

**CITY OF ISSAQUAH
Planning Policy Commission
SPECIAL MEETING**

6:30 PM
November 18, 2021

Virtual Meeting

MINUTES

COMMISSION AND ADMINISTRATIVE PERSONNEL PRESENT

Alternate Meeting Format: On March 6, 2020 the Mayor declared a civil emergency due to the outbreak of novel coronavirus (COVID-19). On March 24, 2020 the Governor issued Proclamation 20-28 relating to the COVID-19 emergency and open public meetings. The proclamation has been extended. Due to these factors, the meeting was held using a remote meeting platform.

Commissioners Present:

- Ron Faul, Chair
- Jason Voiss, Vice Chair
- Joy Lewis
- Matt Monahan
- Nina Milligan
- Sara Bader

Commissioners Not Present:

- Richard Zaragoza, Alternate (Excused)

Administration/Staff:

- Christen Leeson, Senior Planner
- Minnie Dhaliwal, Director, CP&D
- Lucy Sloman, Land Dev. Manager
- Valerie Porter, Assistant Planner

Others Present:

- Mike Brennan, Chair, Dev. Commission
- Mel Morgan, Jr., Dev. Commissioner

CALL TO ORDER

FAUL, Chair, called the meeting to order at 6:32 PM. He provided some guidelines for participating in tonight’s remote-format meeting. He explained the purpose of tonight’s meeting is to educate the Planning Policy Commission and the public and to receive feedback regarding Land Use Code Procedures and Administration.

APPROVAL OF MINUTES

- a) FAUL asked for corrections or changes to minutes of October 14, 2021, and there were none. Minutes are approved.
- b) FAUL asked for corrections or changes to minutes of October 28, 2021, and there were none. Minutes are approved.
- c) FAUL asked for corrections or changes to minutes of November 4, 2021, and there were none. Minutes are approved.

PUBLIC COMMENTS

Connie Marsh said tonight’s agenda contains topics which are dense and complicated. She asked the PPC to think about which topics are stand-alone and which are dependent on other things, and the best way to sequence discussions about them. She also asked for clarification of when public comment will be taken during tonight’s meeting.

Mary Lynch said she would like to hear a response to Ms. Marsh’s inquiry about when public comment will be taken tonight. She continued with her concerns about the map shown in the agenda package about communicating with the public within a 300-foot notification for projects affecting Newport Way. She spoke in favor of increasing that to 500 feet, and would like the City to do better with contacting land owned by HOAs. She said the City did not follow through well on putting up signage pre-Covid, and spoke of her concerns that the public seems to always have to play catch-up with proposed projects.

REGULAR BUSINESS

- a) **Education: Title 18 Procedures and Administration (D)**

Presented by:

Minnie Dhaliwal, Director, Community Planning & Development

Lucy Sloman, Land Development Manager

Dhaliwal began staff's presentation, including an explanation of how the results of tonight's discussion will result in draft code language for further review by PPC. She said tonight's discussion can also be extended to PPC's December 2 meeting if necessary.

- Public Notice of Land Use Applications

Dhaliwal explained the proposed changes to the public notice process (pages 25-26 of 46 in the agenda packet) and asked for feedback on the three questions on page 26.

LEWIS said she agrees with increasing the notification radius from 300 feet to 500 feet, and asked whether any consideration was given to increasing it even further, say to 600 feet. Dhaliwal gave the rationale for staff's proposal of 500 feet. Sloman added both the City and Kirkland set a radius of 300 feet; Bellevue and Redmond are at 500 feet. LEWIS said QR codes would be helpful on those large white boards onsite, as would a visual tracker that shows the stages of when projects are in the phases of planning and review, and when public involvement would be appropriate. She also suggested that kiosks such as those in the Highlands would be a useful way to help reach the public. She added the active project list on the City's website is difficult to use and could be improved. Sloman referred to the active projects map on the City's website and will email the link.

VOISS asked how people get on the list of interested parties. Dhaliwal explained how people can get on the list, including going to issaquahwa.gov and/or emailing staff.

MILLIGAN asked who pays the costs for public notification. Dhaliwal replied generally the applicant pays as part of the application fee, which includes the board that goes on the property. Generally, the City supplies addresses and pays for postage. MILLIGAN asked how affected HOAs and renters are contacted, and does the City have a neighborhood coordinator to ensure notification is made and received. Leeson replied the City does not have a neighborhood coordinator position at this time, or funding for one. She continued addresses for renters are fairly easy to obtain, but getting lists of HOA properties are more difficult to obtain and maintain. Sloman added the City uses GPS to collect addresses for residents. HOA property addresses are inconsistently maintained by the County, but the City is working to address the problem.

BADER asked is the 300- or 500-foot radius a flexible or fixed standard. Sloman replied staff uses different methods to reach different audiences, and gave examples. She said we try to reach out in a number of ways and are open to feedback on additional ways. Dhaliwal listed other ways the City engages the public, including "Notify Me" on the City's website.

LEWIS said not having a City neighborhood coordinator position is new information for her; if funds aren't available to have a neighborhood coordinator, then has a community network been considered using the City's boards and commissions. Dhaliwal said ideas like that are under discussion now. For the purpose of tonight's discussion, staff is hearing we need to do a better job of reaching out, particularly to HOA properties, she added.

FAUL suggested using Next Door and other social media. He also asked are notifications sent to both renters and property owners. Dhaliwal replied yes, to both.

MILLIGAN spoke in favor of a 500-foot notification radius and for notifying both renters and property owners. She continued when the costs can be applied to the applicant, the City should do that wherever possible. She commented the gaps analysis in this packet was unclear, and in the

case of the City's outreach efforts, isn't that to be found in the City's policy. She also spoke in favor of the kiosks LEWIS mentioned earlier.

VOISS spoke in favor of expanding notification to 500 feet. He also said text messages are good opportunities to reach people.

- SEPA Exemption Levels

Dhaliwal explained the proposed changes to the SEPA (State Environmental Policy Act) review thresholds (pages 26-28 of 46, and asked for feedback on the three options listed on pages 27-28.

LEWIS asked whether there is a direct correlation between increasing the threshold for SEPA and a gain for the public. What is being gained for staff and the community by making these changes, she asked. Dhaliwal responded we can bring that information back in a summary for you.

MILLIGAN asked for clarification of the SEPA process, what is covered by SEPA, etc. Dhaliwal replied the City has to address Ecology's questions in the SEPA, plus there are additional project-specific SEPA questions and planned actions required by the state. She said SEPA has minimum and maximum thresholds, although certain projects are exempt from SEPA. Sloman added if something is addressed in our code, we don't have to use SEPA for it. Sometimes people put conditions on SEPA that are already in our code, and that's a redundancy that isn't necessary. Dhaliwal gave additional information about how the state requirement to perform a SEPA interacts with the City's code.

LEWIS commented is it possible to consider doing tradeoffs with developers, such as allowing SEPA to be negated if a developer builds a green building with green materials, and/or allowing a developer to use the higher threshold in exchange for green building. Dhaliwal said it's a good suggestion, and we can schedule further discussions on using SEPA as a "carrot" or incentive.

VOISS said he is generally in favor of moderately raising the threshold, particularly because the City is notorious for being a difficult place to get a development permit.

FAUL noted the table lists an option for changing the SEPA threshold for a development of single-family residential units from four units to 10 units. Perhaps the threshold could be increased to some number like six, rather than ten, he suggested. MILLIGAN said if the threshold is increased, she would favor not increasing it by much. Having comparable data from other cities is helpful, she added, and asked for staff's thinking in proposing an increase to 10 units. She continued the SEPA fee is roughly \$5,000 whether the project is for 4 units or 30 units, even though the burden for staff is considerably higher with the higher number of units. Perhaps the cost should be calculated on a sliding scale, she noted.

- Permit Decision Authority

Sloman explained the proposed changes to the City's permit decision authority practices (pages 28-30 of 46). She explained the chart on page 29 in detail, particularly decisions for Level 6 and Levels 3 and 5 reviews. She noted Mike Brennan, Chair of the Development Commission, and Mel Morgan, Jr., Development Commissioner, are available to provide feedback from the Development Commission's discussion of this item at their meeting last night.

MONAHAN asked how is a Hearing Examiner retained, and what was the thought process behind asking the Development Commission to weigh in on having Levels 3 and 5 decisions made by the Hearing Examiner. Sloman replied the City issues a RFP or RFQ periodically for a Hearing Examiner, and explained the City's current Hearing Examiner arrangement. She continued the thinking was that the Development Commission is representative of the community and its

members reflect the community's values, and having the Development Commission weigh in on something like building colors or architectural style is value added to a project. She gave examples of when the Development Commission has weighed in on performance standards in the past and provided an important community component.

Dhaliwal said we haven't figured out yet what a two-step review process or criteria would look like with a Hearing Examiner as the decision maker. The thinking is to determine whether there should be an early and final decision for proceeding with a project, or have more opportunity earlier in the process to make bigger changes. There are different ways to structure it, she continued, and tonight we are seeking feedback on whether to explore early decision making or one decision made near the end of the review process.

MILLIGAN said looking at the table on page 29, would variances be less frequent if the code was clearer. In other words, will the Title 18 update impact any of these processes. She also asked for clarification of the public hearings required for Level 5 and Level 6. Sloman replied Level 6 applies to legislative items, such as a change in the code, and not to a particular property. Multiple hearings are allowed for Level 6 items. Level 5 is a quasi-judicial matter, and the recommending body acts as a kind of judge. She explained how the current Level 5 practice places ex-parte communication restrictions on Councilmembers, and the difficulties that can arise when projects stretch on for months and Councilmembers cannot have conversations with the public about them. For a quasi-judicial matter, everything has to be on the record, whereas a Level 6 matter has a less structured, less rigid review format.

BADER noted the staff report indicates that the Washington Cities Insurance Authority is recommending the change from Level 3 and 5 decisions by the Development Commission to the Hearing Examiner. It looks like having the Hearing Examiner be the deciding authority would be an additional step, she said, and asked what are the implications of doing that in terms of timely review of projects. Dhaliwal replied the Washington Cities Insurance Authority recommends that decisions not be made by a volunteer board because of increased risk of challenges. She said the goal here is to ensure meaningful community participation, including by the Development Commission, and how best to balance risk, legal requirements, and meaningful public participation in the process. Sloman added the cost of risk is borne by the City in terms of paying for attorneys and staff time, and the City wants to ensure it is making the best possible expenditure of public funds. Dhaliwal continued in terms of impact on a project review timeline, having a Hearing Examiner make the decision does not lengthen or shorten the process.

VOISS asked about the frequency of appeals and claims experienced by the City. Sloman replied appeals do occur; the City has some appeals against it right now. Dhaliwal said potential for challenges is always present. Lawsuits against the City are a rare occurrence, but when they do occur, it is costly.

LEWIS said it appears there have not been an abundance of lawsuits filed against the City. The Development Commission has had a measurable, positive impact on projects built in our City, and taking away its decision making would be detrimental to the community. She continued maybe some other modifications to the process could be considered besides making a Hearing Examiner the final decision maker. She said she doesn't think the current proposal promotes community involvement. FAUL said he agrees with LEWIS, and doesn't favor the proposed changes as presented tonight.

BRENNAN shared perspectives offered at the Development Commission's discussion last night. He said strong reservations were expressed about the proposed changes, but there was also a recognition of the need to review the decision making process from time to time and make

necessary adjustments. He continued the biggest concern was the loss of influence, specifically how to ensure that the community's perspective and input on projects is still strong. He said there was also some discussion about the scope of responsibility that is appropriate for the Development Commission, particularly in technical matters, and the need for clarity about the role of the Commission. The most important discussion point, he concluded, was striking the right balance between ensuring and preserving the voice of the community with potential risk.

MORGAN said he feels strongly that staff has done an excellent job in ensuring that the Commission makes decisions based on what is in the City's code, and as a result, we haven't seen lawsuits filed against the Commission. He said it is critical that we have the chance for community members to have a voice in projects, which are typically not small projects, and that impact people's lives. Typically, developers and architects are not from our community, nor is a Hearing Examiner. So decisions would be made by people outside our community, and the final decision would be made by a single individual—the Hearing Examiner—rather than by a commission of multiple members. He continued he favors making some changes to remove technical aspects from the Development Commission's purview, such as environmental concerns and traffic, to the staff level. He spoke in favor of having the Development Commission focus on the look, feel, and view of projects from the perspective of members of the community who will interact with the project. He said he wouldn't want to give up local decision making just to reduce lawsuit risk.

MILLIGAN said she agrees that the Development Commission provides a very public forum for decisions that are important to our community, and that meetings conducted by the Hearing Examiner are not as accessible for the public. She said the Development Commission is also a high-functioning group, and its deliberations have resulted in better products for the community. She said she would also like to discuss having the City Council do another public hearing for Level 6; the existing practice is "final decision by Council but Council does not hold another public hearing." She also said she would like to revisit "decision by Director or designee" for Levels 1, 2, and 3. She said she favors retaining having a Hearing Examiner make the decision on Level 4 variances and appeals, and said tightening up the code should help decrease the number of variances.

MONAHAN said he had a strong reaction in favor of changing to a Hearing Examiner as the decision maker for Levels 3 and 5 because of the unique nature of quasi-judicial review. Quasi-judicial decisions are policy applications, not policy settings, he continued, and said he thinks a Hearing Examiner is the appropriate decision maker. Policy setting is where the community is involved, he said, and changes in the code due to changes in policy would change the criteria for a Hearing Examiner's decision. He said from his perspective, a volunteer board making quasi-judicial decisions is very risky and could be expensive for the City. He said he applauds staff for folding in community involvement early in the review process.

VOISS said listening to MORGAN's and MONAHAN's comments, he is torn right now. He said he favors streamlining the process for the Development Commission so applicants can get information earlier in the process. BADER gave her perspective from her earlier work as a planner. She asked whether it would be possible to set a threshold for a process that went to the Hearing Examiner for a decision, based on the level of risk. Dhaliwal said staff has information about the trigger thresholds for Level 3, 5, and 6 decisions which we will make available for PPC's next discussion. Sloman explained how the provision of "bumping up" works; if a project meets a certain criteria, it can be moved up to the next higher level of review.

- Permit Decision Timing

Sloman made staff's presentation on a component of the permit review process, i.e., the process for review of studies related to critical areas, trees, traffic, and so on (page 30 of 46). She

explained the questions (bottom of page 30) on which staff is seeking feedback tonight: should all decisions such as a SDP and Master Site Plan be made at the end of the land use process, or should some decisions be issued prior to review of the full permit..

MONAHAN asked if the City granted the permits administratively and they were appealed, would that appeal render the overall approval meaningless. What would the City gain by changing the process, he asked. Dhaliwal explained the permit would still have to go through peer review. The change would provide an avenue for someone who disagrees with the assessment to appeal it earlier in the process. Essentially it increases predictability for the applicant, she added. LEWIS asked for clarification of what would be gained. Dhaliwal replied critical area designation, for example, has been an issue in the past. Getting administrative approval earlier in the process would be a gain for both the applicant and the City.

MILLIGAN said generally it's good to get the administrative approval done early in the application process so that the proposed development can follow. She said she would like to see that balanced with public engagement. Having clear code should also help reduce the burden on staff in evaluating applications.

Public Comment

Connie Marsh spoke about the difficulty of commenting on these large topics, and referred to her emails sent in advance of the meeting. She said notification within a certain radius about projects is hampered by factors such as I-90, large parks, ravines, water flows under I-90, traffic, ingress and egress issues, and so on. So the issue is not necessarily just distance, but also impact. She also said she didn't hear concurrence on changing notification to 500 feet, although staff indicated there was concurrence. She continued her comments on the value that the Development Commission has added to the project review process, and gave examples. She said she doesn't understand how the two processes of SEPA and potential environmental appeals would intersect. She also spoke in favor of having more public notification about projects at City Hall, libraries, public places, and anywhere the public congregates. She noted the City's website calendar is difficult to access, and it is hard to use the website's active project list.

Mary Lynch spoke in favor of retaining the Development Commission's decision making authority and noted they have tried to put conditions on projects in the past based on community input. She said there is little public trust in City staff, and gave examples. She said the City has to do better at notifying the public about meetings and being transparent. Until the City has new code in place and more accountability for staff, we have no trust. She said recent projects have not added to the value of our community.

REPORTS

a) Council Update

Presented by:

Christen Leeson, Senior Planner

Leeson noted the Council reviewed the Comp Plan and map amendments at its November 9 Study Session. Action by the full Council is expected at its December 6 meeting, as well as discussion and action on the Climate Action Plan.

b) Title 18 Code Update: Public Comments Received

Presented by:

Minnie Dhaliwal, Director, Community Planning & Development

In agenda packet.

OTHER BUSINESS/ANNOUNCEMENTS

- a) Upcoming Schedule. In agenda packet. FAUL confirmed that PPC will address two remaining issues from tonight's Title 18 discussion, *Conditional Use Permits* and *Administrative Adjustment of Standards*, at its next meeting on December 2, 2021, as well as receive an update on the Stormwater Management Plan.

ADJOURNMENT

With no additional business to conduct, FAUL adjourned the meeting at 8:58 PM.

Respectfully submitted,

Susan Lowe
Recording Secretary