



PLANNING COMMISSION

Tuesday, December 8, 2015
Poulsbo City Hall Council Chambers

MINUTES

Members Present

James Coleman (JC), Kate Nunes(KN), Ray Stevens (RS), Shane Skelley (SS), James Thayer (JT)

Members Absent

Gordon Hanson

Staff

Karla Boughton (KB), Helen Wytko (HW)

7:00 PM

1. Call to Order
2. Flag Salute
3. Approval of Minutes – NONE
4. Modifications to Agenda - NONE
5. Comments from Citizens – regarding items not on the agenda
6. Draft Title 19 Continued Review
Sections 19.30, 19.40, and 19.50
Staff: Boughton

KB: Left off at page 10 section 19.30.

RS: As we did last week lets go page by page.

JC: A, item 3 reduced time frames for approval. Are time frames presently established?

KB: yes, this provision is designed to make process smoother and quicker.

JC: So you have pre-application

KB: Yes

JT: In B2, I think it is either a, b, c, or d, but not clear to me. Would it make sense to say at the top of the first sentence it is either a, b, etc.

KB: Know what you are getting at. One word can make a difference. Section 1 and 2 are new. Right now there is one sentence in title 19 that said pre-apps can be waived. Every time we waive a pre-app we regret it. We have to put the project on hold. There are occasions when waiving a pre-app is completely logical. Simple ADU probably doesn't need a pre-app. Wanted specific criteria such as type 2 permits. Anything that requires a plat or going to HE needs a pre-app. Administrative approval permits do not always need pre-app.

JT: You say in paragraph B1 it only applies to type 2, the way it is worded and when sounds like you might be putting it in 3, 4, and 5.

KB: Do a sub paragraph.

JT: How about dropping the "and" before "when" in the second line. Then it would read that it may be waived by the Planning Director when A and B.

KB: Got it

KN: In example of simple ADU, would we still be requiring the pre-application form per paragraph 1.

KB: Yes, still have to do paperwork and show they are ready to go. Demonstrate by submitting drawings that they have done the drawings necessary.

RS: pg 11?

BN: Are not public meetings on that F. I think this is similar to tech staff review we used to have.

KB: Exactly that, just called different.

BN: We used to have visitors, what would you do if someone caught wind of it?

KB: We have a lot of people actually, because we do a lot of email. Best Western example. We are expanding and becoming more transparent. Press wanted to come to meeting. We have also had neighbors in the past want to come to the meeting. At this point in time we tell everyone that you don't have the right but in some instances we will let you attend. We will allow them if they are not disruptive. We wanted to put that in there so it is codified. If you are notified of it, most of the time people are fine.

RS: Does the applicant have the ability to say they don't want anyone there?

KB: Yes it is up to discretion of applicant, summary letter and recording are available to the public?

BN: Going forward should we say that it is not a public hearing and offer

testimony through a tape recorder because if we don't close the door now it is going to be hard to do it later.

KB: No public comment right now.

RS: Don't allow them just close the door

BN: Then you don't get into that match.

KB: Hasn't been that big of a problem, I wonder if the city grows if it will be more of a problem?

BN: I would suggest that Barry should close it off and open it up down the road.

JT: So they are recorded so it is available to the public?

KB: By the time they come to the city they are part of the public record. Language from court so that we can have conversations with developer so it is before the application. Would you like me to ask Barry? We just want something in the code.

JC: Agree with BN bounce it to Barry.

KB: Can strike the word may.

RS: Downside is appearance that there are backdoor deals being done. Allow it to be open with provisions. There is some use in the possibility of calming someone down before they get worked into a frenzy.

JT: Maybe you could strengthen language about what Planning Director can do. Issue of his prerogative and nobody else's.

KN: Flip flop it so that he may allow public attendance.

KB: I like Kate's idea that Planning Director can limit attendance.

BN: I can't speak anymore high than what that tech staff did for us in the day early on. We didn't find out about projects until it was too late. Need to have frank conversations with developers.

RS: It may kill the project.

BN: Disclosure helpful

KB: Pre-apps not always fun, telling applicant what they might not want to hear.

BN: Easier then than later.

KB: Pre-app not a public meeting but Planning Director may allow public to attendance under certain circumstances. Let me talk to Barry first.

JC: Item C first line initiate pre application review applicant shall submit...in the bottom it says the city may perform pre-app with less than required information, what would you be looking for?

KB: The pre-app form is relatively simple; the last sentence is getting at that we might go ahead if we do not have everything we need. We might have a pre-app for a site with a wetland if the wetland delineation has not been done. Rework that sentence to clarify.

RS: Can they do more than one pre-app?

KB: Yes under paragraph H, good for 6 months. Expand if we have additional information.

SS: Karla on C that last sentence, protecting developer?

KB: Yes little bit of a chicken and an egg. Do we sink money into engineering for our pre-app or do we do the minimum amount for the city to find out what is required. Typically don't get a full packet because some parts are not flushed out. The level of detailed response is in direct proportion to the details in the packet you submit. At the decision of the applicant what level of detail they want to provide.

KN: Should we get rid of last sentence?

KB: Probably cleanest.

RS: Pg 12?

RS: You said that paragraph H doesn't really state they can come back.

KB: Okay.

SS: I was under the impression that you could only do two pre-apps.

KB: You can do more. We allow for summary letter to be valid for 1 year. Thought it made sense to shorten to six months because there can be a lot that happens in a year. 6 months a better time to make it valid for.

SS: Does that change the fees?

KB: If a project comes in for a pre-app and they come in a year later we charge a fee. If the project comes in later with only a revised section we might have a meeting. Completely different we will charge. If they are redoing whole thing need a new pre-app.

RS: Decision and re-reviewed and you get to determine scope of it. Someway codify it.

KB: That makes sense drill down a little bit more.

JC: Fee schedule should reflect this document.

KN: One formatting thing, under G6 you have an "a" but no "b" same thing with paragraph H.

RS: Pg 13?

KB: One new thing A1 is a new paragraph and it is a little bit of a change from what the current code is now. Technical completeness is ensuring that the city has all the pieces necessary to do proper review (SEPA checklist, geotech etc) we do thorough pre-apps for counter complete, what we thought made sense was to do a preliminary substantive review. This isn't full tech review. Just distribute to engineering, final, building 15 20 what is standing out immediately that the applicant needs to clarify or provide. Immediately put the project on hold because you didn't do a complete wetland report. If it is something we note right away we will ask them to do before technically complete. Getting all information before review.

RS: Isn't that what counter complete is?

KB: No counter complete is making sure you have 5 copies check, giving receipt, and date stamping everything in.

RS: Giving yourself a timeframe before starting the clock, is that legal?

KB: Yes as long as we codify it.

RS: So taking counter complete and doing a deeper review.

JC: When does technical complete start?

KB: When technical complete letter is issued.

RS: Maybe it should be called counter acceptance, then we will do a review of it?

KB: Okay I like that.

JC: How long can that review take from the counter. Once I give you a complete how long do you have to take to do that?

KB: 28 days.

RS: Technically complete review needs to be within 28 days.

KB: Yes 28 days from when they turn it in.

JT: So you were proposing counter acceptance.

SS: This is more of an intake.

RS: What is advantage of paragraph one?

KB: 28 days to say it is technically complete, once letter star is 120 days.

Is to delay starting days. Paragraph c how long it takes them to provide info if not tech complete, 90 calendar days to provide them with the info.

JT: It seems like paragraph 1 and 2 same discussion.

KB: Yes.

JT: Why do you make it into two paragraphs?

KB: To make a point we are doing a substantive review.

JT: Basically what you are saying in paragraph 1 is justification for paragraph 2.

JC: Is it calendar days or working days?

KB: Calendar days.

RS: Thank the legislature

KB: Ray is right it is in the state legislature.

RS: So banking your time if they have something missing.

KB: Yes, once you start the clock, once you do that your timeline starts and you have a series of things you have to do. Why do all that when they haven't given you everything you need to do to process the application?

RS: Anything else on that page? Page 14?

RS: Near the bottom I have permit applications paragraph B. The way it seems to be written is that each item gets seven days?

JT: Is that after they submit the requested info?

KB: Moved on technically complete application. Type ones are very minor.

RS: If you ask for three different items do you get 21 days?

KB: If you ask them separately. If we tell them all at same time we get seven days.

JT: So if they don't give it to you expeditiously then the fall back is to deny it?

KB: Yes.

RS: Anything else on page 14? How about page 15?

JC: C, D, and E, decision review authority on C, review authority record on D, and appeal to HE, shouldn't that also be review authority?

RS: My question on that item is whether we should put the review authority in table or name the review authority in here?

KB: In type 1 permits, review authority is Planning Director.

RS: Where it gets complicated is when it gets into different review authorities for different things.

KB: Easy way to think about it is anything administratively approved can be appealed to HE. Anything that is quasi judicially approved are proposed to be reviewed by superior court. Anything that is legislative is to the growth management hearings board. When you do administrative approvals no public hearing, when you do different when you get to court which is a closed record appeal.

RS: Appeals process do you have to get standing?

KB: Yes easy, immediately have standing if you send an email, or public comment. Phone call does not give you standing.

KN: What if outside 300 ft?

KB: Can still submit comments.

RS: Anything else on 15? 16?

RS Just so you know I talked to Karla a little bit about the formatting of 5 on down. I see this as a list; I think we should break away from list format. Maybe she could reformat this to make it a little clearer. To me I think the content looks fine, but reformat how you read it.

RS: Pg 16 at all, 17?

RS: One question I had on that is under F1a, isn't this redundant to number 1?

KB: Yes since doesn't have a b consolidate paragraphs together?

KB: Paragraph 2 is new and came out of HE actions over the summer. Remands, though it made sense HE implied in rules of procedure but not codified. Thought it made sense that to say that he has authority he can remand back to applicant or city.

RS: I saw that, has that happened before?

KB: No we have had him for a year and a half, but not a lot of cases. Did it on two plats, and there was understandable confusion or concern from applicants. Thought it made sense to include it in code so he has protection and available to public.

RS: Never seen that done, surprised.

KB: Bainbridge Island has in their code, when I researched language

found that remand in that HE is similar to a court. Not common for us it is more common out in the HE world.

RS: Anything else on this page? Okay, 18?

RS: 4C word missing , findings of fact for which

KB: Yes.

RS: Under G2 there is a hanging series of words at the very end of that. The city council may continue hearing and may request...

KB: Okay.

RS: Rest makes sense.

SS: Isn't the requirements that have not been provided? Doesn't that make sense?

KB: Yes.

RS: Anything else on 18? On 19?

KB: One of the things I wanted to note is paragraph K, HE review authority. Appeal of his decision today goes to CC as a closed record appeal proceeding. We are proposing that all type 3 appeals go to superior court. Whitford went to CC for appeal. They struggled with knowing how to wade their way through that.

RS: Out of practice.

KB: Has not been an appeal in years, a lot of material to work through, clear as mud. Mayor did ask to send everything to superior court and gives us opportunity to ask for attorney fees. If it is a frivolous type of appeal and they don't like the COA, but based in law/code. Most developers want to make their project work. Irrelevant to your work but wanted you to know.

RS: Confess that we are a little grumpy about it because we try to send thorough review to HE and CC.

SS: I listen to all this and I have concerns about giving decision making power to someone who doesn't know our city; who is making sole decisions based on his sole interpretations of law. Whereas CC knows the city. Seems like losing the power.

KB: Challenging for them when you have concerning plats it dominates agenda. 10 years ago they couldn't get any business done because there was always a plat. We have contract city HE idea is that they are appropriate body that can objectively look at code. CC members have to talk to neighbors and people they live with so it can influence their decision. Currently we are under the HE staff and CC can say they want to go back to being decision makers.

RS: There is actually a good side to HE, to find exactly what this guy found and trying to get lawyer food out of it. Struck down ability to do wetland mitigations.

WETLAND DISCUSSION

BN: Want to add HE has come a long way from what it used to be. Lot of politics. What we need to do is make good codes to follow.

RS: That way it is fair for everybody.

KB: I will say this is the last LUPA appeal we had was Olhava Master Plan, it is not like we are going to court very often at all.

RS: Pg 19?

RS: I have a line in hear that says type 4 permit applications. Seems like there needs to be a preamble document that describes what it is.

JT: Do the others have preambles?

KB: I can add that.

KB: Most of this section, there is nothing new until we get to page 23.

RS: So I have the zoning map and code amendment text. These would be a Comprehensive Plan Amendment?

KB: So type 4 applications are development regulations, comprehensive plan amendments, comprehensive plan map amendments, and zoning map amendments.

RS: So we can go to page 20?

RS: Can you tell me what the difference is between 5b and 6?

KB: 5b is if you don't get on the docket, and 6 is if you were on the docket and were denied by CC. CC almost always docketed few exceptions when request wasn't appropriate.

RS: Proposed Comprehensive Plan amendment you have to wait 2 years, but the City can do it anytime.

KB: I can't imagine a scenario where that would happen. We can delete it if you have heartburn over it.

RS: Doesn't seem fair.

KB: Been in there since 1997, it isn't fair.

JT: Last sentence, wouldn't notice if nobody said anything.

RS: I have a note in here looking at B unless compressive plan amendment is necessary. What about shoreline?

KB: Shoreline amendments are part of development regulations can happen outside of annual cycle. Three exceptions to amendments that can happen outside the once a year.

RS: Anything else on 20, 21?

JC: Question on D is there a time limit?

KB: No, there is no statutory time limit.

JT: On 21st day why is that there when you talk about decisions on page 23?

KB: Redundant, also in table.

JT: So are you going to take out d?

KB: Yes.

JT: Decision criteria?

KB: Basically saying that there is decision criteria based on type of permit, and found in zoning ordinance. What you find in staff report, findings of fact based on that.

JT: Does it make sense to say that before you talk about CC and HE?

KB: Move it up?

JT: Maybe before CC review and decision, you are kind of talking about the process and then the decision and then the process.

KB: Take a look at it. E might be the same as I so maybe consolidate.

RS: Page 22?

RS: We have 4 a, b, and c is that just part of the HE continuing. When you continue hearing record open. The distinction can be made to keep the HE open but we are not going to have another hearing to take verbal testimony.

KB: One of the options is that you can conclude hearing but have a written testimony then reconvene to acknowledge testimony.

RS: Technically that wouldn't be continuing hearing?

KB: I will talk to city attorney because it is a bit of a nuance.

RS: Interesting to try that, only taking written testimony.

KB: Definitely harder for you and CC easier for HE because they are a different body. Appearance of being liaison between public and council.

RS: Pg 23?

KB: New section, emergency amendment section. Under state law, we just need to put it in code, language in compressive plan, need to catch it here.

RS: Jump into permit applications type 5.

KB: Specific concomitant agreements, nothing new in this section, we want to move away and release as appropriate.

RS: 24, 25 public notices.

KB: Title 19 mess about how it deals with public notices currently. One of the things is that we took all notices in put into one section.

RS: Pg 25, 26?

JT: On 25 on the bottom B3 next page identification, what does that mean?

KB: Needs to say identification of permits, first "no" needs to be stricken. Either independent from a different agency from City. Like a hydraulic permit from Fish and Wildlife.

RS: Pg 26?

JT: Yes, date time place of hearing is known and is scheduled at the time of application. What if not known?

KB: Not in there that hearing is required. Always have to identify public hearing. Never know what is going to happen.

RS Pg 26? 27?

JT: 27, D public comment item D. Should be specific and early as possible.

KB: Under NOA, should be B content.

JT: Or just make 3 part of item 2?

KB: item 2 above?

JT: Don't know what the reason is for separating them is.

KB: Wondering if we should make this statement in the NOA itself. Specific is helpful.

JT: Another question, what is optional DNS process?

KB: So 5 is a process that is allowed under regulation reform option to combine NOA and SEPA noticing at same time. If you are using that optional process. Then you are going to combine both require 14 days.

JT: Could you put DNS up in definitions with SEPA?

RS: And put optional in there.

RS: Pg 28?

JT: Page 28, no sooner mean no later than, same on next page under issuance.

KB: Got it.

RS: Space between 5 and 6.

JT: 5, projected project.

KB: Forgot to add that affidavit will be provided by City staff.

RS: Pg 29, 30?

JT: To reference to 3 b and c.

KB: Yes, that is new. Most jurisdictions do have the developer do the posting at the site. The one thing that is different is that we currently require putting 3 boards up. This is requiring under b that we are only putting one board up, but may require different notice boards.

SS: Crystal View plat that came through it would have been helpful to have a notice on the Johnson Road side.

RS: Anything else on pg 30, 31?

JT: Down on c distribution, previously format has been a, b, c, d, keep format consistent throughout document. Same thing on 19.60 b, no problem with content just format.

KB: Neighborhood meeting section is a little bit different because it is not noticing. If I laid it out it would be an easier read on the page.

RS: Stopped at 19.60 page 32 where we take off.

7. Comments from Citizens-none

8. Commissioner Comments-none

10:00 PM 9. Automatic Adjournment (unless meeting is extended by a majority vote)

Adjourned 8:55

A handwritten signature in blue ink, consisting of a large, stylized initial 'R' followed by a long, horizontal, slightly wavy line that tapers to the right.

Ray Stevens
Chairman, Poulsbo Planning Commission