

**CITY OF ISSAQUAH
Development Commission**

6:30 PM
January 16, 2019

MINUTES

Council Chambers
135 E. Sunset Way

*These minutes are provided as a written record pursuant to IMC18.03.100(C).
A video recording of the meeting and a full transcript of the proceedings also exist.*

COMMISSION AND ADMINISTRATIVE PERSONNEL PRESENT

Commissioners Present:

Richard Sowa, Chair
Mel Morgan, Vice Chair
Michael Brennan
Kevin Price

Richard Sanford

Commissioners Not Present (Excused):

Randy Harrison
Jasmina Mihova
Mark Rigos, Alternate
Ryan Roeter, Alternate
Nischitha Venkatesh, Alternate

Administration/Staff Present:

Keith Niven, Econ. & Dev. Srvc. Dir.
Lucy Sloman, Land Development Mgr.

Others Present:

Jeffrey Dunbar, City Attorney's Office
Tia Heim, Shelter Holdings
Zachary Lell, City Attorney's Office
Ray Liaw, Van Ness Feldman, LLP
Patrick Mullaney, Foster Pepper PLLC
Jackie Quarré, Foster Pepper PLLC
Patrick Schneider, Foster Pepper PLLC

CALL TO ORDER

SOWA called the meeting to order at 6:33 PM.

APPROVAL OF MINUTES

SOWA noted that tonight's meeting is a regular Development Commission meeting, not a special meeting, and as such the Commission has the ability to modify the agenda. He suggested the Commission consider modifying the agenda for tonight's meeting to address the issue of Development Commission meeting minutes of these proceedings, as raised at last night's meeting. **MOVED BY MORGAN, SECONDED BY BRENNAN** that tonight's meeting agenda be modified to include an opportunity to discuss the objection raised at last night's meeting to the presence and content of Development Commission meeting minutes at public hearings on the applications listed below. **MOTION CARRIED** by all Development Commission members present, 5-0.

SANFORD suggested that, given the objection raised last night, it might be appropriate to make reference in minutes of meetings on these applications that a full transcript and videotape of the proceedings exist. **MOVED BY SANFORD** that a notation be made on the first page of minutes of public hearings on the Shelter Holdings' applications in question, as follows: *These minutes are provided as a written record pursuant to IMC18.03.100(C). A video recording of the meeting and a full transcript of the proceedings also exist* ~~and may be reviewed for further detail.~~

Liaw explained the requirements in State law under the Open Meetings Act and in City code for preparing minutes of City meetings and public hearings, and provided information on the Hearing Examiner's ruling on what items would be included in the official record on this case. She noted that meeting minutes prepared for the Development Commission are not required as

part of that official record, and would only be included if parties chose to offer them as additional evidence. BRENNAN confirmed that the Development Commission is required by City code and State law to prepare written meeting minutes of Development Commission meetings. Liaw replied yes.

After additional discussion, the MOTION WAS SECONDED BY BRENNAN. MORGAN offered a friendly amendment to strike “and may be reviewed for further detail.” The amendment was accepted by both SANFORD and BRENNAN. MOTION CARRIED by unanimous vote of all Development Commission members present, 5-0.

MOVED BY MORGAN, SECONDED BY BRENNAN that minutes of the Development Commission meeting on September 26, 2018 be approved as amended to include reference to the presence of a written transcript and video recording of the meeting. MOTION CARRIED by unanimous vote of all Commission members present, 5-0.

MOVED BY BRENNAN, SECONDED BY PRICE that minutes of the Development Commission meeting on October 24, 2018 be approved as amended to reference the presence of a written transcript and video recording of the meeting. MOTION CARRIED by unanimous vote of all Commission members present, 5-0.

MOVED BY PRICE, SECONDED BY SANFORD that minutes of the Development Commission meeting on November 29, 2018 be approved as amended to reference the presence of a written transcript and video recording of the meeting. MOTION CARRIED by unanimous vote of all Commission members present, 5-0.

MOVED BY SANFORD, SECONDED BY MORGAN that minutes of the Development Commission meeting on December 5, 2018 be approved as amended to reference the presence of a written transcript and video recording of the meeting. MOTION CARRIED by unanimous vote of all Commission members present, 5-0.

PUBLIC HEARINGS - Continued from 1/15/19

- a) **Issaquah Highlands Retail (High Street Collection) Site Development Permit, (Q)***
Application No. SDP18-00001; PRJ17-00027
- Issaquah Highlands Medical Office Administrative Site Development Permit, (Q)***
Application No. ASDP18-00007; PRJ17-00023
- Issaquah Highlands Self-Storage Administrative Site Development Permit, (Q)***
Application No. ASDP18-00006; PRJ17-00028

Preliminary Matters

Schneider noted the applicant team is not waiving its objection to Development Commission minutes that he raised at last night’s meeting. He said the meeting minutes are an opinion about the evidence, not the evidence itself; the applicant team does not agree with everything that is included in the minutes, and they should not be part of the record.

Applicant Presentation/Witnesses

Patrick Mullaney, Foster Pepper PLLC, was sworn in. At 6:55 PM, Quarré began her questioning of Mullaney on his background, previous work with the City of Issaquah, and his involvement with Shelter Holdings’ applications under the Highlands Development Agreement.

Quarré introduced new Exhibit S-29, a letter to Niven from Mullaney, re: Issaquah Highlands Development Agreement Mitigation, dated May 12, 2017.

SOWA called for a ten-minute break at 8:00 PM. He reconvened the meeting at 8:12 PM.

Quarré resumed her questioning of Mullaney at 8:13 PM. She introduced additional exhibits, including:

- new Exhibit S-30, a letter from Niven dated April 4, 2018 to Schneider, re: Issaquah Highlands Annexation and Development Agreement—Acknowledgement of Vested Status and Response to Allegations of Violations;
- new Exhibit S-31, a letter dated October 25, 2017 from Mullaney to City Attorney James Haney, re: Shelter Holdings Comments on Issaquah Vesting;
- new Exhibit S-32, a letter dated December 4, 2017 to the Issaquah City Council from Mullaney;
- new Exhibit S-33, a letter dated November 9, 2017 to Niven from Mullaney re: Grand Ridge Development Agreement Mitigation; and
- new Exhibit S-34, a memo to Niven from Mullaney re: Grand Ridge Development Agreement Dispute Resolution;
- new Exhibit S-35, a letter to Niven from Mullaney re: Grand Ridge Development Agreement Dispute Resolution;
- new Exhibit S-36, a March 15, 2018 letter from Mullaney to Sloman re: Letter Agreement re: Completeness Determination for IHIF Commercial LLC's SDP Applications;
- new Exhibit S-37, an excerpt of Sloman's testimony from the November 29, 2018 meeting on page 80 of the transcript about the March 15, 2018 letter;
- new Exhibit S-38, an email to Niven from Mullaney dated March 16, 2018 re: Shelter's Response re: City Partial Traffic Impact Fee Credit Proposal;
- new Exhibit S-39, an excerpt from the transcript of the October 24, 2018 public hearing, page 16-17, specifically testimony of questioning of Niven and his response;
- new Exhibit S-40, letter dated March 14, 2018 from Mullaney to Niven concerning the City's transportation fee credit proposal; and
- new Exhibit S-41, a letter dated March 15, 2018 from Schneider to Niven concerning the notice of default provision.

SOWA called for a ten-minute break at 9:21 PM. He reconvened the meeting at 9:35 PM.

Lell began his examination of Mullaney beginning at 9:36 PM. He introduced new Exhibit C-43, an email exchange between Sloman and Mullaney spanning the period between January 12, 2018 and January 17, 2018. Lell concluded his questioning of Mullaney at 10:18 PM.

ADJOURNMENT

The public hearing was continued until a special Development Commission meeting on Tuesday, February 5, 2019 at 6:30 PM in the Council Chambers. SOWA clarified the public hearing will be continued to the Development Commission's regular meeting on Wednesday, February 6, 2019 at 6:30 PM. SOWA noted that City staff member Carla Zabriske has been designated as the City's official repository for documents and other items of record pertaining to this case.

SOWA asked the applicant's attorney and the City's attorney to estimate how much time will be required to complete their presentations, and explained that the Development Commission is

required to provide the public with a sense of when public testimony will be heard. Schneider objected to hearing public testimony on this matter. SOWA noted an opportunity for public comment is required, after which rebuttals by the attorneys will take place. Lell and Schneider gave their best estimates of when they expect to complete their presentations. SOWA noted it sounds as though at least one or two additional meeting dates after the scheduled meetings on February 5 and 6, 2019, will be required.

With no further business to conduct, the meeting was adjourned at 10:22 PM.

Respectfully submitted,

Susan Lowe
Recording Secretary