

**CITY OF ISSAQUAH
Development Commission
SPECIAL MEETING**

6:30 PM
May 30, 2019

Council Chambers
135 E. Sunset Way

MINUTES

*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):

Ben Rush
Brooke Shore
Mark Rigos, Alternate
Arthur Schulte, 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
Jacquie Quarré, Foster Pepper PLLC
Patrick Schneider, Foster Pepper PLLC

1. CALL TO ORDER

SOWA called the meeting to order at 6:35 PM.

2. APPROVAL OF MINUTES

a) It was the consensus of Development Commission members present that minutes of the Development Commission meeting on May 15, 2019 be approved as presented.

3. PUBLIC HEARING(S) - Continued from 5/15/19

- 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 [completed]~~
- ~~Staff Presentation/Witnesses [completed]~~
- ~~Applicant Presentation/Witnesses [completed]~~
- ~~Public Testimony [completed]~~
- Rebuttal Witnesses
- Discussion/Decision

Sloman confirmed she remains under oath. Schneider asked for details about her previous testimony at the May 15, 2019 meeting, including her involvement in projects she referenced in the materials she prepared for these proceedings (Exhibit C-65 and Exhibit S-117). He asked her for details about her familiarity with IMC 18.04.090, and continued his questions about the projects to which she referred in materials she previously submitted during her testimony.

Schneider referred to Exhibit C-44, Heim's notes from a meeting with Sloman and Niven on March 21, 2017, specifically the fourth bullet about vesting to process, and asked questions about how the City treated Polygon's vested status. He referred to Exhibit S-113, a letter to Heim from Sloman about Shelter's application not being vested to process. He asked what actions the City has taken since the last meeting about Shelter's plat application with regard to Shelter's vesting status and an anticipated community meeting.

Lell began his questioning of Sloman with Exhibit C-65, the chart referred to earlier by Schneider, and asked clarifying questions about how Sloman compiled the data in the document. Lell asked Sloman about the code sections referenced earlier in Exhibit S-117 and the process the City used to render its decision on Shelter's plat applications. Schneider asked Sloman a follow-up question about whether she had ever told an applicant whether they could apply for a building permit without a completed land use application.

Quarré introduced rebuttal witness Derek Straight, Shelter Holdings, and the court reporter swore him in. Quarré asked him questions about his background and professional experience, including his responsibilities with Polygon/Shelter Holdings and experience working with other jurisdictions and other projects in the Issaquah Highlands. Quarré asked him to comment specifically on his experience working with the City of Issaquah's code and development staff. Quarré referred to Exhibit S-111, a series of emails, specifically the email dated July 2, 2013, and asked Straight whether it reflects conversations he was having with the City of Issaquah at that time and to elaborate on his recollections. She asked additional questions about the City's communications with Shelter about the potential residential/commercial use of Shelter's property, and Straight's recollection about what the City proposed to Shelter in those communications.

Quarré referred to Exhibit C-45, an email exchange between Straight and City of Issaquah legal and administrative representatives, including Niven. She asked Straight to recollect what took place after the email exchange between the parties, and whether he agreed with Niven's previous testimony about those conversations. She asked Straight to comment on his recollection about his understanding at that time of Shelter's vested rights.

Lell asked Straight about his previous testimony about a meeting in June 2013 between Polygon/Shelter and the City of Issaquah representatives, and an email dated July 2013 that documents that communication. Lell asked Straight about his role in overseeing Polygon's residential entitlement, including after the entitlement was transferred to Shelter. He asked about the residential entitlements on the property when it was owned by Microsoft and Polygon/Shelter's plans for residential units after acquiring the property. Lell asked Straight about his experience developing commercial property.

SOWA called for a short break at 7:38 PM. He reconvened the meeting at 7:44 PM.

Quarré asked Straight about the use of the terms "residential entitlement" and "allowable use" in her previous questioning, and asked Straight additional questions about Polygon/Shelter's understanding of its residential entitlement for the property in question.

Eric Evans, Shelter Holdings, was sworn in by the court reporter. Quarré asked Evans whether he is familiar with previous testimony given at these proceedings, and asked him to describe his professional experience in the development business, including with Polygon/Shelter. She asked about his involvement and responsibilities with Shelter's projects in the Highlands beginning about 2012-2014. She asked Evans to comment on the jurisdictions and development agreements he has worked with over the years, and to comment about his experience working on projects with the City of Issaquah.

Quarré referred to Exhibit C-48, the first few pages, which are notes Evans took in September 2014 from meetings between City of Issaquah and Shelter representatives. She asked him to describe the other participants in meetings with the City in which Evans participated and took notes, and specifically about notes from a meeting on September 9, 2014. In response to questions from Quarré, Evans gave some context about an effort to site a Microsoft international college at that time, and described discussions Shelter had with the City about the option of siting it in Issaquah. Quarré asked Evans to clarify some of the statements in Evans' notes about the information the City gave Shelter at the September 9 meeting about development possibilities on its Highlands property. Evans described his perceptions about the department of participants at the meeting in question.

Quarré referred to Exhibit C-44, Heim's meeting notes, specifically notes from a meeting on May 18, 2016, and asked Evans to describe his recollection of the meeting and the department of participants at the meeting in question. Quarré referred to meeting notes from September 21, 2016, and asked Evans about notations in the minutes about what City staff informed Shelter at that meeting. Quarré asked Evans questions about his understanding of vesting, including the purpose of vesting.

SOWA called for a brief recess at 8:20 PM, and called the meeting back into session at 8:29 PM.

Lell began his questioning of Evans about his previous testimony at tonight's meeting, specifically about the notes Evans authored (Exhibit C-48) and whether other communications exist from Shelter to the City about "impermissible extraction or extortion." Lell referred to Exhibit C-48 and Evans' previous testimony about the department of participants at that meeting and asked Evans whether any other written communication about the statements made at that meeting exist. Lell asked additional questions about the meeting notes Evans prepared. He referred to a notation in Exhibit C-48 and asked how the notes were circulated for review.

Lell continued his questioning about any retail entitlements for Shelter in the Highlands Development Agreement in 2016, and the sequence of events that led up to Shelter purchasing retail entitlements from Port Blakeley. Lell referred to page 4 of Evans' notes (Exhibit C-48) and asked Evans to describe any actions Shelter took in response to statements made at that meeting.

Lell referred to Evans' previous testimony on market analysis of Shelter's Highlands property by the Broderick Group and asked him to describe the results of that analysis, how the results were communicated to Shelter, and subsequent communications between Shelter and CBRE. Lell referred to page 5 of Evans' meeting notes, specifically notations he made about how the meeting ended.

Quarré asked Evans some clarifying questions about the notes he made from Shelter's meeting with City representatives, and asked additional questions about his recollections from the meeting in addition to his notes.

Quarré called Patrick Mullaney, attorney, as a witness. He was sworn in by the court reporter.

SOWA called for a short break at 8:58 PM. The meeting reconvened at 9:08 PM.

Quarré referred to Niven's previous testimony about vesting, and asked Mullaney to comment on the analysis in the form of a letter prepared by Mullaney about instances where the Highlands Development Agreement referenced mitigation with regard to Shelter's applications (Exhibit S-29). She asked additional questions about that letter and other communications (Exhibit S-33) about mitigation prepared by Mullaney that were provided to the City. Quarré referred to Evans' testimony about concurrency under the Development Agreement, and asked Mullaney to explain how concurrency was addressed in his discussions with the City over the past few years.

Quarré referred to Exhibit C-4, an email exchange about Heim's communication with Niven re: preliminary land use applications filed as a prerequisite to Shelter's filing of its SDP application. Mullaney explained his understanding of the City's position on the issue, and Shelter's intent in asking the City for clarification of the vesting issue in the email exchange. Quarré referred to Niven's April 16, 2019 testimony, and asked Mullaney to comment on whether the City's communication was unclear to Shelter and the nature of follow-up conversations between Shelter and City staff.

Quarré referred to Mullaney's previous testimony about short plats and preliminary plats, and asked Mullaney to provide some context for comments he made during that testimony (January 15, 2019, pages 75-76). Quarré continued questioning Mullaney about his perceptions of City staff's review of Shelter's applications; the City's building permit checklist (Exhibit S-9); and how Shelter determined the process to follow for its preliminary plat and SDP submittals under the Highlands Development Agreement. Quarré referred to Niven's previous testimony on Niven's understanding of *West Main v. the City of Bellevue*; Sloman's previous testimony about Exhibit C-50, page 3, an email from Sloman to Heim indicating meetings that were "optional"; Exhibit S-36, a letter authored by Mullaney that addresses the City's determination on Shelter's plat and SDP application submittals; and Exhibit C-43 and Exhibit C-54, email exchanges in early 2018 between Mullaney and City staff clarifying Shelter's vesting status.

4. ADJOURNMENT

SOWA noted that tonight's public hearing will be continued to June 5, 2019 at 6:30 PM in the Council Chambers. With no further business to conduct, SOWA adjourned the meeting at 10:00 PM.

Respectfully submitted,

Susan Lowe
Recording Secretary

EXHIBITS

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