

**BLACK DIAMOND
PLANNING COMMISSION
MINUTES OF APRIL 12, 2011 MEETING**

CALL TO ORDER

Vice-Chairman Greg Thesenvitz 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 Greg Thesenvitz, Pam Thurmond, Sheri Roth, Ron Taylor,
Keith Watson
Absent: Bob Kaye (excused); Darryl Buss (excused)
Staff: Community Development Director Steve Pilcher

PUBLIC COMMENTS

Peter Rimbos, 19711 241st Ave. SE, Maple Valley, noted that he is a member of a Citizens' Technical Advisory Team that has been reviewing the proposed Development Agreements, initially submitted in September 2010. He noted the group met with staff in December and has also reviewed the 2nd draft of the Development Agreements, which were made available in January 2011. The TAT has also met with City Council members Goodwin and Saas so far and hopes to meet with others to discuss the MPD conditions of approval. He stated that the TAT also hoped to meet with members of the Planning Commission, since the Growth Management Hearings Board has ordered the City to conduct a legislative process for consideration of the MPDs.

Cindy Proctor, 718 Griffin Ave., #241, Enumclaw, advised the Commission that there is a lot of material to review in regards to the MPDs and that the "stay" issued by the Court regarding the Hearings Board's compliance order provides the time for the Commission to become familiar with the material. It also provides time for the Commission to have discussions with members of the public. She asked that the City provide an email address for Commission members so that it wasn't necessary to send communication to Mr. Pilcher. She also recommended that the Commission establish a liaison to the City Council to ensure its recommendations are being clearly communicated.

Cindy Wheeler, 30221 234th Ave. SE, Black Diamond, stated that the Hearings Board decision is for the City to re-do the process for its consideration of the MPDs. She urged the Commission to review all the materials on the record and stated she hopes to have direct contact with the Commission on issues of concern. She also stated that the audio of all Planning Commission hearings should be posted on the City's website. She also urged the Commission to attend all City Council meetings and "sign off" on all matters for which they have issued a recommendation.

Erika Morgan, Chubb Lake, indicated she would be providing a copy of a 1991 King County Boundary Review Board report regarding a Black Diamond annexation and for distribution to the Commission.

APPROVAL OF MINUTES Commissioner Taylor noted that the minutes of the February 8, 2011 meeting should be corrected to note that use of banners was to require a gap between periods of use and also that the limit was to be no more than 30 or 60 consecutive days (depending on the advertised activity).

Moved by Commissioner Thurmond, seconded by Commissioner Taylor, to approve the minutes of the February 8, 2011 meeting with the addition of the word “consecutive” concerning the 30 or 60 day time period and also to require removal of banners between authorized periods of use. Passed 5-0.

DEPARTMENT REPORT

Mr. Pilcher updated the Commission on the various legal proceedings concerning the Master Planned Developments. He noted that earlier in the day, the City had received notice the King County Superior Court had granted the stay requested by Yarrow Bay. This “puts on hold” the Growth Management Hearings Board’s compliance order. At this time, staff intends to proceed with the Development Agreement process, since the MPD ordinances are still valid and the Development Agreements are the next step in the process. By the end of next week, staff anticipates that Yarrow Bay will provide “version 3.0” of the draft Agreements, which will then be posted to the City’s website.

Mr. Pilcher also noted there is a 10-lot subdivision being proposed at roughly 5th St. and Park (Kelly Kahne, applicant). At this time, a public hearing date has not been established.

PUBLIC HEARING ON PROPOSED AMENDMENTS TO TITLE 17, REGARDING PRELIMINARY PLAT APPEAL PROCESSES

Mr. Pilcher introduced the topic to the Commission. He noted there currently is a conflict between Title 17 and Chapter 18.08 of the Municipal Code regarding the course of an appeal of a Hearing Examiner decision on a preliminary plat application. Title 17 indicates appeals would proceed to City Council, while Chp. 18.08 indicates they would go directly to Superior Court. Since almost any appeal of a land use decision goes to Court, staff is recommending Title 17 be amended to be consistent with Chp. 18.08. Mr. Pilcher also noted that if appeals proceed to City Council, they are placed in a “quasi-judicial” mode in regards to proposed subdivisions and therefore, should not be discussing any proposal with their constituents. He noted this lack of access to elected officials had been a source of frustration for both Council and the public during the MPD process.

The Chair opened the hearing to public testimony.

Cindy Wheeler, 30221 234th Ave. SE, Black Diamond, noted this proposal had twice appeared on a City Council agenda, without having been considered by the Planning Commission. She stated that the Council does not oppose being in a quasi-judicial mode. She also stated that, should the City enact this change, it should not apply retroactively to preliminary plat applications that have already been filed. If those applicants wish to abide by a code change, she stated they should be required to withdraw their applications and refile.

Cindy Proctor, 718 Griffin Ave., #241, Enumclaw, expressed concern with all the code amendments that have occurred over the past year, many to rectify conflicts between various sections of the municipal code. For example, she noted: 1) the vesting ordinance had to be re-adopted after being inadvertently repealed; 2) continued amendments to the tree preservation code; and 3) amendments to the SEPA appeals process. Ms. Proctor stated this is evidence of the City moving too quickly, making code changes in service of the two MPDs. She also urged that, should these changes be adopted, they should not apply retroactively to preliminary plats that have already been filed.

Peter Rimbos, 19711 241st Ave. SE, Maple Valley, stated he opposes the proposed change. Requiring appeals to be filed in Superior Court is too expensive and burdensome. He stated that appealing to the City Council is a good intermediate step.

Robbin Taylor, 32110 Botts Drive, Black Diamond, stated she agreed with Mr. Rimbos. She felt that instead of reconciling Title 17 with Chp. 18.08, the opposite should occur.

Erika Morgan, Chubb Lake, stated that she also is opposed to the proposed changes. She also feels the City has never followed through on proper planning for the City to go.

Melanie Gauthier, 25565 Baker St., Black Diamond, stated she also is opposed to the proposed changes. She asked that the City quit incrementally changing the codes and instead, conduct a holistic overview of all codes.

Jack Sperry, 29051 229th Ave. SE, Black Diamond, advocated allowing appeals to Council, instead of to Court. He read a statement from Mr. Rimbos.

Since no one else wished to testify, the Chair then closed oral testimony. However, the written record will be left open for 48 hours to provide Mr. Rimbos (and others) the opportunity to submit any other comments.

Commissioner Watson stated he agreed with leaving the written record open.

Commissioner Taylor requested that staff provide a legal opinion regarding the question of applying any potential change retroactively to applications already on file.

By consensus, it was agreed to table any action (continue the hearing) on this matter until the next regular meeting (May 12, 2011).

PUBLIC HEARING ON URBAN AGRICULTURE AMENDMENTS

Mr. Pilcher indicated this item had been previously discussed at two Commission workshops. The proposed changes will allow community gardens/pea patches to occur as a primary use of property in residential zones. In addition, the changes will legalize any existing agricultural activities (such as Hanging Gardens Nursery). Provisions are also included to allow for roadside sales of homegrown produce.

Robbin Taylor, 32110 Botts Drive, Black Diamond, stated she and her husband have a small farm and supports the proposal.

Since there was no one else wishing to speak, the Chair closed the hearing to oral testimony at 8:07 p.m.

Commissioner Taylor indicated the code allowance for agricultural stands (18.30.020.B.6) should be expanded to allow sales of all agricultural products, rather than only produce. For example, if an individual has chickens and has eggs to sell.

Moved by Commissioner Taylor to approve, with the change as noted; seconded by Commissioner Watson. Passed 5-0.

PUBLIC HEARING ON TEMPORARY SIGNS

Mr. Pilcher noted in June 2009, the City Council had relaxed some temporary sign standards as a support to local businesses, once the Kummer Bridge had re-opened. Initially intended to only extend through the end of 2009, the Council finally decided to allow the relaxed standards to run through all of 2010. As of January 1, 2011, many forms of temporary signs are no longer legal under the Code.

The proposed changes will allow increased use of banners as follows: 1) a total of 180 days of use during a calendar year; 2) no more than 60 days for a business opening or closing event; and 3) in all other instances, no more than 30 days. Plus, given the comments made during approval of the February 8, 2011 minutes, a required break would be required during periods of use.

Standards regarding sandwich board signs are also proposed for revision, as currently, their use is not legal under the code. Mr. Pilcher drew the Commission's attention to an email received from the State Dept. of Transportation, objecting the possible allowance of sandwich board signs within the right-of-way for SR-169. .

Erika Morgan, Chubb Lake, stated she didn't feel there should be any regulations concerning the use of signs on private property. If individuals don't like the appearance of a business, they don't need to patronize that establishment.

Melanie Gauthier, 25565 Baker St., Black Diamond, stated that sign regulations should be friendly to small businesses. She did not support the proposed changes.

Cindy Proctor, 718 Griffin Ave. #241, Enumclaw, stated that sandwich board signs add character to a community and therefore, should not be heavily regulated.

Tamie Deady, P.O. Box 523, Black Diamond, stated that the regulations should be made more lenient. She works with Wolverines football, which needs to erect signs around town to get kids involved. She noted that the City of Enumclaw has a specially designated area in town where these types of organizations can erect signs.

Since no one else wished to testify, the Chair closed oral testimony at 8:35.

Commissioner Taylor indicated he did not understand the comments from WSDOT and asked staff if they could get clarification.

Moved by Commissioner Thurmond, seconded by Commissioner Watson, to table until the next meeting to allow time for further review and discussion. Passed 5-0.

PLANNING COMMISSION COMMENTS

The Commission discussed the concept of having a liaison be at City Council meetings. Commissioner Taylor stated the he frequently attends Council meetings and would be willing to be a liaison.

Commissioner Taylor requested that staff look into establishing a Planning Commission email address on the City's website.

Commissioner Watson asked if the Commission could have a regular meeting with the City Council. Mr. Pilcher indicated he would pass this request on to the Mayor to see what can be done.

PUBLIC COMMENTS

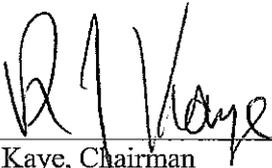
Cindy Proctor, 718 Griffin Ave., #241, Enumclaw, stated that any steps to improve communications will be good. She indicated that Yarrow Bay had resubmitted the two Development Agreements to address concerns with potential vesting. She also stated that the three preliminary plats they have submitted do not have a foundation for review, since a Development Agreement has yet to be finalized. She further stated that the Growth Management Hearings Board ruled unanimously (3-0) that the City should have used a legislative process in considering the MPDs. In spite of being requested by Toward Responsible Development, the Board has declined to invalidate the two approving ordinances.

Michael Irrgang, 22505 SE 329th St., Black Diamond, stated his support of keeping the City Council involved in the land use decision process. The Hearing Examiner rules upon laws, whereas the Council has the ability to listen to and act based upon comments from its citizens.

Melanie Gauthier, 25565 Baker St., Black Diamond, stated that the MPDs are huge issues for the community and stated her hope the Commission would take the time to review all the submitted materials.

ADJOURNMENT

Moved by Commissioner Thurmond, seconded by Commissioner Watson, to adjourn. Passed 5-0.
The meeting adjourned at 9:00 p.m.



Bob Kaye, Chairman

ATTEST:


Planning Commission Secretary