

Planning Commission Regular meeting/workshop November 14th, 2017 6:00pm @ Cusick Community Center

Planning Commission members present: Chairman Judy Ashton (District 3), Vice-chair Norris D. Boyd (District 1), members Dan Mueller (District 2), John Stuart (District 1), Dennis Osweiler (District 3) and Bill Kemp (District 1).

Pend Oreille County staff: Community Development director Greg Snow and administrative assistant Terri Ann Hedtke.

Audience/guests in attendance: former Community Development Director Mike Lithgow, Bob Eugene and Richard Ashton.

Chairman Ashton called the meeting to order at 6:05pm and asked for a roll call.

There being a quorum, John Stuart motioned to approve the minutes from August, Dennie Osweiler seconded, motion carried.

Following the approval of the minutes, Chairman Ashton turned the meeting/workshop over to Director Greg Snow.

The focus for the meeting is the Conditional Use Permit process, which was changed to an administrative process with the last update, calling for the Community Development Director to make the decision; a Hearings Examiner is now proposed for this class decision. This would require a public hearing rather than written comments.

Director Snow provided three handouts to the members, all related to Chapter XX.14 of the Development Regulations, Processing Procedures;

1. pages 27 – 29 & 33 re: revisions to Conditional Use Permit (CUP) conditions
2. page 30
3. pages 34 – 40

The Planning Commission members had questions and comments relating to; conditions for approval, definitions and specific wording, notably;

- “will be imposed” vs “ can be imposed”
- fire flow or water availability for fire suppression (it was pointed out this is nearly impossible when an exempt well is the water source, also it is quite likely municipal water sources may not be able to meet such a requirement) This requirement could be reduced or supplemented but not eliminated per code
- matrix clarification

Director Snow requested input from the Planning Commission re: CUP clarification as the use relates to a parcel rather than an individual, and time frames for such permitted use. Should the use follow the property upon transfer of ownership? Further, perhaps the CUP should not be granted until such time as the applicant can demonstrate the conditions are met, as opposed to financial guarantees or liability insurance. It was suggested the language could be altered but the substance for financial surety is a

sound development tool. Former Community Development Director Mike Lithgow suggested referencing Chapter 2 in the Development Regulations, financial guarantee's section on pages 5 & 6, to eliminate the need for re-creating the verbiage.

Addressing consistency, it was suggested to remove the work "require" from the proposed list of conditions.

It was noted "C" seemed to be redundant.

Director Snow asked for scrutiny of "G," it appears to allow for an overage of objectivity by the decision making entity. Former Development Director Mike Lithgow offered some clarity; proposed changes, which are not substantial in nature, could be approved administratively, whereas substantial changes could require a new CUP. This would be a code interpretation. It comes down to a determination of "substantial vs not substantial." Further discussion, some examples cited. It was proposed to look at the North American Industrial Class (NAIC) codes for guidance. Director Snow elaborated and Mike Lithgow provided a description of the NAI codes. The question was posed, does "the County" refers to the Community Development Department, the Hearings Examiner or the Board of County Commissioners?

An in-depth discussion of the proposed changes to the matrix followed. Again, Former Director Lithgow addressed the existing matrix and the arguments both for and against a Hearings Examiner. Chairman Ashton reiterated, to clarify, a substantial change would be determined by the Community Development Director, and if it were deemed substantial, a new CUP would be required with a Hearings Examiner making the decision.

The next point of discussion addressed the public voice as it relates to the CUP process. Director Snow cited three recent CUP's as examples. The Board of County Commissioners (BoCC) seem amenable to the Hearings Examiner position. The Planning Commission members called for some specifics on what the Hearings Examiner position would look like;

- possibly an attorney
- a planner w/experience in the proposed arena
- appeal process would not involve a public meeting

Mike again provided some background on the matrix and the class of various decisions, including shoreline applications. Mike cautioned the Shoreline Master Plan could need revision if these were deemed significant changes.

Chairman Ashton suggested the class of decisions be reviewed step by step, from where to where. Class 1-A no Public Notice, an administrative decision; and Class 1-B would require Public Notice. Mike explained some of the proposed changes to the Development Regulations were to clarify procedures already being pursued but not specifically worded.

Some background was provided on the evolution of how some of the proposals were previously decided and why a change was made. Director Snow noted some modifications have been made due to the prospect of litigation. It was further noted the Planning Commission pre-dates Growth Management. The Risk Pool, Mike Lithgow pointed out, strongly encourages the use of a Hearings Examiner to mitigate for potential litigation.

Discussion re: Class 2's. The consensus was the Planning Commission could still be involved with these larger, more complex proposals, i.e. a Master Plan Resort, relying on expert guidance, as has been done in the past. Class 3's and 4's were discussed. Class 4, footnote #7, re: BoCC decision making authority, was discussed and rejected.

Mike wanted to re-visit the Hearings Examiner position. He noted this position has been proposed twice and one argument against it addressed the cost, an argument in favor also addressed a potential cost savings. He further noted the current BoCC is not in favor of a Hearing Examiner. The Planning Commission asked, using Hi-Test as an example, what permits would be required and what role would a Hearings Examiner have. Director Snow said both a re-zone and a CUP would be required. Beyond a local appeals process, a Land Use Petition process is available to appellants. It was noted the constituents of Pend Oreille County are familiar with the Planning Commission/public hearing platform, and further it lends itself well to addressing transparency.

Mike Lithgow cited the Inn at the Lake as an example where a Hearings Examiner was used effectively to probably avoid a lengthy litigious court case. Chairman Ashton asked if a Hearings Examiner would be an option open to the Planning Commission if they felt the proposal warranted that level of legal analysis.

In lieu of an actual motion, Norris D. Boyd would like the record to show the Planning Commission wishes to adjust the appellant body on Class 1-A and 1-B to show the Planning Commission.

CUP to be heard by the Planning Commission, Master Plan Resort changed from 2-B to 2-A.

Chairman Ashton, in an effort to address the time constraints for CUP applicants, asked if it was a reasonable expectation, for the applicant, for their proposals to be heard once a month, or if a more immediate decision by either the Community Development Director or a hearings examiner would be more timely. Member Boyd, a developer himself, said it was always considered a part of the process, to await the pleasure of the Planning Commission.

Development agreements—Class 3.

Reasonable Use—2-A

Hearing Body on Class 4 delete #7

Greg will make and present these proposed changes at the next meeting along with Public Lands (PL) zoning, Site Specific re-zones and Future Land Use Map (FLUM) amendments. Currently there are three applicants needing a process for converting the PL lands; the former Power House, three lots on LeClerc Rd, sold by the County to a private party and lastly the Hi-Test site. Mike Lithgow pointed out that for adjoining property owners, being aware of allowable activities associated with PL lands, for the change not to have a public process could appear unfair.

The meeting/workshop was adjourned at 8:00pm, with Dan Mueller making motion and John Stuart seconding.