

**CITY OF ISSAQUAH
Development Commission
SPECIAL MEETING**

6:30 PM
March 5, 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):

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

Administration/Staff:

Keith Niven, Econ. & Dev. Srcs. 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
Jackie Quarré, Foster Pepper PLLC
Patrick Schneider, Foster Pepper PLLC
[Gary Young, Shelter Holdings, audience]

CALL TO ORDER

SOWA called the meeting to order at 6:30 PM.

APPROVAL OF MINUTES

a) MOVED BY BRENNAN, SECONDED BY SANFORD that minutes of the meeting on February 5, 2019 be approved as presented. MOTION CARRIED UNANIMOUSLY, 5-0.

b) MOVED BY BRENNAN, SECONDED BY MORGAN that minutes of the meeting on February 6, 2019 be approved as presented. MOTION CARRIED UNANIMOUSLY, 5-0.

PUBLIC HEARING(S) - Continued from 2/6/19

- 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 [completed]
- Staff Presentation/Witnesses [completed]
- Applicant Presentation/Witnesses
- Public Testimony

- Rebuttal Witnesses
- Discussion/Decision

Applicant Presentation/Witnesses (Continued)

Heim resumed presentation of responses to questions from Quarré, after Quarré confirmed that Heim remains under oath. Quarré began by asking Heim to explain her general recollection of events around February 2018 between Shelter and the City, and her understanding of the regulations that applied to Shelter's property, including during 2017 and 2018.

Quarré introduced new Exhibit S-72, divided into subparts (S-72.A, a site development permit level 1 and 2 checklist, annotated, submitted by Shelter for the self-storage facility; S-72.B, a SEPA determination that references the analysis done as part of the Development Agreement; S-72.C, a geotechnical report; S-72.D, a stormwater report; S-72.E, the main package submitted for the self-storage facility; S-72.F, public notice site plan, part of the application; S-72.G, affidavit of ownership and agent authority; S-72.H, letter from the Issaquah Highlands Community Association ARC (Architectural Review Committee) approval for the self-storage proposal; S-72.I, design narrative prepared by Jackson Main; S-72.J, Land Use Permit application for the ASDP; S-72.K, title commitment; S-72.L, transportation memo analyzing the block E storage facility; S-72.M, memo from Transpo Group about a parking modification request for the self-storage facility; and S-72.N, land use application for the self-storage facility.) Quarré referred to Exhibit C-24, a letter dated February 23, 2018 from the City to Shelter indicating lack of sufficiency for Shelter's ASDP submittal, and asked Heim to describe its contents.

Quarré introduced new Exhibit S-73, divided into subparts (S-73.A, the main packet of plans and information that was resubmitted by Shelter for the self-storage facility; S-73.B, ASDP submittal narrative dated February 28, 2018; S-73.C, the Administrative Minor Modification (AMM) request form for parking standards; S-73.D., the land use application form for the self-storage facility; S-73.E, an updated transportation memo; S-73.F, updated memo regarding the AMM request; S-73.G, information generated by *mybuildingpermit.com* for an AAS (administrative adjustment of standards) being requested for parking standards; S-73.H, a letter from the City to Shelter advising of an insufficiency determination for the AMM parking request; S-73.I, ASDP for Level 1 and 2 requirements, annotated; S-73.J, letter from Jackson Main to Jean Lin, City Planner, responding to the pre-application comments received from the City on February 23, 2018; S-73.K, a letter from Jackson Main dated February 27, 2018 to Sloman in response to the sufficiency determination letter; and S-73.M, nonresidential sewer use certification, a King County form.)

Quarré asked Heim to describe previously introduced exhibits, including Exhibit C-25, a sufficiency determination letter from the City to Shelter dated March 9, 2018 for the AMM; Exhibit C-26, a sufficiency determination letter from the City to Shelter dated March 9 for the ASDP self-storage facility submittal; and Exhibit S-36, a letter from Foster Pepper (Patrick Mullaney) re: Completeness Determination for Shelter's Applications, dated March 15, 2018. Quarré introduced new Exhibit S-74, a letter Heim submitted to the Council Land and Shore Committee on March 1, 2018 in response to a packet prepared by staff for the Land and Shore Committee's meeting and discussion on the end of the Highlands Development Agreement; and new Exhibit S-75, a letter submitted by Heim on March 1, 2018 to the Land and Shore Committee, specifically expressing concerns about vesting. Quarré asked Heim questions about her understanding of vesting rights.

Quarré introduced new Exhibit S-76, a PowerPoint presentation prepared by staff and dated March 1, 2018, which was presented at the Land and Shore Committee's meeting that evening, and asked Heim questions about the slide entitled "Vesting." Quarré referred to Exhibit S-25, the vesting provisions in the Highlands Development Agreement.

SOWA called for a short break at 7:41 PM. He reconvened the meeting at 7:53 PM.

Quarré referred to Exhibit S-76 and asked Heim to describe her recollection of events surrounding the March 1, 2018 Land and Shore Committee meeting. Quarré introduced new Exhibit S-77, an email from Sarabeth Levine, Shelter, to Heim describing Levine's attempt to drop off a storage block application fee at the City on March 14, 2018.

Quarré referred to Exhibit S-40, a letter dated March 14 from Foster Pepper (Patrick Mullaney) to the City re: City Transportation Impact Fee Credit Proposal; and Exhibit S-36, a letter dated March 15, 2018 from Foster Pepper (Patrick Mullaney) to the City re: Completeness Determinations for Shelter's ASDP/ SDP Applications; Exhibit S-38, an email string, including an email from Patrick Mullaney to Niven dated March 16, 2018 re: Shelter's Response to the City Partial Traffic Impact Fee Credit Proposal; and Exhibit S-41, the official notice of default from Foster Pepper to the City, referred to in Exhibit S-38, dated March 5, 2018. Quarré asked Heim to describe her recollection, based on her meeting notes, of the subsequent meeting between the City and Shelter representatives on March 22, 2018 regarding the issues in the default letter. Quarré referred to Exhibit S-30, a letter dated April 4, 2018 from the City Attorney to Foster Pepper (Patrick Schneider) re: Acknowledgement of Vested Status of Land Use Applications and Response to Allegations Regarding Processing and Review of Land Use Applications.

Quarré referred to a diagram of the plat referred to in the Notice of Application, already in the record, and introduced new Exhibit S-78, which is the same diagram at a higher, more visible resolution. She introduced new Exhibit S-79, a letter from Heim to the City Council dated March 16, 2018, which was intended to inform the City Council of Shelter's concerns about the City's defaults under the Development Agreement. Quarré asked Heim to describe the steps that Shelter took after receipt of Exhibit S-30. She referred to Exhibit S-2, a declaration signed on May 31, 2018 by Niven and submitted to the Hearing Examiner. Quarré asked Heim to describe her understanding of what actions by the City would take place as a result of the declaration.

Quarré introduced new Exhibits S-80, S-81, and S-82 dated May 25, 2018, letters acknowledging that Shelter's SDP application was deemed incomplete by the City, and asked Heim to describe them (S-80, Medical Building; S-81, Retail; and S-82, Self-Storage Facility). Heim indicated that no further response was received from the City until late August, when the City informed Shelter that the City's position had changed and that Shelter's applications should be reviewed by the Development Commission to determine whether they complied with the replacement regulations.

Quarré introduced new Exhibit S-83, part of the response from Shelter that also contains Exhibit S-17 regarding Shelter's SDP and ASDP applications; new Exhibit S-84, a letter from Foster Pepper (Patrick Schneider) to Zachary Lell, City Attorney, following up on conversations on August 2, 2018 during which the City explained its position on processing Shelter's applications; and new Exhibit S-85, an email string regarding Shelter's preliminary plat application processing from Sloman to Heim, as well as attachments to the email string dated December 21, 2018 (new

Exhibit S-86). Quarré asked Heim to describe the actions Shelter has taken since those email messages were exchanged between Shelter and the City.

Quarré introduced new Exhibit S-87, divided into subparts (S-87.A, preliminary stormwater report; S-87.B, the main plat package; S-87.C, a chart responding to the comments that were provided by the City as a mark-up of the preliminary plat application; S-87.D, a memo from Transpo Group responding to the transportation–related questions; S-87.E, a supplemental project narrative; and S-87.F, another set of responses from Shelter to City comments. Quarré asked Heim to describe why the December 21, 2018 communication from the City was significant in terms of Shelter being able to revise and resubmit the applications. Quarré also asked Heim to respond to Niven's previous testimony about vesting and the decision to send Shelter's applications to the Development Commission for reviews.

SOWA called for a short break at 8:59 PM. The meeting resumed at 9:11 PM.

Quarré introduced new exhibits, including new Exhibit S-88, a demonstrative exhibit for walk-through purposes for the Block 19 Multi-Family Application; new Exhibit S-89, a Notice of Application for a Block 19 Multi-Family Project; and Exhibit S-90, a Notice of Decision for a Development Permit for Block 19. Quarré asked Heim to walk through the timeline in Exhibit S-88 and confirm its accuracy, and asked her to compare the City's stated application processing time frames with the actual timeline for City processing of Shelter's applications.

Quarré introduced new Exhibit S-91, the Notice of Application for a City Surf application project, including a timeline for City processing of the application. Quarré introduced new Exhibit S-92, part of an email string between Sloman, John Hoss, and other City staff regarding the timing of submitting a building permit application for City Surf. Quarré introduced new Exhibit S-93, an email from Sloman to Crystal Kolke and City staff members on November 14, 2017 regarding the timing of City Surf's land use permit application. Quarré introduced new Exhibit S-94, a continuation of the email string in Exhibit S-93 regarding City Surf's building permit pre-submittal. Quarré introduced new Exhibit S-95, an email from Sloman to Mayor Mary Lou Pauly, Emily Moon, and Niven, re: An Update to the Status of Projects in Issaquah Highlands Blocks 19 and 20. Quarré introduced new Exhibit S-96, an email from Sloman as a follow-up to the email string in Exhibit S-95, dated January 27, 2018, regarding the development of City Surf on Block 20. Quarré introduced new Exhibit S-97, an email string beginning with an email on February 2, 2018 regarding the City's change in vesting language, including a request by John Hoss for a meeting with the Mayor.

Quarré introduced new exhibits, including new Exhibit S-98, a meeting notice for a meeting organized by Sloman on March 7, 2018 on progress in processing the building permit submittal application for City Surf's project in the Highlands, which included text from a previous email from John Hoss. Quarré introduced new Exhibit S-99, a draft of a letter the City ultimately sent to John Hoss clarifying the vesting status of City Surf's land use permit; new Exhibit S-100, the actually final letter issued to John Hoss, of which Exhibit S-99 was a draft; new Exhibit S-101, a combined Notice of Application for three projects combined in a single Polygon application; new Exhibit S-102, a Briefing Response Memo prepared by City staff for Westridge North Single Family Plat, dated April 10, 2018; new Exhibit S-103, a Notice of Decision for Westridge North Townhomes 1 site permit; new Exhibit S-104, notice of action by the City Council for the Westridge North preliminary plat (July 16, 2018); and new Exhibit S-105, a Notice of Application for Westridge Townhomes 1 site development permit. She displayed a timeline of the City's processing of Westridge Townhomes 1 South (Polygon) Application.

Quarré referred to Exhibit S-88, Short Plat of Lot A (Polygon) Application, and introduced new Exhibit S-106, Notice of Decision approving the short plat of Lot A.; and new Exhibit S-107, a Notice of Application for Westridge Block 4, Affordable Housing (Polygon) application. She referred to Exhibit C-33, the Developer Sales Agreement for Affordable Units at Westridge, and asked Heim to comment on Niven's previous testimony about that agreement being the basis for vesting in the Westridge project. Quarré asked Heim to describe Exhibit S-5, also a Westridge sales agreement with additional attachments and information, specifically a copy of a Development Agreement with Polygon Northwest for affordable housing (Exhibit C-34).

Quarré introduced new Exhibit S-108, the Notice of Decision for the ASDP for Block 4 at Issaquah Highlands; new Exhibit S-109, the Notice of Application for the Westridge North Townhomes Site Development Permit; and new Exhibit S-110, a Notice of Decision for Westridge North Townhomes Site Development Permit dated May 10, 2018 and signed by the Chair of the Urban Village Development Commission. Quarré asked Heim for her understanding of the timelines and processing followed by the City for the projects other than Shelter's that have been discussed tonight.

ADJOURNMENT

SOWA continued the public hearing to March 6, 2019 at 6:30 PM in the Council Chambers, and adjourned the meeting at 10:15 PM.

Respectfully submitted,

Susan Lowe
Recording Secretary

EXHIBITS

Please contact City staff Carla Zabriskie at 425-837-3100 for exhibits related to these permits.