

**CITY OF BLACK DIAMOND PLANNING
COMMISSION SPECIAL MEETING MINUTES AND
PLANNING COMMISSION MEETING MINUTES**

September 8, 2015

Council Chamber, 25510 Lawson Street, Black Diamond, Washington

CALL TO ORDER:

Commissioner (Chair) McCain called the special meeting to order at 6:34 p.m.

ROLL CALL:

PRESENT: Commissioners Pepper, Senecal, (Chair) McCain, Weber and Davis.
Commissioner Kuzaro arrived later in the meeting

ABSENT: Commissioners Roth(Excused)

Staff present were: Barbara Kincaid, Community Development Director and Meri Jane Bohn, Deputy City Clerk

Work Session – MPD Properties Rezone

Chair McCain called for a staff report first.

Community Development Director Kincaid gave Commissioners packets with several items, a draft ordinance with a staff report and an attached map which is the subject of the workshop this evening. A power point presentation was presented of the parcels that are affected for an area wide rezone. Subject properties in the rezone are 8 parcels, 20 acres each, 160 acres total. The 8 parcels were not part of the MPD so there are no standards for those parcels yet. Moratorium has been on them since March 2014 and City Council just recently passed Ordinance 15-1055 to extend moratorium for the 3rd time until November 20th 2015. Planning Commission needs recommendation on or before 10/6/15 as City Council will be considering on 11/5/15. Staff recommendation is to zone some R4 single family residential, 4 units per 1 acre. Then propose R6 zoning which is 6 properties per acre for the rest. The zoning needs to be changed to be in line with our Comp Plan.

Commissioner Roth sent an email with questions since she couldn't be here tonight. She wanted to know how long a moratorium could be extended. Director Kincaid stated RCW 36 70A 390 does not state how long it can or can't be extended. It states you can't have a moratorium longer than 6 months or you must extend it.

Commissioner Weber asked how much acreage in each rezone section. Director Kincaid stated 26.26 would be R4 (4 units per acre) and the remainder 133.74 would be R6 (6 units per acre).

Commissioner Senecal stated the change in zone has a lot to do with topography lines, the letter from Palmer Coking Coal Company already has entry/exit points to tie into the rest of the MPD. Does this change and make funny lot sizes which would interfere with streets that have already been planned to tie into the rest of the plan? Were there any planned arterials? Director Kincaid answered it does apply. Bill Kombol, Palmer Coking Coal stated in his letter it would work and agrees with what they have for their connection plan. It won't affect their concept plan for the road connections. And it does not appear to her that there will be any conflict.

Commissioner Weber asked how does the topography lines plan into the roadway that Yarrow Bay wants to put thru the reserved at the woodlands.

Commissioner Senecal asked if we just take Bill Kombol's letter at face value or do we have any business to go back and dig deeper. Commissioner Weber feels like this is the Planning Commissioners job to look into further.

Director Kincaid said she looked at the letter. We have to zone this land something and this is the lowest density we can place/apply on this land. There are some wetlands out there also. Commissioner Weber asked if this is the only line out there to go by.

Chair McCain stated there are only 3 options in the city, and the property owner is opting for a down zone, this doesn't really happen in normal conditions. Consider all the other factors, as we aren't approving the plat use here. It's been a 6-8 month process. With the city going to the lowest density and medium density, it could be considered a good thing. This needs to be finished because it needs to fit into the new Comp Plan. Director Kincaid stated right now we need to address the moratorium imposed on these properties, it has to be zoned something.

Commissioner Weber said if we recommend the rezone as it is and take care of the moratorium, how will this fit into the Comp Plan down the road? Director Kincaid said this will make it consistent with the low density residential designation that the comp plan gives it now. As we go thru the Comp Plan update you will be considering if changes need to be made. It is consistent now, so that is what we want.

Commissioner Weber asked if we approve this for low density now, will we be forced to change that. Director Kincaid said not necessarily, for internal consistency on Comp plan chapters if it appears that the transportation system to these parcels doesn't exist or possibly private drives go in to get into the properties, it doesn't make sense to change the designation based on that. It will be consistent with current & future infrastructure. We won't uproot anything if we don't support it with infrastructure.

Commissioner Davis asked shouldn't we be seeing roads thru there, or proposed roads since the perimeters go to different roads that is out of our jurisdiction to zone or connect to county roads. Director Kincaid stated at a different point in the process we would have to look at the roads, but no issues for now.

Chair McCain closed the public hearing and called for department report & public testimony at this time.

Public testimony

Director Kincaid stated for the record to include the presentation she just gave you with the staff recommendations.

Justin Wortman, 1515 18th Ave. on behalf of Yarrow Bay would like to submit written testimony for the record. (Please see the attached letter that was submitted & read)
Director Kincaid stated she received testimony from William Kombol (Palmer Coking Coal) September 3, 2015. (Please see the attached comments that were submitted & read)

Commissioner Senecal wanted clarification on how much the Commission is to follow the Comp Plan or how much they are bound to it. Are they to go against the current Comp Plan, is it just a guide line, or are they strictly supposed to follow it.
Director Kincaid said the Comp Plan is the frame work, the policy part where we implement the policies thru the official controls. In our comp plan it was designated to be low density residential. It was not amended when the Yarrow Bay development was adopted. What you heard in the letter is true about being an expansion area. The properties were not part of the developer agreement established. This needs to happen to have Yarrow Bay expand the MPD on those parcels according to our regulations. They would have to negotiate a developer agreement for Master plan development. At that time you would consider changing the Comp Plan designation from low density residential and doing the zoning at the same time to Master Planned Development.

Commissioner Senecal asked what happens when the owner from Palmer Coking Coal wants to develop this according to the Comp Plan. Does it have to comply with anything over 80 acres. If we agree to downsize to R-4 or R-6, and someone wants to develop that area would they have to apply for a permit thru the Comp Plan which means the whole zoning has to be reassessed to make it match the comp plan, or how would that work.
Director Kincaid stated the process is in place if a developer or property owner wanted to come in and build to higher density we would have them apply, submit and go thru the process that we established. We would need some development standards in place as we don't right now. Commissioner Senecal asked if development over 80 acres has to go thru the MPD process are we getting in the way of that process by downzoning.

Commissioner Chair McCain stated she needs to adjourn the meeting. Written testimony will stay open for 1 week, closes on September 15th, 2015 at 5pm.

ADJOURNMENT:

A **motion** was made by Commissioner Chair McCain to adjourn the meeting. Please submit comments to City of Black Diamond, City Clerk's Office or email mjbohn@ci.blackdiamond.wa.us. The meeting ended at 7:23 p.m.

Chair Pam McCain opened the regular meeting at 7:23 pm.

APPROVAL OF MINUTES

A MOTION WAS MADE BY COMMISSIONER SENECA TO ACCEPT THE JUNE 9, 2015 PLANNING COMMISSION MEETING MINUTES AND SECONDED BY COMMISSIONER MCCAIN. ISSUE PASSED 5-1 (PEPPER).

A MOTION WAS MADE BY COMMISSIONER WEBER TO ACCEPT WITH AMENDMENTS AUGUST 11, 2015 PLANNING COMMISSION MEETING MINUTES AND SECONDED BY COMMISSIONER KUZARO. ISSUE PASSED 6-0.

Chair Commissioner Pam McCain introduced new employee Meri Jane Bohn Deputy City Clerk

PUBLIC COMMENTS

None

PUBLIC HEARINGS

MPD Properties Rezone

Community Development Director Kincaid stated at the next meeting staff will bring back any testimony that is received.

Commissioner Weber asked if there are questions before the next meeting, what's the best way to submit them.

Director Kincaid stated if you need any more information, please let her know so she can go back and get more in depth information for the Commissioners.

Commissioner Senecal said the letter from Palmer Coking Coal sounds very sure that there will never be anything else besides residential that is less than 60 acres. Can we go back over the Master Planned Development to see if there are any different uses proposed in there? Or is it not even mentioned about proposing a park, open space, school or anything.

Director Kincaid said she will bring back to the next meeting the onboard R-4 & R-6 zoning designation that was permitted along with residential and what is conditional use.

Commissioner Senecal asked what possibly is allowed with the current MPD zoning classification compared what would be allowed.

Commissioner McCain asked how the Development Agreement overlays with this rezone, and the pertinence to the 80 acre reservation would be reasonable. It should be considered since some of the Planning Commissioners have not been on the Planning Commission thru the original conversation with the Master Planned Developments & Development Agreements which are very complex issues. So if that portion of the depth element agreement which specifically speaks to this issue would be helpful. Director Kincaid said she will bring it back.

Commissioner Weber wanted to know if there is any plan by the city to revise the municipal code 18.98 with regards to some of the comments that were brought up by Yarrow Bay. Would like to get city staffs take on Yarrow Bay's letter since there is obviously conflict between the two. He wants clarification in the letter that was presented under page one, number two it says any or all expansion parcels may be developed and how that plays into this. This plays into the issue he has with the Comp Plan update and conflict with that as well.

Commissioner McCain says understanding the Master Planned Development and its consideration of Public open space use, retail, industrial and residential component together, is there a reason why the city would not want this property to be down zoned in this matter? She would assume if it was maintained at the Master Planned Development designation that there could be more potential development and there by more potential for revenue from the city's perspective. She would like to have someone weigh in on that. McCain knows the property is

probably not as appropriate for that specific use but would like to see an overall financial perspective what the city would be giving up for this down zone and what indeed the benefits could be from maintaining from part of the Master Planned Development properties.

Director Kincaid said she will do her best in that; however she doesn't want to get into a situation trying to create discussion around speculation. But she will try and show a little more detail and why it is more important to down zone.

Commissioner McCain said it was cited as an expansion parcel in the first place. With the amount of people living in this area, more services could be a benefit not only to the city but also to the people that live there if indeed this parcel was preserved as an expansion parcel.

Director Kincaid stated that changing the zoning would be an option in the future.

NEW BUSINESS

Commissioner Weber asked if it would be in the Planning Commissioners benefit to have another Workstudy prior to our next meeting.

Commissioner McCain said it is overwhelming with the complexity of these issues. We have to make sure we have time to do another Work study.

Director Kincaid stated that the October meeting could include or that they could dedicate their next meeting to this to finish deliberation and come up with recommendation for Council.

Commissioner Weber stated he would like the next meeting to be dedicated to this issue. He would like to make sure there is enough valid time to do their homework before making a recommendation for Council as well.

Commissioner Senecal also said he is more comfortable with a Workstudy and some time before we have to make a decision instead of doing both in the same night.

Commissioner Pepper feels the June 9th minutes were not sufficient and serious conversations were left out. She would like to have fuller minutes and not just what is on the agenda. She would like to have much more detail in them.

Commissioner McCain said August minutes look great and with the new Deputy City Clerk there will be better minutes moving forward.

UNFINISHED BUSINESS

Community Development Director Kincaid said the issue will be brought back with the Master Planned Development Moratorium. Information that was presented and any new testimony that is received will be added as well. Our hopes are for the Moratorium not to go on any longer.

DIRECTOR'S REPORT

Community Development Director Barbara Kincaid attended her 1st ever "Labor Days". Had a nice time, she set up a booth so public could have some input and spoke with about a dozen people about our Comp Plan update.

The Mayor and Director Kincaid will be meeting with consultants from "Berger Abam" on Friday. They have submitted all the first cut draft chapters of the Comp Plan which they will be reviewing. They are going to really look under the scope on where it is at in the process and how they will be getting it done.

PUBLIC COMMENTS

Commissioner Brian Weber 32510 McKay Ln Black Diamond, said the June 9th minutes state that the City Comp Plan had to have the Puget Sound Regional Council (PSRC) approval. He does not believe it is 100% correct.

Director Kincaid said that Commissioner Weber is right on that. There was a recent court case that created some confusion about the PSRC role. Some people are actually thinking the court decision that PSRC has the authority and can approve Comp Plans. What they actually do is issue a consistency statement. If the PSRC review the Comp Plan and decide it is not consistent with the regional plan then the jurisdiction is at risk for the transportation funding. PSRC's main concern is the transportation portion of the Comp Plan.

Commissioner Weber stated obviously the City of Black Diamond's Master Planned Development isn't consistent with the vision, so how does that work?

Director Kincaid said that is why she needs to sit down with the consultants on Friday. They spent a lot of energy & money working with PSRC coming up with new population and job forecasts that would be consistent. So she needs to get some record on that which she would be glad to share with the Planning Commission. There are so many layers here; cities are required to be consistent with King County Planning Policy.

Commissioner Weber said so this is to do with Transportation Grants correct?

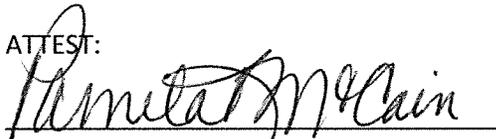
Director Kincaid said yes if the city is not consistent, we would not get Transportation Grants.

ADJOURN

A MOTION WAS MADE BY COMMISSIONER KUZARO AND SECONDED BY COMMISSIONER WEBER TO ADJOURN. THIS ISSUE PASSED 6-0. THE MEETING ADJOURNED AT 7:56 P.M.

Minutes Respectively Prepared By: Meri Jane Bohn, Deputy City Clerk

ATTEST:


Pam McCain, Chairperson


Barbara Kincaid, Comm Dev Director

September 8, 2015

Planning Commission
City of Black Diamond
PO Box 599
Black Diamond, WA 98010

RE: Zoning Map Amendment Area-Wide Rezone

Planning Commissioners:

On behalf of BD Village Partners, LP and BD Lawson Partners, LP (collectively, "YarrowBay"), this letter is intended to call to the Commission's attention our concerns with the proposed ordinance to amend the City zoning map to remove approximately 160 acres from the Master Planned Development ("MPD") zoning designation and apply R-4 and R-6 designations to that area.

Our concerns are threefold:

1) The MPD Zoning Designation Allows For More Thoughtful Design

YarrowBay believes that, from a policy perspective, the City generally benefits when large tracts of land are comprehensively planned. As the Commission doubtless knows, the MPD zoning designation was specifically created to allow a more thoughtful, comprehensive approach to the planning process. The City's code, for instance, notes that "[t]he purposes of the master planned development (MPD) permit process and standards set out in this chapter are to...promote and achieve the city's vision of incorporating and/or adapting the planning and design principles regarding mix of uses, compact form, coordinated open space, opportunities for casual socializing, accessible civic spaces, and a sense of community." BDMC 18.98.010(L). Further, the code states that a "specific objective of the MPD permit process and standards is to provide public benefits not typically available through conventional development." BDMC 18.98.020(A). YarrowBay finds it concerning that the City has decided to move away from a zoning designation that allows innovative, thoughtful planning in favor of a zoning designation that will likely not provide the same public benefits to the City.

2) The Parcels Being Considered for Downzoning Are Associated With The Villages Development Agreement

The staff report associated with this downzoning action indicates that the eight parcels under consideration for rezoning are "not part of The Villages MPD Development Agreement [(the "DA")]." *See Staff Report Zoning Map Amendment Area-Wide Rezone Finding 2, page 2. This statement is not accurate. The eight parcels under review in this action are specifically noted as expansion parcels for The Villages MPD in the DA. See DA Section 4.6. See also, DA Exhibit S. Pursuant to the terms of the DA, any or all of the expansion parcels "may be developed during the Build-Out Period subject to the process*

and standards set forth in Section 10 and 12 of this Agreement.” DA Section 4.6. Accordingly, YarrowBay has the right to bring the parcels discussed in this action into, and make them a part of, The Villages MPD.

3) City Code Requires Utilizing An MPD Permit If The Parcels Are Developed

According to the City’s code and comprehensive plan, if a development were to utilize even half of the land under consideration for downzoning, the developer would be required to secure an MPD permit, despite the downzoning. Section 18.98.030(A) of the City code states that “[a]n MPD permit **shall be required** for any development where: 2) The parcel or combined parcels to be included in a development total at least eighty gross acres” (emphasis added). Similarly, the City’s comprehensive plan states that the City is required to use “the MPD process to review **all** proposals on sites larger than 80 acres.” See Comprehensive Plan, Land Use Policy LU-22, p. 5-37 (emphasis added). YarrowBay is concerned that the City’s actions in rezoning these parcels may be creating a conflict between the zoning designation and the requirements of the City code and comprehensive plan.

In short, YarrowBay is concerned that the City’s actions may lead to fewer public benefits that can be achieved through the planning process and may create a conflict between the zoning map and the City code and comprehensive plan. YarrowBay would also like to reiterate that the terms of the DA allow YarrowBay to incorporate the eight parcels into The Villages MPD through the expansion parcel processes described in the DA.

Thank you for your consideration of our concerns. If should have any further questions, please do not hesitate to ask.

Sincerely,

A handwritten signature in black ink, appearing to read 'Colin Lund', with a long horizontal flourish extending to the right.

Colin Lund
Director of Development
YarrowBay





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September 3, 2015

Planning Commission
City of Black Diamond
P.O. Box 599 / 24301 Roberts Drive
Black Diamond, WA 98010

Re: Public Hearing – Land Use and Zoning within Section 22-21-6

Dear Planning Commission:

As you are aware in April 2014 the City imposed a moratorium on property owned by PCCC and located in Section 22-21-6 (hereinafter the “Section 22 property”). During the moratorium period the City was to consider what zone classification might best suit this property going forward. The moratorium has been extended three times. The Section 22 property is surrounded by Master Plan Development (MPD) property on three sides and by unincorporated property owned by the MPD developer on one side, to the west. We have weighed to City staff with our ideas, which we share below.

In approving the Villages MPD the City mandated a coordination and integration with the interface of adjacent land uses in adjoining developments (see Design Concept and Land Use Plan – The Villages, page 3-26). The idea articulated in that plan was that lot sizes adjacent to the boundary of the MPD would be no smaller than 75% of the size or 7,200 square feet, whichever is less. That same approval plan (Chapter 4 – Circulation) demanded connectivity and integration through adjacent streets within the larger circulation system. At the community level, the circulation plan shows approximate locations of connections on-site and to adjacent properties (see page 4-1). There are five potential future connection points which will allow this connectivity and circulation plan to integrate future development of Palmer’s Section 22 properties.

In making a determination for the best zoning, the first and foremost fact to acknowledge is that this property will eventually be surrounded by an MPD with the densities envisioned and already approved through the Village project. The current phases that are already under development will be bordering the north boundary of our property. This is a fact and a challenge, but also a guideline. The Villages will have a variety of land uses including single-family residential, multi-family residential, and retail-commercial within the confines of the first phases of the Villages. Since most of the retail-commercial will be nearer the Auburn-Black Diamond Road and capable of serving both the first phases as well as later phases, it seems reasonable that there is little pressing need for the same kind of retail-commercial on the Section 22 property.

Thus, residential will be the dominant use, but the obvious question is what kind of residential? Given the dense urban nature of this property and Growth Management considerations, large lot residential is of course out of the question. Within Black Diamond there are three residential zones which can be applied to this property: R-4; R-6; and MDR-8. As the property is rather varied both in terms of topography and adjacency to other uses, we would support a variety of residential zones on the Section 22 property. We suggest the following zoning strategies for our 160 acres in the NW 1/4 of Section 22.

- The western edges of the Section 22 property border rural lands, which are being developed by Yarrow Bay in a cluster style of development. Thus, it make sense to have some lower density residential (i.e. R-4) along the western boundary.
- The northern, eastern, and southern edges of the Section 22 property border the Villages, where adjacent land use is characterized as MPD-Low with density ranges from 1 up to 8 dwelling units per acre. As a transitional zone for these areas along the northern and southern boundaries, we would suggest an R-6 zone.

Since topographic lines can make good divisions between neighborhoods, our suggested zoning lines generally follow topographic lines. Over the past six months, we have worked with City Staff to prepare surveyed lines that incorporate the suggested divisions. We support the current plan to rezone our property from the current MPD designation to one of R-4 zoning in the western portion and R-6 zoning in the northern, eastern, and southern portions.

Very Truly Yours,



William Kombol, Manager
Palmer Coking Coal Company