

**CITY OF ISSAQUAH
Development Commission
SPECIAL MEETING**

6:30 PM
July 2, 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

Commissioners Not Present (Excused):

Richard Sanford
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 June 5, 2019 be approved as presented.

3. PUBLIC HEARING(S) - Continued from 6/5/19

- 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

Rebuttal Witnesses (continued)

Lell recalled Heim, and confirmed that she remains under oath. Lell asked Heim about her earlier testimony at the June 5 meeting, and asked clarifying questions about the comments she made during her testimony, as well as her understanding of comments made by Niven and Sloman during their testimony at previous meetings. Lell indicated he has concluded his questioning, and Quarré had no additional questions.

Discussion/Decision

Closing the Official Record. SOWA asked whether any items remain outstanding in terms of completing the official record. Quarré clarified that a cover letter that was part of public comment remains to be added to the official record. Liaw indicated she will ensure it is cleared up. Quarré also noted that all transcripts from the meetings need to be part of the official record, not just portions of transcripts that were entered into the record as exhibits. Liaw indicated some portions have been entered as exhibits, and asked the Commissioners whether entering the transcripts in their entirety into the official record was sufficient, or whether they wanted copies of the transcripts included as part of their deliberations. The Commissioners indicated that including transcripts in the official record only was sufficient. Liaw also clarified that all correspondence received as part of the public comment process will be entered into the official record. Lell asked whether the Staff Reports (Exhibit C-1) originally distributed in September 2018 will include all attachments. Liaw confirmed that all subparts and attachments to the Staff Reports, as well as all the public comment letters (Exhibit C-67), will be entered into the record.

SOWA noted that, with the additions discussed tonight, and with the concurrence of all parties, the official, evidentiary record is closed. All parties agreed.

Commission's Authority. SOWA asked for comments on the Development Commission's jurisdiction to decide on the three permit applications. MORGAN said it seems like a vesting question. If the permit applications are vested to the Highlands Development Agreement's prior regulations, then the Commission doesn't have the authority to decide on the applications; and if the permit applications are vested to the replacement regulations, then the Development Commission has that authority.

BRENNAN said one question is whether the Development Commission is the appropriate authority for reviewing permit application requiring a Level 3 review, which is typically the City's and the Development's Commission's review process. On that question, he continued, the Development Commission would be the appropriate authority. Another question is whether the appropriate process was followed in this case, he said, but second-guessing the Development Director's decision about the process is not in the purview of the Commission. The applications in question were put before the Commission for review, he added, and it is the Commission's responsibility to advance those applications through the decision-making process.

SANFORD agreed, and said it is the responsibility of the City's planning staff to prepare Staff Reports for the Commission's use, per IMC 18.04.200-B, and that regulation is the authority under which the Commission has been evaluating these proceedings. The Staff Report of September 19, 2018 specifies that the applicable standards are the replacement regulations, and under those requirements, the Commission does have jurisdiction to hear the proceedings on these applications. He continued the Commission isn't necessarily bound by whether or not it has jurisdiction in the vesting matter. He referred to IMC 18.19-B.270-D and IMC 18.030.40, and said based on those regulations, the Commission has the authority to review these permit applications.

SOWA asked whether the Commissioners agree that the Development Commission has the authority to review the applications, and does not have the appropriate authority to settle the vesting question on these applications, which lies with the Development Services Director. All Commissioners agreed.

Discussion of Applications. MORGAN asked for clarification about the minimum floor-to-area ratio (FAR) question for the self-storage proposal (Self-Storage Administrative Site Development Permit, Application No. ASDP18-00006; PRJ17-00028). SANFORD said in the Staff Report, all three applications were considered to be at variance with the minimum FAR requirement. According to testimony from the applicant, he continued, the minimum FAR requirement for the self-storage application differs from what was in the Staff Report and the application is not at variance with the

regulations. Others agreed, and noted that all three applications are at variance with the structured parking requirement.

SOWA asked is there general agreement that the self-storage application is in compliance with the minimum FAR requirement, and that all three applications are at variance with the structured parking requirement. The Commissioners agreed.

BRENNAN said the Development Services Director has decided that the replacement regulations would apply to these Level 3 applications. Given that, we have heard both the City and applicant say that the applications do not comply with the replacement regulations. He asked for confirmation of that understanding from both the City and the applicant. Schneider agreed that the applications do not comply with the replacement regulations. We do not necessarily agree with the reasons in the Staff Report that they do not comply, he added. Lell said the City concurs that the three applications do not comply, and should be denied under the replacement regulations because they do not satisfy the replacement regulations.

BRENNAN noted some of the reasons for noncompliance are about the completeness of application materials, and other reasons, like FAR, are more substantive. So there are a variety of issues with the applications. SANFORD said although these three areas have been identified by staff as being at variance with City regulations, there may be other areas that are also at variance in the materials submitted in the applications, such as with the Central Issaquah Development and Design Standards (CIDDS) or the Architecture and Urban Design Manual. MORGAN said we do not know where variances may exist because we haven't been presented with all the materials and regulations to evaluate where they do or don't comply. SANFORD agreed, and said our focus has been limited to just three areas. BRENNAN noted this has not been a typical process for the Commission.

MORGAN said on the Medical Office Administrative Site Development Permit (Application No. ASDP18-00007; PRJ17-00023), the Staff Report says that the application "does not demonstrate compliance with applicable central Issaquah standards, including structured parking requirements." That description is written as though there could be other areas of non-compliance, but we didn't get a chance to review those other potential areas and we aren't necessarily agreeing that there are other areas. Others agreed. BRENNAN said the majority of evidence in the testimony given in these proceedings was about a question that is not in the purview of the Commission—vesting. The Commission is basing its determination on the evidence and limited information that was presented to the Commission in the plans and the Staff Report.

Commission Decision

MOVED BY MORGAN, SECONDED BY SANFORD that, based on the testimony and evidence in the record, the Development Commission deny the Issaquah Highlands Retail (High Street Collection) Site Development Permit, Application No. SDP18-00001; PRJ17-00027, based on (1) the project's failure to meet structured parking requirements under Central Issaquah Development and Design Standards (CIDDS); (2) the project's failure to establish a minimum FAR of 1.0 as required in IMC 18.19.B.140.C; and (3) the project's failure to include an onsite plaza space at a ratio of 25 square feet per a thousand feet of new nonresidential development as required in IMC 18.19.B.220.F.

MORGAN noted the Staff Report did mention non-compliance of City submittal requirements, but that may not be part of this decision. BRENNAN said that speaks to the question of what information was put before the Commission for its determination; the Commission does not generally do a completeness check as part of its review process of an application. The three issues in the motion are significant, he continued, and warrant a decision to deny. SANFORD agreed, and said it is important to recognize that while not all potential information was presented to the Commission, we do have enough information to be able to proceed.

MOTION CARRIED UNANIMOUSLY, 5-0.

MOVED BY BRENNAN, SECONDED BY MORGAN, that based on the testimony and evidence in the record, the Development Commission deny the Issaquah Highlands Medical Office Administrative Site Development Permit, Application No. ASDP18-00007; PRJ17-00023, based on (1) the project's failure to meet structured parking requirements under CIDDS; (2) the project's failure to establish a minimum FAR of 1.0 as required in IMC 18.19.B.140.C; and (3) the project's failure to include an onsite plaza space at a ratio of 25 square feet per a thousand feet of new nonresidential development as required in IMC 18.19.B.220.F. MOTION CARRIED UNANIMOUSLY, 5-0.

MOVED BY SANFORD, SECONDED BY BRENNAN, that based on the testimony and evidence in the record, the Development Commission deny the Issaquah Highlands Self-Storage Administrative Site Development Permit, Application No. ASDP18-00006; PRJ17-00028, based on (1) the project's failure to meet structured parking requirements under CIDDS; and (2) the project's failure to include an onsite plaza space at a ratio of 25 square feet per a thousand feet of new nonresidential development as required in IMC 18.19.B.220.F. MOTION CARRIED UNANIMOUSLY, 5-0.

MOVED BY MORGAN, SECONDED BY BRENNAN, that the Development Commission direct its legal counsel to prepare Findings and Conclusions for review and approval by the Development Commission Chair, consistent with the Development Commission's decision to deny Site Development Permit No. 18-00001 for the Issaquah Highlands Retail Project; Administrative Site Development Permit No. 18-00007 for the Issaquah Highlands Medical Office Building; and Administrative Site Development Permit No. 18-00006 for the Issaquah Highlands Self-Storage Project, which shall identify the Commission's determinations on jurisdiction to review the subject applications and the vesting issue, the standards and criteria applied by the Development Commission in reaching this decision, and noting the lack of the full scope of materials available to the Commission for these applications. MOTION CARRIED UNANIMOUSLY, 5-0.

SOWA expressed his appreciation to all parties, including the Commissioners, for their professionalism during this process. Both the City's attorneys and the applicant's attorneys also expressed their appreciation. Schneider asked when the Development Commission Chair and Liaw expect to have the completed findings. Liaw said she expects the findings to be complete in the next several weeks.

4. ADJOURNMENT

With no further business to conduct, SOWA adjourned the meeting at 7:24 PM.

Respectfully submitted,

Susan Lowe
Recording Secretary

EXHIBITS

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