

**BLACK DIAMOND
PLANNING COMMISSION
MINUTES OF OCTOBER 12, 2010 MEETING**

CALL TO ORDER

Chairman Bob Kaye called the meeting to order at 7:00 p.m. with the introduction of the role and duties of the Planning Commission.

ROLL CALL

Present: Commissioners Bob Kaye, Darryl Buss Pam Thurmond, Ron Taylor, Sheri Roth, Greg Thesenvitz, Keith Watson
Absent: None
Staff: Community Development Director Steve Pilcher; Economic Development Director Andy Williamson

Chair Kaye announced that since the September meeting of the Commission had been canceled due to lack of a quorum, the items from that agenda were being considered at this meeting.

APPROVAL OF MINUTES

Moved by Commissioner Taylor, seconded by Commissioner Watson, to approve the minutes of the August 10, 2010 meeting. Passed 7-0.

PUBLIC COMMENTS

Brian Derdowski, 70 E. Sunset Way #254, Issaquah, WA, noted that the City Council's approval of the two MPD applications brings a new era to the city. He stressed the need to retain plenty of discretionary authority as the city grows in the future. He noted that all code doesn't impact big and small development proposals in the same fashion. Mr. Derdowski stated that the level of discretionary authority isn't the same between Type II and Type III decisions, so the Commission should be careful in making any changes in that regard. He stated that it is good to have both SEPA regulations to address environmental impacts and other language in code to address those impacts. A little bit of redundancy in code is acceptable.

Jay McElroy, Green Valley Road, stated that the MPDs have been approved and amendments are already being proposed. He questioned whether it is good policy for the City to establish growth targets that are higher than those assigned by King County. He noted that since King County was a signator to the Black Diamond Urban Growth Area Agreement, shouldn't their concurrence with the MPDs be required?

The Chair asked Mr. Pilcher to respond to Mr. McElroy's comments. Mr. Pilcher noted that on September 20th, the Council did approve the two MPD applications. On October 11th, a Land Use Petition Act legal challenge was filed by a group called Towards Responsible Development. A King County Superior Court date of March 21, 2011 has been set for this matter. In the meantime, unless there is an injunction filed, work on the MPDs can progress.

The next stage in the MPD process is for Yarrow Bay and the City to enter into a Development Agreement. Until that is accomplished, no permits for any type of activity may be issued for the MPD projects. Staff is now reviewing Yarrow Bay's draft Development Agreements and anticipates beginning discussions with them in early November.

PUBLIC HEARING ON MISCELLANEOUS ZONING CODE AMENDMENTS

Mr. Pilcher gave a brief presentation. He noted that the City Council had adopted all the amendments proposals previously acted upon by the Commission. There were two primary areas which the Commission held back from the original packet: 1) decision criteria and 2) site plan review. Staff has prepared tables comparing the differences in decision criteria between Title 17 (Subdivision Code) and Chapter 18.12, plus Title 16 (Comprehensive Plan) and Chapter 18.12. Staff has analyzed how different jurisdictions dealt with the issue of Site Plan Review and discovered there is no clear approach. Some cities deal with this administratively, while others require some level of public review.

With the consensus of the Commission, the Chair then re-opened the public hearing to further testimony.

Brian Derdowski, 70 E. Sunset Way, #254, Issaquah, stated he like the idea of using the SEPA exemption thresholds for determining when Site Plan Review should require a public hearing. In terms of the Subdivision decision criteria, he stated that it is important to keep the transit stop criteria as necessary to address school needs. He stated he is concerned with the proposed elimination of the language concerning Development Agreements. He advocated retaining the language concerning addressing of environmental impacts. He stated that the existing Subdivision Code language concerning concurrency may not be consistent with State law. He opposed the elimination of the Comprehensive Plan decision criteria from Chapter 18.12.

The Chair asked Mr. Pilcher to respond to the comments. Mr. Pilcher noted that in residential areas, where subdivision regulations would typically come into play, it is rare to find a “pullout” for a bus, either public or school. In these areas, buses typically pull over to the side of the road and pick up passengers, without the need for a physical pull-out space. In addition, since transit typically follows development, it is difficult to determine transit stops at the time of subdivision approval.

Mr. Pilcher noted that staff is proposing the deletion of the language concerning Development Agreements because: 1) it really isn't decision criteria, but a listing of what elements an Agreement may address; and 2) the exact language is found in the Development Agreement chapter of the Zoning Code. He stated he did not have an answer for the concern regarding concurrency, but noted that both the prior and current city attorneys had reviewed the Subdivision Code and neither one expressed any concern with this existing code provision. Finally, he noted that the Comprehensive Plan decision criteria found in Title 16 not only includes the provisions in Chapter 18.12, but also additional language for the various means under which a Comprehensive Plan might be considered.

Commissioner Thesenvitz indicated his support for removing the requirement of a public hearing for Site Plan Review. He stated that if a project is allowed within a zone and meets all code standards, it should be allowed to progress. Requiring a public hearing would simply delay the project.

Commissioner Buss spoke in favor of requiring a public hearing, as he believes the public should have the opportunity to comment on projects. A spirited debate continued.

Moved by Commissioner Thesenvitz, seconded by Commissioner Taylor, to adopt the proposed amendments to Chapter 18.16 as recommended by staff. Passed 6-1 (Buss).

The Commission asked Mr. Pilcher to comment on whether there is a requirement in the Subdivision Code for lots to comply with the minimum lot size standard of the zone. He noted that standard is addressed in 17.15.020.A.1.

Moved by Thurmond, seconded by Buss, to accept the staff recommended elimination of section 18.12.040, with the provision of requesting the City Attorney to comment on the issue of concurrency. Passed 7-0.

Moved by Commissioner Buss, seconded by Commissioner Watson, to approve the staff recommendation to eliminate section 18.12.070. Passed 7-0.

Moved by Commissioner Taylor, seconded by Commissioner Thurmond, to delete the extra reference to 18.12.010 in the Chapter section list. Passed 7-0.

Moved by Commissioner Thesenvitz, seconded by Commissioner Thurmond, to delete section 18.12.060. Passed 7-0.

Moved by Commissioner Taylor, seconded by Commissioner Thurmond, to move the remainder of the proposed code amendments forward to the City Council. Passed 6-0.

COMPREHENSIVE PLAN AMENDMENTS

Mr. Pilcher noted that at the August meeting, due to the late hour, the Commission agreed to provide an opportunity for those in attendance to speak, and also continue the public hearing (and additional opportunity for testimony) to its next meeting.

Mr. Pilcher gave a brief staff presentation, noting the changes were mainly to update certain background information in the Plan, plus to add verbiage addressing privately-owned utilities. The latter was being done at the request of Puget Sound Energy, which apparently had submitted suggested language several years ago while the Plan was being updated. Mr. Pilcher stated that it appeared the revised language had never been put forth for consideration. He noted that after the last meeting, he had contacted PSE and determined that the utility improvements being listed in the proposed amendments were being considered at a fairly general level and that environmental review would be appropriate at the time of actual project construction. Mr. Pilcher also noted that a SEPA determination for the proposed Comp Plan amendments has been issued in the summer and no comments had been received.

Brian Derdowski, 70 E. Sunset Way, # 254, Issaquah, expressed his concern that the proposed growth targets are in conflict with the King County Countywide Planning Policies. He also expressed concern that references to the BDUGAA were being eliminated and that the Plan was adopting the King County Shorelines Management Plan. He questioned why Jones Lake was now being referred to as less than 20 acres in size and whether that conflicted with Army Corp of Engineer standards. He was concerned about the elimination of language regarding TDRs and how the Comp Plan addresses sewers and whether they are capable of handling anticipated growth. He further cautioned the Commission about adopting amendment language suggested by private utility providers.

Mr. Pilcher noted that the growth projection contained in the King County Countywide Planning Policies is a "floor," not a "ceiling." In other words, the City must plan for at least 1099 households, but could plan for more. He stated he wasn't clear where Mr. Derdowski felt references to the BDUGAA were being eliminated. Mr. Pilcher noted that the Lake Sawyer area has been under the jurisdiction of the King County SMP since being annexed into the City, as the City has yet to update its SMP. That process is currently underway. The proposed language changes to the Comp Plan simply reflect the current situation. He stated that the size reference to Jones Lake is being corrected, since if Jones Lake were over 20 acres in size, it would be subject

to Shorelines jurisdiction, Information on file indicates it is not that large, so this correction is necessary.

Mr. Pilcher noted that the proposed striking of language concerning TDRs is in relation to an earlier Future Land Use Map designation which was subsequently abandoned. The elimination of this language does not impact the City's TDR program. He also noted that the City's Comprehensive Sewer Plan is in the process of being updated; that is document where issues of sewer capacity are addressed.

Jay McElroy, Green Valley Road, expressed his surprise of the 1099 households number only being the minimum, not the maximum number of housing units that must be planned for. He also expressed his concern with the densities that will be allowed in The Villages MPD.

The Chair closed the hearing to public testimony at 9:05 p.m.

Commissioner Taylor expressed his concern with the legal implications of the language contained with Section 8.12, of whether it committed the City to future utility improvements.

Moved by Commissioner Thurmond, seconded by Commissioner Watson, to approve the recommended Comprehensive Plan amendments, with the provision that Commissioner Taylor's concern is addressed. Passed 6-1.

DEPARTMENT REPORT

Mr. Pilcher briefly discussed the status of the two MPDs and the next steps in the process.

ADJOURNMENT

Moved by Commissioner Thurmond, seconded by Commissioner Thesenvitz to adjourn. Passed 7-0. **The meeting adjourned at 9:20 p.m.**

ATTEST:

Bob Kaye, Chairman

Planning Commission Secretary