

**BLACK DIAMOND  
PLANNING COMMISSION/CITY COUNCIL  
JOINT MEETING AUGUST 7, 2012  
MINUTES**

**CALL TO ORDER**

Chair Keith Watson called the meeting to order at 7:01 p.m., followed by the Flag Salute.

**ROLL CALL**

Present: Mayor Olness, Councilmembers Tamie Deady, Joe May, Carol Benson and Ron Taylor  
Commissioners Keith Watson, Sheri Roth, Kyle Danielson, Pam McCain, Darryl Buss, Greg Thesenvitz and Pam Thurmond  
Absent: Councilmember Craig Goodwin (excused)  
Staff: Interim City Administrator Pete Butkus, Community Development Director Steve Pilcher, City Attorney Chris Bacha and Senior Planner Stacey Welsh

The order of the agenda was modified to place the Title 17 & 18 Preliminary Plat appeal procedures issue as the first item. Chair Watson introduced Interim City Administrator Pete Butkus.

**CONTINUED PUBLIC HEARING ON POTENTIAL AMENDMENTS TO BDMC TITLES 17 & 18, REGARDING PRELIMINARY PLAT APPEAL PROCEDURES (testimony closed)**

Chair Watson introduced Michael Tierney, an attorney representing the City's Insurance Pool (Cities Insurance Association of Washington). Mr. Tierney made a presentation regarding potential amendments to BDMC Titles 17 & 18, regarding preliminary plat appeal procedures. He recommended that the City Council not assume the position as appellate body for appeals of Hearing Examiner decisions regarding preliminary plats. Councilmembers and Commission members asked Mr. Tierney and Mr. Bacha questions. Mr. Bacha made concluding comments.

**Moved by Commissioner Thurmond, seconded by Commissioners McCain and Roth, to adjourn the special joint session. Passed 7-0.**

The Special City Council Meeting ended at 8:06 p.m., at which time a brief recess was taken and City Councilmembers departed the room.

Chair Keith Watson called the meeting back to order at 8:12 p.m. with the introduction of the role and duties of the Planning Commission.

**APPROVAL OF MINUTES**

**Moved by Commissioner McCain, seconded by Commissioner Roth, to approve the minutes of the July 10, 2012 meeting as written. Passed 7-0.**

**PUBLIC COMMENTS**

None

**(Continued) CONTINUED PUBLIC HEARING ON POTENTIAL AMENDMENTS TO BDMC TITLES 17 & 18, REGARDING PRELIMINARY PLAT APPEAL PROCEDURES (testimony closed)**

Chair Watson asked the Commission if their legal and risk questions had been addressed and what action they would like to take next. The Commission indicated their questions had been addressed and asked Mr. Pilcher to clarify the City Council's direction with regard to Titles 17 and 18. The Commission discussed recommending that the Council not make the recommended change and to take it a step further and make Title 17 conform with Title 18. The Commission discussed adding language to explain their recommendation, including items mentioned by Mr. Tierney, such as having a more efficient process and a better application of the law.

**Moved by Commissioner Thesenvitz, seconded by Commissioners Thurmond and Danielson, to recommend "No" to the proposed change (the proposed direction from the City Council) and to make Chapter 17 agree with Chapter 18, as it is more efficient, it is a better application of the law and it protects individuals and bodies better. Passed 7-0.**

**PUBLIC HEARING ON A PROPOSED AMENDMENT TO BDMC 18.14 RE: VESTING PERIODS FOR APPROVED PROJECT PERMITS**

Chair Watson opened the public hearing and asked for a staff presentation. Mr. Pilcher reviewed the item proposed by the applicants, Mr. Flynn and Mr. Habenicht, and the history of the code amendment. Mr. Pilcher presented provisions in the code that address zoning code amendments, the staff analysis and recommendation. The Commission asked about fees for project extensions. Mr. Pilcher indicated that for an extension request, applicants must pay half the original application fee.

Public Testimony

Jim Flynn had Brad Habenicht distribute a handout of their commercial site plan to the Commission. Mr. Flynn stated that he hoped the Planning Commission agrees the scope of the project is consistent with the Comprehensive Plan. He stated their resolution to the issue of consistent code treatment between older applications and newer applications, is to make the code amendment apply to all site plans; to make the extension period apply to all site plan applications. He said they are the only people that would benefit from the change now because they are the only ones who stepped up to do something in Black Diamond. He said the bottom line is they think it is a good project, and a four year extension is realistic given their take on the economy and other projects they have in the area. He indicated their original intention was to build within a year or two of approval. He discussed the development process and the time it takes.

The Commission asked Mr. Flynn about his original timeframe to build in 2006. The Commission asked Mr. Pilcher about changing the code to have a stepped process. Mr. Pilcher reviewed the code and development process with the Commission. He said they would need to take up that item separately, as the public hearing did not advertise a potential amendment of other portions of the code. He explained if the Commission wants to look at the broader issue of how long land use approvals should remain valid, they could do that as a separate work item later.

Erika Morgan discussed the Comprehensive Plan and the failed sewage treatment plant. She said the Comprehensive Plan contains language about best proven science, to stop us from getting involved with ideas that didn't have science behind them and to keep Black Diamond at the forefront of what was going on in the scientific fields. She said there is nothing that says they can't reapply, but if they do they would have to be up to current standards.

Brad Habenicht spoke to the last comment made about best practices; that it is a good thing about their project moving forward, as their project will be required to comply with best practices on-site. He mentioned stormwater treatment and their focus on doing the best water quality treatment and discharge from the site. He feels good about their ability to protect the Ginder Creek riparian area. He thinks their project would be a good model for projects in the City using best practices and to have something economically viable.

Chair Watson closed public testimony. The Commission asked Mr. Flynn what their target date is for finishing. Mr. Flynn said if they were to start today it would take about two years, but they are just not there with the economy. He discussed the challenge of re-applying was due to new wetland buffer regulations that would result in a dramatically smaller developable area. The Commission asked about the building permit that they would need and the current 2-year timeframe. Mr. Pilcher reviewed the code language, that they must do more than pull a permit and discussed the requirement of being "substantially complete". He said they should vote on the code amendment before them and address the broader issue later. The Commission discussed consideration of the economic downturn, taking a broader look at reasonable practices for long term consideration, giving the applicant more time, substantial completion and the need for new commercial businesses.

**Moved by Commissioner Thurmond, seconded by Commissioner Buss, to recommend an amendment to the code that would grant 3 years for pre-existing approved projects until April 1, 2015. Passed 5-2 (McCain and Roth).**

The Commission stated they would like to address the broader issue. Mr. Pilcher said they would look to work on it in the months ahead. Chair Watson closed the hearing.

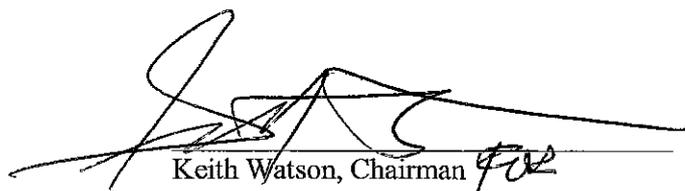
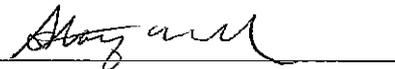
#### **WORKSESSION ON 2012 COMPREHENSIVE PLAN AMENDMENTS**

Mr. Pilcher asked the Commission about scheduling. The Commission asked whether property owners have been notified about the gross vs. net amendment. Mr. Pilcher said that nobody has because one of the items to be discussed by the Commission is exactly what is the scope of the amendment.. Mr. Pilcher discussed how further analysis has shown that the net vs. gross is a separate issue from the Transfer of Development Rights (TDR) issue. The Commission asked what the advantage would be to the City and its citizens of the transportation concurrency on SR-169 amendment. Mr. Pilcher said it is staff's opinion that only half of the amendment could be adopted based upon input received from the Washington State Department of Transportation (WSDOT). The Commission discussed the schedule and decided to postpone this item and set up a special meeting at their next regular meeting on September 11<sup>th</sup>.

#### **ADJOURN**

**Moved by Commissioner Danielson, seconded by Commissioner Thurmond, to adjourn. Passed 7-0. The meeting adjourned at 9:11 p.m.**

Minutes prepared by: Stacey Welsh, Senior Planner



Keith Watson, Chairman

ATTEST:



Planning Commission Secretary