

**CITY OF ISSAQUAH  
Development Commission**

6:30 PM  
June 5, 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 6:30 PM.

**2. APPROVAL OF MINUTES**

a) It was the consensus of Development Commission members present that minutes of the Development Commission meeting on May 30, 2019 be approved as presented.

**PUBLIC HEARING(S) - Continued from 5/30/19**

- 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

Lell began his cross-examination of rebuttal witness Patrick Mullaney after confirming that Mullaney remains under oath. He asked Mullaney to explain his previous testimony about Exhibit S-4, email exchanges in February 2017 between Niven and Sloman about Shelter's vesting status. Lell asked Mullaney about his previous comments about how staff addressed development applications from John Hoss, City Surf, and Sarah Hoey, Issaquah Highlands Community Association, in 2017. Lell referred to Exhibit C-7, specifically the chart in the memorandum on page 3, and asked Mullaney to explain his interpretation of the contents in that chart. He asked Mullaney to describe his testimony on vesting at Council and Land and Shore Committee meetings in late 2017, and his recollection of the testimony given to Council at its December 2017 meeting by Rich Hill, attorney.

Lell asked Mullaney additional questions about his previous testimony on Mullaney's understanding of the Highlands Development Agreement's provisions for vesting of pre-application submittals. Lell introduced new Exhibit C-66, an email dated January 10, 2018 from Sloman to Niven and Mullaney, explaining the City's decision on the completeness of Shelter's preliminary plat application materials, and asked Mullaney to read portions of it. Lell referred to the "checklist" that Mullaney referenced in earlier statements and asked Mullaney to explain that reference.

Quarré asked Mullaney clarifying questions about his statements about the City's treatment of Shelter as compared to other applicants, and about Niven's November 21, 2017 email about Shelter's vesting status.

Quarré confirmed that rebuttal witness Tia Heim remains under oath. She began her questioning with Exhibit C-66, Exhibit S-50-E, and Exhibit S-13, and asked Heim about notations she made in Shelter's plat application submittal. Quarré asked Heim to comment on why Shelter prepared a preliminary plat application; the City's communications to Shelter about the complexity and the expected review process for its plat; Heim's assessment of the plat application submitted by Polygon that has been referred to previously in these proceedings; and Heim's statements that the City's review of the plat was more typical of a project-level review.

Quarré asked Heim to describe in detail the process and sequencing Shelter followed in submitting its plat application, including supplemental materials, beginning in January 2017. Quarré asked Heim to comment on the requirements for Shelter to resubmit its plat application and the status of its plat application today.

SOWA called for a break about 7:26 PM, and called the meeting back to order about 7:37 PM.

Quarré continued her questioning of Heim about Exhibit S-78, and asked her to explain her understanding of the public access easements referred to in Sloman's previous testimony.

Quarré referred to Exhibit C-41, a November 22, 2017 letter to Nick Abdelnour, Polygon, from Niven, regarding Polygon's vesting status as communicated to Polygon in March 2017. Quarré referred to Exhibit C-3, an email exchange between Heim and Niven beginning November 21, 2017 re: vesting of Shelter's applications. Quarré continued her questioning of Exhibit C-4, a follow-up email exchange between Niven and Sloman. She asked Heim to read from Niven's testimony on April 16, 2019, specifically page 51, beginning with line 3, on the City's communications with Shelter on its vesting status; and from pages 67-68, beginning with line 21, on whether the outcome to not pursue a college campus impacted the City's treatment of Shelter's applications. Quarré referred to Exhibit C-44, meeting notes authored by Heim, specifically from a meeting on September 21, 2016.

Quarré continued her questioning of Heim on previous testimony given by Sloman and Niven about the replacement regulations, and her perception of the City's community outreach on the replacement regulations. Quarré also asked Heim to comment on the City's process in developing, deliberating, and deciding on the replacement regulations, and Shelter's reaction to the replacement regulations that were eventually approved by the Council. Quarré asked Heim to explain her understanding about how others were informed of the City's progress in developing the replacement regulations.

Quarré referred to Exhibit C-7, a table prepared by staff for presentation to the City Council, and asked Heim to comment on Sloman's earlier testimony about the table's contents. She referred to Exhibit C-44, meeting notes authored by Heim, from a meeting on February 15, 2018 between Mayor Mary Lou Pauly, Niven, Derek Straight, and Heim, to discuss concerns with the replacement regulations. She asked Heim for her recollections of the Mayor's comments at that meeting and others, and how she uses her notes in those recollections.

Quarré continued her questions about Heim's perspective on Niven's November 17, 2017 memo and staff's subsequent statements that address the central issue in *West Main v the City of Bellevue*. Quarré referred to IMC 18.01.050.C-1.a, subsection 2.c, and asked Heim for her reactions to previous testimony by Niven and Sloman about the submittal requirements that it references, specifically a building submittal checklist.

Quarré asked Heim to comment on why Shelter did not submit for a building permit. She asked Heim to describe the vesting strategy Niven laid out for Shelter in March 2017. She referred to Sloman's testimony at the December 5, 2018 public hearing, page 54, beginning with line 17, and to Exhibit C-65, a chart prepared by Sloman of the City's approval process for other projects, and asked Heim for her reaction to Sloman's testimony and the chart.

SOWA called for a break at about 8:33 PM, and reconvened the meeting at about 8:46 PM.

Quarré continued her questioning of Heim's reaction to Niven's testimony of how the City developed its FAR requirement of a 1.0 minimum and the impact of that requirement on Shelter's property in the Highlands. She showed a video clip of Niven addressing the Planning Policy Commission (PPC) at its meeting on September 28, 2017, re: the End of the Development Agreement Proposed Amendments, including comments on developing a minimum FAR requirement. She asked Heim for her interpretation of Niven's comments. Quarré showed a video at the same meeting of Sloman addressing the PPC on the minimum FAR requirement, and asked Heim to comment on whether she thought Sloman had seen Shelter's proposals at that point.

Quarré referred to Exhibit C-61, an email exchange between Niven and Heim/Gary Young/Sloman following an October 24, 2017 meeting at which the City asked Shelter for a FAR proposal. She asked Heim to characterize the negotiations and discussions between Shelter and the City on FAR, including how Shelter's proposal was presented to Council. She asked Heim to explain whether Shelter considers its applications as meeting the City's requirement of a minimum FAR of 1.0, and whether doing so is feasible. She also asked Heim to address the City's structured parking requirements as they pertain to Shelter's Highlands applications.

Quarré questioned Heim on her understanding of commercial property development in Talus, including by the Issaquah School District, and the viability of structured parking and/or a 1.0 FAR for commercial sites in Talus. Heim also explained her understanding of the background and development viability of the two City-owned properties in Talus.

Quarré referred to Exhibit C-44, the meeting notes authored by Heim, specifically to notes for the meeting on November 14, 2016, and Niven's reference to "no gap" between the end of the Highlands Development Agreement and adoption of new regulations. Quarré continued her questions about Heim's perceptions of Sloman's and Niven's previous testimony about their understanding of vesting, and about Niven's testimony about the decision maker and type of process the City identified to review Shelter's permit applications.

Quarré referred to Exhibit C-55, a City-generated Action Memo addressing how permits are processed, and asked Heim to comment on her understanding of how it applies to Shelter's applications. Quarré asked Heim to comment on the dates and contents of Exhibit S-107, Exhibit S-108, and Exhibit S-110, as compared to the dates and contents in Exhibit S-88; and to Exhibit C-59, specifically to the completeness of a chart prepared by Sloman for this hearing.

Quarré continued her questioning of Heim about the actions the City has taken to process Shelter's applications, beginning in August 2017 and including actions taken in 2018 leading up to these hearings. Quarré referred to Exhibit C-50, an email exchange in November 2017 to which Sloman referred in her previous testimony, and asked Heim to comment on a meeting on November 6, 2017 at which Shelter and staff discussed Shelter's pre-application meeting obligations.

Quarré asked Heim questions about her understanding of City staffing on Shelter's and other applicants' development applications. She asked Heim about her assessment of the accuracy of news articles published in *Connections*, a publication authored by the Issaquah Highlands Council, following meetings Shelter held with the Highlands community; and her assessment of the testimony given by Rich Hill, attorney representing Regency Centers and/or other Highlands clients, at the December 2017 Council meeting.

#### **4. ADJOURNMENT**

At the request of the applicant's attorneys, the Commission held a brief discussion of possible meeting dates in the next few weeks. SOWA confirmed that tonight's public hearing will be continued to July 2, 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.