

**BLACK DIAMOND
PLANNING COMMISSION
MINUTES OF MARCH 13, 2012 MEETING**

CALL TO ORDER

Chair Keith Watson called the meeting to order at 7:01 p.m. with the introduction of the role and duties of the Planning Commission.

ROLL CALL

Present: Commissioners Keith Watson, Sheri Roth, Kyle Danielson, Pam McCain, Greg Thesenvitz and Pam Thurmond
Absent: Darryl Buss (excused)
Staff: Community Development Director Steve Pilcher, Associate Planner Stacey Welsh and Natural Resources/Parks Director Aaron Nix

APPROVAL OF MINUTES

Moved by Commissioner Thurmond, seconded by Commissioner McCain, to approve the minutes of the February 21, 2012 meeting as written. Passed 6-0.

Moved by Commissioner McCain, seconded by Commissioner Roth, to approve the minutes of the March 6, 2012 meeting as written. Passed 6-0.

PUBLIC COMMENTS

Sean Taeschner spoke about Yarrow Bay's planned development and tree removal, the environmental impact to wildlife and concern for existing animals. He stated there is no plan in place for protection of bald eagles and discussed an environmental impact statement for the eagles.

PUBLIC HEARINGS: DRAFT SHORELINE MASTER PROGRAM (SMP)

Chair Watson provided an overview of the Rules of Procedure for a Planning Commission public hearing. Mr. Pilcher spoke to procedural matters and the extension of the SEPA comment period on the SMP through the end of the month (March 30th). Mr. Nix made the staff presentation, discussed the background on the process and distributed revisions to the document to the Commission and members of the audience.

Public Testimony

Jack Sperry asked the Commission to extend the speaking time limit. He spoke about living on Lake Sawyer and stated landowner issues and concerns must be kept in mind. He said most lots on Lake Sawyer have already been developed. He spoke about the new proposed setback from the Ordinary High Water Mark; the setback has been 20' and the median setback is 57'. He stated that people build to the minimum setback when they absolutely must and an increase in the building setback distance will have a real impact. He believes the City should continue to negotiate with the Department of Ecology on the setback issue. He previously proposed buffer width averaging for lots with angled shoreline and a new water related setback reduction allowed when payment is made into a City managed shoreline restoration fund. He noted previously raised concerns about setback reduction allowances and how it relates to developed versus undeveloped lots. He said the regulations are requiring more than the no net loss standard on previously developed lots. He spoke about some of the water related mitigation actions and how upland mitigation should be sufficient. He proposed the SMP be amended to state that the requirement for a water related action applies to undeveloped lots. He said a Variance is costly and time consuming for the

property owner and there is no guarantee. He stated anything that can be done to add flexibility without compromising ecological function should be incorporated. He asked the Commission to review previously submitted comments and submitted a written copy of his testimony.

Steve Frank, the President of the Lake Sawyer Community Club, requested additional time for submittal of comments. He said the current plan was posted recently and that he would like more time for his members to review and comment. He asked the Commission to hold the record open for written comments after the public hearing. He spoke about the membership purpose of the Lake Sawyer Community Club and the Lake Sawyer Management Plan. He requested additional time to provide input to the plan and on the Community Club's involvement in the plan.

Jack Gulliver spoke about building a home on Whidbey Island and associated mitigation and shoreline requirements required by Island County. He said he had not read the draft Black Diamond SMP, but would like to know what will be required of existing residents on Lake Sawyer. He spoke about previous permitting in the City for his lot on Lake Sawyer. He discussed a previous petition for a water system on Lake Sawyer and would support a sewer system around the lake.

Cindy Wheeler spoke about the public hearing notice, its wording and posting. She discussed the series of items contained within the Shoreline Master Program and the input of the Citizens Advisory Committee (CAC). She said the Commission should not close the hearing and keep the public comment period open. She stated that the comment deadline should be 14 days from when the latest version of the document is posted on the website. She said she would like the Commission to get back together to review the Shoreline Analysis and other documents. Ms. Wheeler spoke to the draft Shoreline Management Plan, noting that the CAC recommended the shoreline setback be 20'. She referenced a letter written by a majority of the members of the CAC to the Commission. She stated that water related improvement should not be mandatory. She said the City needs to recognize in its plan the different ecological rating of each property. She stated the Shoreline Restoration Plan contains errors, including an outdated map from 2000 and incorrectly depicts her septic system. She said the Restoration Plan lists the Lake Sawyer Community Club as a partner in the goals; however the City did not get approval from the Board of the LSCSS in assigning those tasks, so the language should be removed to avoid legal action. She stated there is mention of the Lake Sawyer water level in the plan but it does not say who is responsible for it. She said the Washington State Department of Fish & Wildlife used to be responsible for maintenance of the weir. She said revising the boating regulations on the lake is not defined in the document, and therefore she cannot comment on it adequately. She said that a Lake Management District is also not defined and asked about the boundaries and what would trigger an improvement. She stated the Yarrow Bay park fees would be an appropriate source of funds for that if the improvements are required because of them. She stated the Shoreline Analysis document has errors and aged information and has not been reviewed by the CAC or the Commission. She said the Commission should review it before sending it to the Council.

A citizen in the audience asked about changing the rules on Lake Sawyer. Mr. Nix discussed some of the language about changing boating on the lake and what has happened over time with different types of boats.

Bruce Earley passed out a document to the Planning Commission and discussed the current King County Code provisions for docks and extensions. He said the draft SMP includes no similar setback restriction on the property lines if extended beyond OHWM, which opens the residents up to litigation. He provided a copy of the current code and discussed the regulation and text from the draft SMP. He stated he would like the final SMP to address the shortcoming cited in his comment letter. He discussed non-conforming structures and said it is not fair if someone's house

burns down, they should be able to rebuild what they have. He said the standard in the draft SMP goes further than no-net loss and that the notice provided by the City is lacking.

Sean Taeschner spoke about attendance at a Lake Sawyer Community Club meeting several years ago and a discussion of residents voluntarily giving up area on their property for vegetation planting and removal of bulkheads. He explained that in exchange for these actions, a tax exemption was to be allowed by the state. He told the Commission to give citizens time to comment and to not work to end people's use of the lake.

The Planning Commission spoke about their schedule, next steps in the process and extension of the time limit for comments. There was discussion about meeting on March 27th where additional oral testimony could be considered; closing written testimony on March 30th; and then having their next regular meeting on April 10th.

The Commission asked about the difference between the Shoreline Master Plan/Regulations and the Shoreline Master Program. Mr. Nix explained that the Program contains several back up documents; when SMPs are adopted the supporting documents are appendices to the regulations (the Plan). The Restoration Plan contains prescriptive items and is not a regulatory component. Commissioner Thesenvitz said he would like to see the Restoration Plan and discuss it with the Commission.

Moved by Commissioner Thurmond, seconded by Commissioner Thesenvitz, to continue the public hearing for oral testimony for the draft Shoreline Master Plan to March 27th and to extend the written comment period to March 30th. Passed 6-0.

WORKSESSIONS

None

UNFINISHED BUSINESS

None

DEPARTMENT REPORT

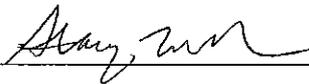
Mr. Pilcher distributed a document entitled "A Manager's Guide to Evaluating Citizen Participation". Councilmember Dedy discussed the document, which she had obtained for the City Council, Planning Commission and City staff.

PUBLIC COMMENTS

Sean Taeschner requested the King County recommendation be applied in Black Diamond regarding eagles. He stated that a U.S. Fish & Wildlife official will be contacting the City.

ADJOURN

**Moved by Commissioner Thesenvitz, seconded by Commissioner Thurmond, to adjourn.
Passed 6-0. The meeting adjourned at 8:47 p.m.**

Minutes prepared by: Stacey Welsh, Associate Planner 

ATTEST:


Keith Watson, Chairman


Planning Commission Secretary