynthia Wheeler, 30221 234th Ave. SE, noted that three of the Planning Commission members in attendance were not present at the May 11th public meeting and therefore should not vote on whether to approve the minutes and on the proposed code changes. She asked Mr. Pilcher if a copy of the legal analysis of former Interim City Attorney had been provided to the Commission.

Mr. Pilcher declined to answer her question.

Commissioner O'Brien inquired if there was information lacking in the minutes that wasn't otherwise addressed in Ms. Proctor's email.

Ms. Wheeler stated Ms. Proctor's email included the information they feel needs to be included in the minutes.

Robert Taeschner, 30846 229th Pl. SE, advised the Commission they may not have adequate information available in order to make a decision on the proposed code amendments.

Lisa Garvich, 29625 232nd Ave SE, stated the Commission should not feel rushed to adopt the proposed amendments. She stated that staff is trying to push through too many amendments to the Municipal Code, particularly during this period while the MPDs are under consideration.

Mr. Pilcher pointed out there have been two instances in the past 6 months that the Council, in response to citizen comments, has adopted code amendments regarding the MPD process.

Sheri Miller, 23210 312th St. SE, stated it is important for the Commission to hear the concerns of citizens and be responsive to those concerns.

Robert Taeschner inquired of Mr. Pilcher whether he was a Black Diamond resident. Mr. Pilcher replied that he was not.

APPROVAL OF MINUTES

Commissioner O'Brien inquired of those Commissioners who were present at the May 11th meeting if they felt the minutes captured the "flavor" of the meeting. Commissioners Buss and Thesenvitz responded in the affirmative, as it was clear the majority of testimony was in opposition to removing the Hearing Examiner from the Development Agreement process.

Moved by Commissioner Thesenvitz, seconded by Commissioner Buss, to approve the minutes of the May 11, 2010 meeting as drafted. Passed 5-0 (Commissioner Taylor abstained).

PUBLIC HEARING REGARDING POTENTIAL AMENDMENTS TO BLACK DIAMOND MUNICIPAL CODE 18.08 CONCERNING APPLICATION PROCEDURES (testimony closed)

Chairman Kaye asked the Commission what their preference was concerning the issue of the Hearing Examiner and the Development Agreement process. Consensus was to keep the language as currently in code and therefore leave the Examiner in the Development Agreement process.

Commissioner Thesenvitz asked for clarification of the proposed amendment to 18.08.050 regarding the shoreline permit process.

Mr. Pilcher noted that this section is proposed for deletion as part of a broader amendment to make all shoreline permits Type 3 decisions and therefore require a public hearing before the Hearing Examiner. The code still provides that an appeal of an Examiner's decision is to be made to the State Shorelines Hearing Board.

Commissioner Thesenvitz also asked for clarification of the proposed amendments regarding the SEPA process.

Mr. Pilcher noted the intent is to have everything regarding the SEPA process reside in Chapter 19.04 of the Code. He stated that contrary to his comments at the previous meeting, former Interim City Attorney Ward had not prepared a legal opinion regarding the SEPA process, but instead, had compiled a booklet of legal citations from the RCWs, WACs, and local code. He noted that prior to the January amendments, there was conflicting code language between Chapters 18.08 and 19.04. For example, Chapter 18.08 currently states that an administrative appeal of the adequacy of a Final EIS is not allowed. If that had remained the case, the MPD SEPA appellants would have had to take the question of FEIS adequacy directly to court, not the Hearing Examiner. The January amendments stated that the provisions of Chapter 19.04 superseded anything else in the Municipal Code. The current proposed revisions will “close the loop” on any other potential conflicts.

Commissioner Taylor asked if the proposed amendments would apply retroactively to the MPD FEIS process. Although staff did not receive a formal analysis from the City Attorney, Mr. Pilcher stated it is his understanding they would not.

Moved by Thesenvitz, seconded by Buss, to recommend approval of the proposed amendments to Chapter 18.08 to the City Council, except that Development Agreements should remain as a Type 4 decision. Approved 6-0.

WORKSESSION ON MISCELLANEOUS ZONING CODE AMENDMENTS

Mr. Pilcher noted that it has been one year since the new Zoning Code was adopted and since that time, staff has identified a number of problems with various provisions. A good number of these are simply erroneous cross-references (i.e., wrong chapter citations) and are not included in the packet provided for this meeting. Many other corrections are also minor in nature. However, there are a few issues for which staff needs direction from the Commission.

During the past few months, staff has been contacted by two homeowners in town who have expressed dissatisfaction with the size limitation for detached accessory buildings. Currently, for properties less than 35,000 sq. ft. in size, the size of an accessory building is limited to no greater than 50% of the ground floor area of the primary structure (house) on the lot. One citizen, who owns a relatively small (~800 sq. ft.) home, found this will not allow him to build a detached two-car garage.

Another individual wishes to build a large detached garage/workshop building on her property, which is over one acre in size. However, the code exemption for allowing accessory buildings larger than 50% of the ground floor area of the building only applies to agricultural buildings.

The Commission discussed several potential alternatives, including: 1) providing a basic entitlement which would accommodate a 2-car garage; 2) allowing detached structures to equal the size of the house; 3) placing no limit on size for larger properties; etc.

Staff will prepare alternatives and present those at the next meeting.

Mr. Pilcher noted another major policy issue is being whether to “downgrade” Site Plan Review (SPR) from a Type 3 to Type 2 decision. Type 3 decisions require a public hearing to be held with the Hearing Examiner. He noted that as structured, the code has little discretionary criteria for the SPR process, meaning the Examiner would be obligated to approve a site plan that complies with city standards. In that regard, staff does not see the utility in conducting a hearing. To do so adds unnecessary delays to the development process; it could be perceived as an impediment to commercial development. He also stated that based upon his experience, to have all development above the intensity of a 4-plex to require a public hearing SPR process is very unusual.

The Commission concurred with changing SPR from a Type 3 to Type 2 decision process.

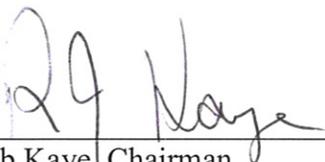
The Commission then agreed to continue this matter to the next meeting.

DEPARTMENT REPORT

Mr. Pilcher indicated that rather than provide a traditional report, he would respond to several comments that have been made by the public. He noted again that minutes do not have to be verbatim and it is entirely the Commission’s decision to approve their contents. He also noted that in the United States, we do not have direct democracy (other than for initiatives or referendums), but instead operate under a system of representative democracy, where elected officials (and appointed ones, too) make the decisions based upon what they determine to be best for the community. After considering public comment, the Commission and Council are free to do what they determine to be the best course of action.

ADJOURNMENT

The meeting adjourned at 9:30 p.m.



Bob Kaye, Chairman

ATTEST:



Planning Commission Secretary