



Planning Commission Meeting Minutes for – May 25, 2016

Chair Laumbattus called the Meeting of May 25, 2016 to order at approximately 6 p.m.

Roll Call

Members Present: Commissioners Laumbattus, Oppel, Moffit, McNett, Cleland McGrath, and Farnsworth. Members Absent: Commissioner Pollard.

Minutes

Minutes of April 27, 2016 were approved as read.

Correspondence

No correspondence was presented.

New Business

Public Hearing – Proposed Unified Development Code, Title 19

Ms. Darcy Swetnam, City Attorney, presented the Title 19 land use code update to the Commission. The intent of the update is to incorporate Titles 15, 16, 17, and parts of 18 into Title 19 as a unified development code. This will work toward reducing confusion of the current codes, reducing the volume of the code, and will allow the public and staff to easily identify procedural and substantive requirements for any land use applications.

Ms. Swetnam stated that the purpose of the presentation is to introduce the preliminary approach to Title 19 and to receive feedback from Planning Commissioners and members of the public. She also stated that the intention is not to remove public participation in the adoption of Title 19, or in land use procedures. The entirety of Title 19 will not be adopted at one time.

Commissioner McNett requested enabling links within the Municipal Code for external documents such as applications to make the process easier for the public to which Ms. Swetnam stated that would be a possibility.

Commissioner Cleland McGrath asked for clarification on the future outcome of Titles 15 through 18 and for clarification on the expectations for a possible hearings examiner. Ms. Swetnam stated titles 15, 16, and 17 will be eliminated from the code as new chapters are adopted into Title 19. Title 18 will still house some environmental code. Some sections of Title 13 will also be removed. On June 13, the issue of a hearings examiner will be discussed with City Council. A hearings examiner would be hired externally.

Commissioner Oppel inquired about the future outcome of the board of adjustments, as well as if hearing examiner decisions could be appealed. Ms. Swetnam stated that if a hearing examiner process is adopted, it would eliminate the board of adjustment. There would also be

a procedure where a hearing examiner decision could be appealed to City Council. A type 2 administrative project would have to be appealed to superior court.

Chair Laumbattus requested clarification on type 3 hearing examiner decisions, as shown in the Planning Commission packets received. Ms. Swetnam clarified that in those situations, an open record public hearing would be conducted by the hearing examiner instead of the planning commission. The hearing examiner could make a final decision, which if appealed, would go to City Council.

Commissioner McNett inquired about the time frame for specifying what the levels one and two variances are, to which Ms. Swetnam stated that the timing for that will need to be strategized, possibly as a phased approach for adopting Title 19.

Chair Laumbattus opened the hearing for public comment.

Patrick O'Hearn, 11039 Post Drive, Anacortes. Mr. O'Hearn agreed with Ms. Swetnam's remarks regarding confusing and contradictory code, showing support for rewriting the code. Mr. O'Hearn stated that it is important that all affected parties have a seat at the table for discussion to create a code which reflects goals for the future. Mr. O'Hearn cited Chapter 17.04.040 of the AMC which outlines provisions of the code to be minimum requirements of interpretation, and additionally mentioned that the stricter section or more specific section of the code will override any conflicting code. Mr. O'Hearn expressed support for the board of adjustments as an opportunity for the public involvement within the decision making process.

With no further comment, Chair Laumbattus closed the public hearing.

Commissioner Farnsworth requested stipulations on a possible hearing examiner to limit power to technical details, to which Ms. Swetnam clarified that will be the approach towards a hearing examiner in this plan. The idea in quasi-judicial hearings is that the decision maker cannot be swayed by bias of public opinion, and violating that would violate the Appearance of Fairness doctrine. The desire to have elected officials be subject to that public input for those decisions would be a liability to the City. The possibility of bias from public opinion needs to be separated from quasi-judicial hearings. Staff agrees that a limited scope on the types of projects would be required for a hearing examiner.

Commissioner Moffit asked about budgetary concerns of hiring a hearing examiner, to which Ms. Swetnam explained that a hearing examiner would be paid by the City on a contract basis. A hearing examiner would be paid for the time that they spend on hearings. The City will consider the costs during the budget discussion and expects to present this to the City Council at a regularly scheduled meeting in the near future. Commissioner McNett commented on the possibility of costs being paid for by the applicant, to which Ms. Swetnam stated that is a decision for the City Council.

Commissioner Moffit inquired about hearing examiner liability in decisions, to which Ms. Swetnam clarified that the hearing examiner would not take on the liability, but they would be a trained professional and would be more likely to follow the quasi-judicial procedural rules.

Commissioner Cleland McGrath inquired about the process of decision by a hearing examiner, to which Ms. Swetnam stated that it would be similar to what is currently done for open record public hearing decisions.

Commissioner Oppel commented he would like to see the hearing examiner in a position of quasi-judicial decisions and appeals, while variances continue to go to a body. Ms. Swetnam clarified the approach being taken gives flexibility of easily making adjustments for these types of roles. Commissioner Oppel also commented that a public workshop could be beneficial to teach the public of this process, to which Ms. Swetnam agreed.

Chair Laumbattus provided his support for the approach the City is taking to discuss and implement Title 19 and the possibility of a hearing examiner.

With no further business, Chair Laumbattus called the meeting to a close at approximately 6:47 p.m.

