



## Planning Commission Meeting Minutes for March 23, 2011

**Members Present:** Commissioners Laurie Gere, Marty Laumbattus, Bertis Rasco, Lin Folsom and Stuart Janke. Absent: Commissioners Clay Leming and Larry Nelson.

**Staff Present:** Ryan Larsen Director of Planning, Community & Economic Development; Don Measamer, Assistant Director of Planning, Community & Economic Development and Libby Grage, Senior Planner

The Chair, Ms. Laurie Gere called the meeting to order at approximately 7:30 P.M.

### **Minutes**

The minutes of February 9, February 23 and March 9, 2011 were approved with one correction to include a clarification that Commissioners were reviewing the recommendations under Option A in the minutes of February 9 and March 9.

### **Correspondence**

No correspondence.

### **New Business**

#### **Request for CUP Extension: Marina Place (CUP 09-003)**

Chair Gere introduced the first item under New Business; a request for a conditional use permit extension for Marina Place by Homestar Northwest, LLC.

Ms. Libby Grage, Senior Planner, presented the request by Homestar Northwest, LLC, for an extension of their conditional use permit that was approved by City Council on July 6, 2009. The approval was for 14 residential condominium units and commercial space within 4 buildings located on the northeast corner of 9<sup>th</sup> Street and "Q" Avenue. Ms. Grage pointed out that some of the Commissioners may recognize it as the property where people bring their dogs to play. Due to the current economic conditions, the applicant has not been able to start construction on their project and request an extension of the two year time frame to begin substantial construction. Section 17.10.100(B)(1) AMC states that construction or substantial progress towards construction of a project for which a permit has been granted must be undertaken within two years after approval of the permit. This section also provides that the Planning Commission may, at its discretion, extend the two year time period for a reasonable time based on certain factors. Staff recommends extending that two year time period referenced in that section for three years to correspond with the expiration of the conditional use permit itself. The new expiration date would be July 6, 2014. Ms. Grage asked if there were any questions.

Commissioner Rasco asked how long this would be relative to the original expiration. Ms. Grage responded that it would be an additional three years from the original two years. The original expiration date is July, 2011. Commissioner Rasco asked about the

request for a five year extension to which Ms. Grage responded that after review of the Municipal Code, the three year extension is consistent with the Code. Ms. Grage added that the proponent is requesting the maximum extension which provides three additional years to the two existing which brings the time allowed to begin construction to five years. Chair Gere asked whether the construction would be completed at the end of the additional three year period. Ms. Grage stated that the proponent could go before the City Council at the end of the additional three years and request a one year extension which would then expire with no further extensions after the final one year extension.

Chair Gere called for a motion. Commissioner Janke made a motion to approve; motion was seconded by Commissioner Folsom. Vote was unanimous in favor of approval.

Public Hearing: Cortland-Puget Sound Rope Office Building Shoreline Permit (SDP-2011-0002)

Chair Gere introduced the public hearing for a Shoreline Permit for the Cortland Puget Sound Rope office located at the Port of Anacortes property at the north end of Commercial Avenue. Commissioner Janke requested he be recused from this hearing. Chair Gere asked for an explanation to which Commissioner Janke replied he works for Puget Sound Rope which is leasing the proposed office from the Port of Anacortes. Commissioner Janke's request was granted and he removed himself from the hearing.

Mr. Don Measamer, Assistant Director of Planning, then presented the details of the Cortland Puget Sound Rope project. Mr. Measamer pointed out in an overhead the site where the project will be located. The project consists of an approximately 4,700 square foot, 27 foot tall office building. Mr. Measamer included that there are several low impact development techniques including a rain garden so roof water will be directed into the rain garden and a portion of the roof will be a green roof. The Port of Anacortes acted as SEPA lead agency issuing a determination of nonsignificance on December 28, 2010 to which no comments were received by the Port nor by the City on the SEPA determination. Public notice was provided consistent with Anacortes Municipal Code for the shoreline substantial development permit and the City received no comments other than one in support of the project from the Washington State Department of Fish & Wildlife. The project is valued at less than \$1 million; therefore the project does not require City Council action. Mr. Measamer added that the Port has worked with the City throughout their proposal to ensure that the sequoia tree stays in place and is protected as well as opening up the park to better connectivity for pedestrians. Currently the only way to adequately access the park is through the street; the sidewalks on "O" Avenue will be improved and will provide a connection into the park area. Mr. Measamer asked the Commissioners if they have any questions and offered the Port representatives the opportunity to present any information to the Commissioners.

Commissioner Rasco asked who owns the building to which Mr. Measamer provided that the Port owns the building and it will be leased to the Cortland Puget Sound Rope. Commissioner Folsom stated she would like to look at Exhibit 11 that has a grid showing the total area of almost 500,000 feet. Ms. Folsom stated that some of the grid numbers are actually in the water and asked if that is considered part of the Port. Mr. Measamer responded that while the grids are in the water, they are not included in the

overall area. Chair Gere asked for any further questions and asked if anyone from the public would like to speak. No comments were offered by the public. Chair Gere asked if the Commissioners had any comments to which Commissioner Rasco provided he believes this type of project is important to the City and hopes more projects of this type come to the City and made a motion to accept the shoreline development permit with the staff recommended conditions. Chair Gere called for a second. Commissioner Folsom raised a question regarding parking and asked how many more employees the parking will accommodate. Mr. Measamer responded that there will be sufficient parking and pointed out all the improvements that have taken place at the end of Commercial Street as well as on 2<sup>nd</sup> Street. Staff believes the improvements have provided at least a 10% increase in the available parking. The Rope Company is not expecting any new employees at this time although in the future there will possibly be some growth. This project is essentially a move of office space from one location to the next so the spaces actually required would be minimal. Commissioner Folsom seconded the motion. The motion was passed unanimously. Chair Gere then called for Commissioner Janke's return to the Council Chamber.

### **Old Business**

#### **Continued Workshop: 2010 Proposed Development Code Amendments**

Chair Gere opened the continued workshop to review development regulation suggested changes to Titles 16, 17, 18 and new Title 19.

Mr. Larsen, Director of Planning, Community & Economic Development, stated tonight's meeting will begin review of the new Title 19 under Option A. Mr. Larsen offered a proposed schedule for the meetings through the end of July starting with the next meeting on April 13, beginning at 7:00 p.m. instead of the usual 7:30 p.m. Mr. Larsen stated the Planning Commission meetings will begin at the new time through the summer and see if this works for everyone. This will be evaluated in September and if everyone agrees, the Planning Commission meetings will continue to meet at 7:00 p.m. Otherwise, the meetings will return to the starting time of 7:30 p.m. in September. Mr. Larsen expressed his expectation that on the 13<sup>th</sup> and the 27<sup>th</sup> of April, Planning Commission will complete review of Option A for Title 19. Mr. Larsen expects that by May 11, Commission will be ready to discuss the changes in Titles 16 and 17 they asked to review further. On May 25, Option B considerations will begin. On June 8 and 22, discussion will continue on Option B and hopefully all the suggested changes will be in place on both Options. At that point, the public comment period will open and the public will have the opportunity for additional comments. If the Commissioners get through all of this by the end of June, they may take a break for the summer during July and August. In September, the Commissioners can resume the process with a public hearing. Commissioner Rasco asked whether Mr. Larsen believes the Commissioners will be able to get through Option B in 6 hours to which Mr. Larsen responded he believes it is possible. Commissioner Rasco asked if they would use the existing format. Mr. Larsen provided a description of the Council's expectation for the format.

Mr. Larsen then began review of proposed Title 19. Chapter 19.10 – Introduction - consists of three sections - Intent, Rules of Interpretation, and Definitions. Commissioner Rasco questioned a reasonable and timely manner as stated in the Intent section and why the specific number of days was not included. Mr. Larsen stated

the information was included in a different chapter. Commissioner Folsom asked if it was necessary to use the word “reasonable” and Mr. Larsen responded that it could be removed. Commissioner Folsom asked if comment could be made on type-o errors to which Mr. Larsen said yes. Commissioner Folsom pointed out on “G” in 19.10.020, contains a mistake. Commissioner Rasco asked if the words “may” or “should” are discretionary and will they correspond with who has that authority to which Mr. Larsen responded that was correct. Commissioner Folsom added that in section D the word “should” needs parentheses.

19.10.030 - Definitions - provides a few definitions for the structure of Title 19. Staff recommends using the definitions for conditional use and variance from Title 17. This will eliminate the definitions in Title 17 and transfer them to Title 19. Commissioner Rasco asked how many different decision making bodies will there be to which Mr. Larsen responded there will be different individuals or groups based on how Titles 16, 17 and 18 are rewritten. The term ‘decision making body’ will be defined in Title 19. Commissioner Folsom asked what the definition for working days is compared to calendar days. Mr. Larsen responded when you are running a process through a quasi-judicial matter, it is considered to be calendar days which means every day of the week. In a 120 day process, it does not involve working days. Commissioner Rasco asked why not just eliminate working days and use calendar days. Mr. Larsen responded that there are specific sections in the code which use different time references. Mr. Larsen stated this could be reviewed again if it is decided that it should be eliminated.

Chapter 19.20 – Administration - This section involves the roles and responsibilities in land development decisions; it involves the Director of Planning, Community & Economic Development, the City Council, the Planning Commission, the Hearing Examiner and basically sets up the roles for each of those individual groups.

19.20.030 – City Council - Rules and responsibilities under Option A – Mr. Larsen reviewed the responsibilities of the City Council. Commissioner Folsom asked what would determine the flexibility of recommendations to the City Council under D. Mr. Larsen responded that we currently do not have specific actions pertaining to this but provided an example of a conflict between staff in an administrative decision could be deferred to the hearing examiner for a recommendation.

19.20.050 – Hearing Examiner – this section basically includes all the rules and responsibilities of the hearing examiner. Staff originally proposed that for certain land use actions, staff would be the final decision authority with their decision appealable to the hearing examiner and then appealable to City Council. Staff now suggests staff make the final decision and if an appeal is made on the staff decision, it will go to City Council. If an appeal is made on the Council decision, it will go to Superior Court. Mr. Larsen pointed out that the wording would be changed from appeal body to City Council and subsequent appeal body would be Superior Court. This would eliminate the need for a hearing examiner on administrative items, except for those items that involve staff purchase and/or development of a project. These types of situations cannot be reviewed by staff and must be reviewed by a hearing examiner.

Mr. Larsen added that since we are suggesting the hearing examiner will not be involved in administrative decisions, that section will be cut out and moved to the City Council's responsibilities. Mr. Larsen suggested consideration of leaving some of the processes in such as construction permits or possibly add that responsibility to the Board of Adjustment.

Chair Gere asked when the Commissioners will review the items being moved to different sections. Mr. Larsen responded that as soon as review is complete on Title 19, he hopes to have all the changes on the website within a week.

Chapter 19.30 – Consolidated Application Process – how the City is supposed to review an application. Mr. Larsen provided the steps established in this chapter. Commissioner Rasco asked who comprises the City in the review process. Mr. Larsen stated it would be the Planning Department for the most part. Commissioner Rasco asked if this term could be more definitively defined. Mr. Measamer provided that in the definitions section of the Code, City is defined as the City of Anacortes and it is believed that the general term covers the different departments that a permit could be reviewed by. Commissioners agreed this was fine.

19.30.020 – Pre-application meeting conducted by the Development Review Group (DRG). This section discusses the role of the DRG. Commissioner Rasco asked how the members of this group are chosen. Mr. Measamer explained who the group representatives are and the basic function of the group. Commissioner Folsom asked at what point under .030B, are State regulations included and believes reference should be made to state regulations where applicable. It was noted that the term “applicable state agency guidelines and or regulations” could be included. Mr. Measamer stated that the City is responsible upon receipt of an application to let the applicant know that other state permits are required and to identify those permits. All of the City's regulatory ordinances are approved by the various State agencies.

19.30.040 – Content of the Application –The Commissioners pointed out that the word “calendar” needs to be stricken in two additional places within paragraph A to stay consistent with the suggested changes. Commissioner Rasco referred to paragraph D and believes that providing the permit application is complete “even though” additional information may be required is not an accurate statement. Commissioners agreed to delete the rest of the sentence after Section 19.30.040 and continue with the next sentence.

19.40.020 – Notice of public hearing – Commissioner Folsom asked what the provision would be to set a new date and publish notice if the meeting cannot be completed on the date set under Section C. Mr. Larsen provided that the hearing will be continued at the meeting previously scheduled without further publication notice. This is the process the City currently utilizes. Mr. Larsen discussed the process for publication of notices and provided that if an action is delayed too long, a new public notification would likely be published in the newspaper.

Chapter 19.50 Review and Approval Process – Mr. Larsen introduced this section and read through the titles of the various sections. Mr. Larsen provided that the title

19.50.030 is incorrect. The title should read "Hearing examiner review and decision." Mr. Larsen suggested adding one additional section 19.50.200 Consolidation to provide consolidation of the hearings if the applicant has more than one project going forward at the same time.

19.50.010 – Administrative approval without notice – Mr. Larsen reviewed the permit/application types that are currently approved without notice including boundary line adjustments and some extensions of time. Commissioner Rasco inquired about A.4 and believes notice should be provided in the case of grading, clearing and forest practices permits. Mr. Measamer pointed out that this situation would typically involve a SEPA checklist and determination and that in most cases, these instances are associated with another project that would go through public process. The Commissioners asked for further clarification on the Shoreline exemptions processes that would not go through the public notice process. Mr. Measamer pointed out that the processes are listed in the Shoreline Master Program and the particular section will be provided to the Planning Commissioners at a later date.

Commissioners asked for clarification of the items in 19.50.010 that are approved by the Director without notice and were satisfied with the information. Mr. Larsen stated the Commissioners would come back to items 3, 6, and 4 for further review. Commissioner Janke confirmed that these items will all be considered under Option A.

19.50.020 – Administrative approvals subject to notice – Mr. Larsen reviewed the various items covered in this section and provided that Section 6 can be removed if the Commissioners decide they are not necessary. Mr. Larsen believes this provides for a more thorough administrative process. Mr. Larsen suggest that sections l. and m. be removed from the list and make those applications go through a hearing. Chair Gere asked what a home occupation approval would cover to which Mr. Larsen provided an example of someone who processes medical records out of their home.

Commissioner Rasco asked about Section 19.50.010.C and if that decision was appealable. Mr. Larsen responded that it would be appealable to City Council. Mr. Larsen concluded with a request for the Commissioners to consider Section 6 of 19.50.020 for the next meeting and also stated that all the public comments received will be prepared by consolidating any comments on the same item and presented to the Commissioners within the next two weeks.

Mr. Larsen reminded everyone that the next meeting on April 13 will start at 7:00 p.m.

The Chair thanked all for attending and adjourned the meeting at approximately 9:10 p.m.