

**City of Poulsbo
PLANNING COMMISSION**

Tuesday January 22, 2013

MINUTES

MEMBERS PRESENT

Jim Coleman; Bob Nordnes; Kate Nunes; Ray Stevens; James Thayer; Stephanie Wells

MEMBERS ABSENT

Gordon Hanson

STAFF

Keri Weaver, Edie Berghoff

GUESTS

Jeremy Eckert

1. CALL TO ORDER

Chairman Stevens called the meeting to order at 7:00 pm

ELECTION OF CHAIRMAN:

MOTION: Thayer/Nunes: Move to approve Ray Stevens as Chairman, of the Poulsbo Planning Commission for 2013. Vote: 4 yes, 1 abstain

2. FLAG SALUTE

3. MODIFICATIONS TO AGENDA –

Election of Vice Chairman

MOTION: Thayer/Wells: Move to approve Coleman as Vice Chairman, of the Poulsbo Planning Commission for 2013. Vote: 4 yes, 1 abstain

4. APPROVAL OF MINUTES –

MOTION: Thayer/Nunes: Move to approve the minutes of May 29, 2012.

Vote: 4 yes, 1 abstain

MOTION: Thayer/Coleman: Move to approve the minutes of July 10, 2012.

Vote: 5 yes

MOTION: Thayer/Coleman: Move to approve the minutes of July 24, 2012.

Vote: 5 yes

MOTION: Thayer/Coleman: Move to approve the minutes of August 21, 2012.

Vote: 5 yes

5. COMMENTS FROM CITIZENS – none

6. **LIBERTY BAY MARINA – Amendment to Concomitant Agreement**

Keri Weaver, Associate Planner, presented brief overview for the record and the unique circumstances of the Liberty Bay Marina located at 17791 Fjord Drive NE. The old Marine Science Center (MSC) building is located on this site; the Liberty Bay Marina was approved with the concomitant agreement in the early 1980's; soon after approval the owner and developer at the time began building with differences between what was approved and actually built including number of parking spaces; overdevelopment of commercial spaces created parking issues which has been an issue with neighbors; code enforcement action taken on and off with nothing really being approved; in 1990's city understood there was about 15,000 square feet of commercial space in the old MSC that was not approved; parking for the MSC was based on 3 employees with infrequent groups of people attending; as previous owner converted space into commercial and retail parking became major issue; Fire Marshal and Planning Department periodically addressed issues with former owner Miller; Mr. Miller did make some changes to meet fire code when Fire Marshal indicated shutting down business.

Staff continued indicating current owners purchased after all the illegal development had taken place; current owners have not had parking issues with the neighbors; MSC was legally constructed building; the uses have been added by prior owner which are illegal uses not approved under the 1980's approval; many uses did not meet the Shoreline Master Plan (SMP) adopted in the 1970s; and the MSC issue came to light during the update of the SMP last year when the current owners raised concern.

Council and Mayor instructed staff to work with the current owners; SMP not able to accommodate regulations applicable to a single development; directed to determine process to work with owner to provide security and satisfaction that investment over the last 15 years was not for no reason and they could continue to get insurance; and Council felt the situation was so unique it would not be precedent setting with a resolution to the problem.

After SMP adopted, staff began working with city attorney on the concomitant agreement too bring it up to date. The City Attorney advised that this was the only way to bring the existing development into compliance. The concomitant agreement is the basis of the approval, the site plan approval and shoreline requirements follow the agreement.

Commissioner Nordnes arrived at 7:11 pm.

Staff continued indicating the review this evening is of the draft concomitant agreement which indicates there is no vested development from former site plan; the development in the MSC can be found to be legal although still non conforming; the parking can be found to be adequate since there have been no recent complaints; no vested development from former site plan will be carried forward; no new development is being approved; an updated list of uses is included which with some oversight by the Planning Department to determine if future tenants meets the spirit of the concomitant agreement; and the City Attorney indicates this addresses the non conforming and non permitted uses and sets up for effective review process.

The concomitant amendment review process is recommendation by Planning Commission, review and recommendation of the Hearing Examiner, with City Council making the final decision. Staff believes this is following Council's wishes and is consistent with the direction of the SMP.

Staff indicated conditions are included with this amending ordinance to provide additional safeguards not restrictions, and provides for city overview and enforcement. All of the development that was originally approved for Mr. Miller, for Liberty Bay Marina, that was not built, is not vested; structures and uses not meeting the 2012 SMP are legal non conforming; no parking may be removed; livaboards are limited to 5% and if there are more, then when they leave there will be no replacement; expansion requires review against the 2012 SMP and revised concomitant agreement for consistency.

Discussion:

Commissioners discussed: the old MSC is the southern building on the site; condition 5 should read all new development and occupancy shall meet the latest revision or most current version of the SMP; the number of live boards has exceeded approval in the past, Mr. Eckert requested to address present; loss of liveaboard status is governed by contract with the marina; the marine railway which formerly existed may not be put back; consistent with the current SMP as marine railway is not allowed under the current document.

Commissioners requested a site plan map of the current existing site be included with the project review continued process.

Commissioners continued discussion with: is the floating home included in the number of livaboards, and if sold is this considered leaving; the floating home is not legal; City Attorney did not feel that wrapping the two issues would facilitate making update of the concomitant agreement; not addressing the floating home in the concomitant agreement does not make it legal; Washington State departments of Ecology and Natural Resources will not approve the floating home; is this document amendment not a good leverage point in dealing with illegal floating house; City Attorney indicated the floating home and current amendment are separate issues; liveaboard is not a floating home; floating home is illegal; State will not allow for the floating home to be included in the SMP; the floating home was the subject of code enforcement in the 1990's and was identified as a floating storage container; floating home will be handled as a separate issue and therefore not hold up the processing of the concomitant agreement; each marina facility has own definition of liveaboard including number of days away; and the SMP defines "liveaboard" for the purpose of City enforcement of shoreline regulations.

Commissioner Nordnes indicated he was the Fire Marshal at the time Mr. Miller was required to correct site issues; new owners are very different; floating home issue needs to be resolved and important that floating home is not made legal; and noted he is a nearby neighbor and indicated if anyone has an issue with him being involved in the decision, he would excuse himself.

Discussion continued with possibility of including floating home discussion in staff report will be addressed to City Attorney; possibility of a timeframe to address the floating home;

cannot make the floating home legal; question of a tenancy agreement with the floating home owner; and there are not complaints at the city regarding the floating home with the complaint being the trigger for action by the Planning Department.

The Chairman then asked if the applicant had any comments.

Jeremy Eckert, applicant's representative stated that Liberty Bay Marina is a family run business and the owners appreciate that addressing this as a group effort providing certainty in the operation moving forward. Mr. Eckert indicated that he does not know the number of livaboards currently at the marina, however, each potential livaboard is interviewed by the owners. Believes the document under review represents the direction the Mayor and City Council gave staff and provides the baseline for moving forward with the exception of the floating home.

Chairman Stevens asked if further discussion was necessary. Commissioners indicated no further discussion necessary.

Chairman Stevens then requested review of the changes and questions to be addressed during prior discussion. Associate Planner Weaver reviewed the changes relating to development that wasn't built and development that was taken away cannot be rebuilt; referring to complying with the current or existing SMP not 2012 approval; being more specific about what the word liveaboard means tying it to the SMP and how the marina handles the liveaboard status; in addition to Commissioners request that staff discuss including a paragraph regarding the floating home with the City Attorney.

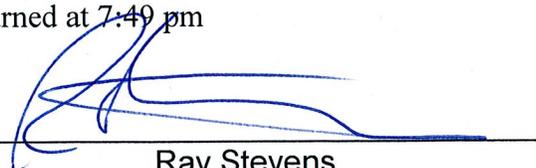
MOTION: Nordnes/Coleman: Move the Planning Commission recommend to the City Hearing Examiner that the amendment to the Liberty Bay Marina concomitant agreement, Planning File No. 08-17-12-1, should be approved, subject to the conditions provided in Section VIII of the staff report and verbal additions that Keri made. Vote: 6 yes

7. COMMENTS FROM CITIZENS – none

8. COMMISSION COMMENTS –

Request for schedule update - Next known meeting with agenda items is at least one month away. Code modifications will not be on the agenda for the next few months. Safeway project is anticipated to begin this spring, and Anderson Parkway is scheduled beginning this week.

The meeting was adjourned at 7:49 pm



Ray Stevens
Chairman, Poulsbo Planning Commission