

**City of Poulsbo
PLANNING COMMISSION**

Tuesday, October 25, 2011

MINUTES

MEMBERS PRESENT: Gordon Hanson, Bob Nordnes, Kate Nunes, Ray Stevens, James Thayer, Stephanie Wells

MEMBERS ABSENT: Jim Coleman

STAFF PRESENT: Keri Weaver, Edie Berghoff

GUESTS PRESENT: Ralph Swanson, Kathy Swanson, Kirk Stickels, Tony DeCarlo, Jeremy Eckert, Fred Springsteel, Barney Rindal, Loretta Rindal

1. CALL TO ORDER

Chairman Stevens called the meeting to order at 6:00 pm.

2. FLAG SALUTE

3. MODIFICATIONS TO AGENDA – none

4. APPROVAL OF MINUTES –

MOTION: Nordnes/Wells: Move to approve the minutes of September 27, 2011 and October 4, 2011. Votes: September 27, 2011: 4 yes, 2 abstain, 1 absent; October 4, 2011: 6 yes, 1 absent

5. COMMENTS FROM CITIZENS –

Kirk Stickles, representing the Port of Poulsbo, indicated the Port Commissioners held a special meeting that Tuesday to review where the Shoreline Master Program Update is at in the process. Port Commissioners determined at their meeting to ask the Planning Commission about having a joint meeting to discuss or answer questions or work through concerns the Port has with the SMP and comments they have made.

Planning Commission members indicated that at this time it would only serve to extend the workshop process timeline, and it is more appropriate for elected Port Commissioners to discuss the SMP with elected Mayor and City Council. Both the City and Port need to work towards better communication between themselves regarding the plans of both jurisdictions. The workshop process has been going on for months and the Port has only just now become involved.

The Planning Commission Chairman then requested staff to give a brief summary of the next steps to assist the Port Commissioners, and others, in planning future involvement in the SMP process. Staff responded that the Planning Commission is working toward a public hearing draft document to be ready by November 1, with a public hearing on the SMP November 15, 2011. Staff will wait until after the election and after all Planning Commission changes are in the draft document, to distribute revisions to City Council. Once staff finds out who the new Council Member is, they will work with that individual through December to help them understand the SMP process to date. The final

Planning Commission recommended draft document is intended to go before City Council at an introductory workshop in early January.

Staff indicated that the Mayor had asked if the Port Commissioners would like to have an SMP joint workshop meeting with City Council a few weeks ago and had not had any response. Mr. Stickles indicated that the Port Commissioners did discuss a date for a joint workshop with Council, and wanted to determine if there were items which could be worked through with the Planning Commission prior to a meeting with Council.

Poulsbo's SMP contract with the Department of Ecology is to adopt the final SMP document at the end of February. Planning Commissioners indicated that their process is only a recommendation and that Council is the decision making authority and is able to make changes.

The Chairman then indicated that the Port's comment letters and input from prior meeting comments have been taken into account, and that the revised draft being reviewed this evening will have additional modifications, and at the public hearing Port Commissioners are encouraged to come and provide further input before a final determination is made and forwarded.

6. SHORELINE MASTER PROGRAM UPDATE (Continued from October 4, 2011)

The Chairman commented that he had looked through other jurisdictions' plans, and that he believes that the use table is the portion of the document that drives the process and is the place individuals will look first when determining if something is permitted or not. Also would like to address some of the Port's concerns about whether something is permitted or not.

Commissioners began discussion with (1) the use table, beginning on page 16, is the crux of where people will go to determine what they can do in the shoreline; (2) the City of Anacortes is an example of a plan approved by the state; (3) Anacortes designates some non water related water dependent use in some areas, is this a good pattern to follow; (4) Poulsbo is looking toward a population of 14,000 plus in the planning horizon and the waterfront is Poulsbo's' calling card in addition to being one area that should accommodate this future growth without putting hard armoring and high rises along the length of it; (5) need to leave options available for an additional launch on the west side; and (6) the port needs to be able to expand as the city grows.

Discussion continued with (7) permitting process paragraph, page 10, 16.08.120A is difficult to understand and will be rewritten; (8) an allowed use may require a permit, or may be exempted; (9) Additional text at the heading further explaining the tables (per Anacortes); (10) there is confusion between multiple permitted definitions being used in the same sentence when allowable uses would be more clear; (11) an allowed use may still require a substantial development use permit, or a variance, or other permit; (12) the table heading in the Anacortes use table is useful; (13) many of the jurisdiction documents appear similar because the DOE has responded to each jurisdictions first draft indicating how they would like the document and the use table to look; and (14) Poulsbo has never updated the original SMP from the 1970's.

Staff then clarified that initial binders are the July public draft. The document tonight incorporates the Planning Commission modifications to the initial July draft in addition to incorporating feedback like such as corrections or errors. The public is still looking at the

July draft online and in hard copy because the working Planning Commission draft is still changing every week.

Discussion continued at the beginning of the Use Table beginning on page 17, section A. Residential with (15) each designation is tied to a location shown on the map in addition to the descriptions of each environment immediately before the table; and (16) SR1 is 0 to 100 feet from the Ordinary High Water Mark (OHWM) requires a variance.

Commissioners then began discussing Use Table section B. Mixed Uses:(17) would allowing non-water oriented uses reduce the number of non-conforming uses in the shoreline zone, such as restaurants; (18) restaurants could be a water enjoyment type use and therefore be conforming; (19) the definition of water oriented means water dependent, water related or water enjoyment or a combination; (20) dental offices are not a water enjoyment use, and this would; (21) Anacortes seems to allow commercial in residential, and we need to be consistent between zoning where we do not provide for that mix, lot-to-lot, and the SMP; (22) with mixed use development, some uses that are not entirely water oriented are allowed, where the majority of the uses in the mix use development are water oriented and there is some reason that all uses cannot be water oriented; (23) there are only so many water oriented uses; (24) Guidelines state in the high intensity environment “nonwater-oriented uses should not be allowed except as part of mixed use developments” [WAC 173-26-211 (5)(d)(ii)(A) in part]; (25) the way the state regulations define ‘should’ it is actually ‘shall’; (26) wording to encourage water oriented uses, not requiring them, could be in a policy, but the use table needs to be more specific; (26) the other portion of the guidelines with high intensity environment state “Master programs should prohibit non water oriented commercial uses on the shoreline unless they meet the following criteria: (i) the use is part of a mixed-use project that includes water-dependent uses and provides a significant public benefit with respect to the Shoreline Management Act’s objectives such as providing public access and ecological restoration; or (ii) Navigability is severely limited at the proposed site, and the commercial use provides a significant public benefit with respect to the Shoreline Management Act’s objectives such as providing public access and ecological restoration. In areas designated for commercial use, nonwater-oriented commercial development may be allowed if the site is physically separated from the shoreline by another property or public right of way.” [WAC 173-26-241 (3)(d) in part]; and (27) all conditional uses and variances go to DOE for approval.

Discussion continued with Use Table section C. Commercial (except marinas, ports and boating facilities with (28) Urban Conservancy designation is a small area north of Lindvig on the east side of the estuary; (29) in the Aquatic area DOE, Army Corps, and Fisheries will review permit; (30)definition of commercial would be helpful; (31)retail service and office are all included in the zoning ordinance commercial; (32)allowed uses may be tightened in the future if they must be based on further review by DOE; (33) shoreline parks are designated a with the buffer, or first 100 feet, are designated Natural, with the remainder in Urban Conservancy, with the exception of Fish Park which is entirely designated Natural within the shoreline area because that is meant to be a restoration and preservation habitat type park; (34) public facilities are not the same as commercial in the allowed uses table; (35) mobile food stands are prohibited in the downtown commercial; (36) mobile food stands are possible in other commercial zones; (37) park zone in the zoning code allows for concession stand; and (38) distinguish between Urban Conservancy in the parks and other locations.

Commissioners concurred that industrial uses are not an allowed use in the shoreline zone.

Discussion of Use Table section E. Public and private marinas, ports, and boating facilities included (39) slip and moorage is different than a launch; and (40) docks and piers are not included in the use list.

Kirk Stickles, representing the Port of Poulsbo, approached the podium requesting how dry rack storage is addressed in the SMP. Equipment required is a travel lift or a fork lift access at the water. As an upland use, is dry rack storage a "marina".

Commissioners continued their discussion with (41) is there an area that would be usable for a storage facility; (42) potential for rezone for a new marina on the west side; (43) service area on the west side if moved; (44) the document addresses existing and what might be in the planning horizon; (45) the entire west side is residential; (46) in residential a marina is a conditional use in the zoning ordinance and consistency between city documents should be considered; (47) need clarity in the definition of moorage indicating if dry storage racks are moorage; (48) Moorage and moorage facility are defined in 16.08.040; (49) conditional use permits are required for boat slips and boat moorage which are adjacent to / part of the property of residential in the zoning code; (50) Consistency of a CUP required by the zoning ordinance on a portion of a project which has moorage that is permitted outright; (51) consistency of a CUP being required by the Zoning Ordinance on a portion of a project which has moorage that is permitted outright; (52) zoning of the upland will make the determination of the adjacent aquatic permit required, if a CUP is required for the upland, then a CUP will be required for the aquatic adjacent in the same project, or stated another way, when multiple permits are required for a project the highest permit and authority controls the review; (53) if someone came in for a marina in a residential zone 3 permits would be required site plan, CUP and Shoreline CUP; (54) the footnote needs to recognize that the highest permit required will determine which permit will regulate; (55) this section does not impact the parks which are under Use Table section H; (56) a commercial permit could be proposed which includes a hoist and stack in a rack for winter; (57) is a parking lot is not considered a boating facility; (58) Anacortes has one marina use line in the table; (59) Anacortes is more industrial than Poulsbo; and (60) review of public and private docks and piers in the Anacortes SMP.

Commission discussion continued with (61) boat repair major and minor definitions; (62) engine overhaul and rebuilding is done in the boat slip, the engine is dismantled and taken to a refurbishing facility, brought back and installed in the boat; (63) major repair are things which will impact the environment when they are done; (64) Accessory administrative, and assembly uses will possibly make some changes to the Port, marina, or Yacht Club; and (65) Department of Natural Resources is actively looking at some uses at one of the facilities related to the use of state lands for a non water dependant use.

Port Commissioner DeCarlo indicated the Port has an office and meeting room in floating structures because they have no land on which to place the structures. An option for expansion is to build a second floor on the restroom structure.

Discussion continued with (66) the existing Kayak storage is water related use; (67) storage of brooms and cleaning supplies is not water related; (69) the Port Office, where

boaters contact the port and pay fees, etc., is a water related use, however, most other offices are not water related or water dependant; (70) DNR use is a contractual issue and DNR can enforce the contract which is not applicable to the city whose concern is environmental; (71) water dependent and water related are a requirement for a use permit on state lands; (72) commercial uses in the aquatic environment are not necessary; (73) development will not be permitted today over water such as the Liberty Bay Marina is now; (74) buildings like Liberty Bay Marina are grandfathered; and (75) all jurisdictions must use the same state definitions of water related, water dependant, and water enjoyment are all under water oriented.

Commissioners concurred that (76) buoys are appropriately permitted in the aquatic zone; (77) private docks, piers, boat houses, boat launches, boat lifts, houlouts and floats outside of marinas, ports and other boating facilities are not permitted based on earlier review discussion; and (78) public water-enjoyment or water-related park and recreational facilities, including docks and boat launches should be permitted uses.

Discussion continued with Use Table section I. Parking lots and parking structures, more than 4 vehicles with (79) dry storage will be added to E. Public and private marinas, ports, and boating facilities; (80) if multi-family residential must have parking generally permitted with a variance; (81) with parking lot even if water dependant or water related the directive is to not allow parking; (82) the conditional designation is to be able to place conditions on the parking if it is allowed in the shoreline area; (83) parking should be reviewed with and follow the underlying permit process for the indicated project.

Commissioners then reviewed Use Table section J. Public services and utilities with (84) DOE is looking for justification for additional roads in the shoreline zone whether public or private; (85) DOE will review this whether conditional or allowed; and (86) primary utility is in the definitions.

Commissioners concurred that (87) the Use Table items K, L, M and N are correctly designated; (88) Use Table item P. research activities are not greatly impactful, and is required by the guidelines to be identified; (89) Use Table items Q, R, S, and T are correctly designated; (90) Use Table item U. Structural flood hazard reduction measures is required included by the guidelines; and (91) prior to the bridge improvements at the estuary did have some flooding during high water high wind events..

Commissioners then discussed (92) the processes for various permitting procedures including permitted uses, shoreline substantial development permit, and non-conforming uses [definition 42], lots and structures [definition 41] definitions; (93) 41 & 42 are verbatim from the Zoning Ordinance are directly from the existing SMP; (94) definition 45, related to non-conformities, is also almost verbatim from the zoning code so as not to create an inconsistency; (95) 16.09 identified permitting procedures, however, for clarity a small review will be included in 16.08.

7. COMMENTS FROM CITIZENS –

Jeremy Eckert , with Foster Pepper PLLC representing the Liberty Bay Marina owners provided a letter for Commissioners. The main points of the letter are there is potential that some of the updates may discourage water dependant uses which are contrary to the Act. The city has discretion in enacting an SMP explicitly identified in WAC 173.26.186 (9) outlines the city discretion. The letter addresses concerns and provides

options for inclusion in the SMP. Proposed section 16.08.260 identifies the shoreline designation for the Liberty Bay Marina is SR1. 16.08.460 states that if more than 50 percent of the marina is destroyed, the use would not be able to build in that location.

Ralph Swanson, Liberty Bay Marina owner, identified the property has 20 some offices, attorneys, chiropractors, architects, doctors, therapist. There are contractual leases both long and short term. Rebuilding if there were a major event is a great concern.

Fred Springsteel, thanked the Commission for the long hours.

8. **COMMISSIONER COMMENTS** – none

The meeting was adjourned at 9.13 pm

Ray Stevens
Chair, Poulsbo Planning Commission

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