

CITY OF BLACK DIAMOND
PLANNING COMMISSION MEETING MINUTES
September 7, 2021, 6:00 PM
Zoom Virtual Meeting

1) FLAG SALUTE, CALL TO ORDER, and ROLL CALL:

Chair Olson called the meeting to order at 6:00 p.m.

Present:	Chair/Commissioner John Olson Commissioner Steve Jensen Commissioner Knut Syversen Commissioner Pam McCain Commissioner Felicia Wheatfall Commissioner Dave Ambur
Unexcused:	Commissioner Richard La Conte
Staff:	Community Development Director, Mona Davis Deputy City Clerk, Carina Thornquist Sr. Planner, Joey Portmann Consultant, Emily Adams

Chair Olson went over what to expect at the meeting tonight and what a Public Hearing looks like if there is anyone new listening.

2) APPROVAL OF MINUTES

Regular Meeting of June 8, 2021, Regular Meeting of August 10, 2021, Special Meeting of August 24, 2021

- ❖ The Regular Meeting Minutes of June 8, 2021 were adopted under unanimous consent.
- ❖ The Regular Meeting Minutes of August 10, 2021 were adopted under unanimous consent.
- ❖ The Special Meeting Minutes of August 24, 2021 were adopted under unanimous consent.

3) PUBLIC COMMENTS -

- ❖ Kristen Bryant from Bellevue
- ❖ Kelley Sauskojus from Black Diamond
- ❖ Henry Knies from Black Diamond
- ❖ Cynthia Essick from Black Diamond

- ❖ William Bryant from Black Diamond
- ❖ Phillip Acosta from Black Diamond
- ❖ Michelle Young from Black Diamond
- ❖ Bill Bryant from Black Diamond

4) **PUBLIC HEARINGS** –

a) Delete policy ED-4.5 from the Economic Development Chapter or move it to the Transportation Chapter.

Chair Olson opened the Public Hearing 4a at 6:24 p.m. regarding the topic “Delete policy ED-4.5 from the Economic Development Chapter or move it to the Transportation Chapter.” He then turned the floor over to Director Davis who introduced the City’s contractor, Emily Adams, who gave a brief staff report and presentation while sharing her screen.

Staff’s recommendation: Move policy ED-4.5 to the Transportation Chapter because it makes the most sense.

Chair Olson opened the Public Comments portion of the Public Hearing at 6:27 p.m. and asked if there was anyone who wanted to speak. Those were as follows:

- ❖ Henry Kneis from Black Diamond – Mr. Kneis asked what the purpose is of the movement.

After asking three times if there were any additional speakers and hearing/seeing no one, Chair Olson closed the Public Hearing 4a at 6:29 p.m. Chair Olson turned it over to Director Davis to respond to the question. Director Davis clarified that this item was initiated by a private citizen request.

b) Conduct a feasibility study, including costs and scope of operations, on conducting an ecological inventory.

Chair Olson opened the Public Hearing 4b “Conduct a feasibility study, including costs and scope of operations, on conducting an ecological inventory.” at 6:31 p.m. He turned the floor over to Ms. Adams who gave the brief presentation while sharing her screen. She noted that this docket item was amended from the original request of doing an ecological inventory, to conducting a feasibility study of what it would take to conduct an ecological inventory.

Staff’s recommendation: Add a policy to Chapter 4 of the Comprehensive Plan which is the Natural Environment section 4.3, Policy any-6 conduct an ecological inventory of the city to aid and identify in protecting sensitive areas.

Chair Olson opened the Public Comments portion of the Public Hearing and asked if there was anyone who wanted to speak. Those were as follows:

- ❖ Henry Kneis from Black Diamond – Mr. Kneis can't understand how the staff could consider any changes to be made to the Comprehensive Plan without this inventory being done.
- ❖ Kelly Sauskojus from Black Diamond - Ms. Sauskojus feels that environmental protection needs to be at the top of any considerations for changes being made to the Comprehensive Plan. All of the natural areas within the city limits needs to be protected from the negative impacts before they plan developments. All of the natural areas contribute to the quality of life in Black Diamond and need to be considered before any more development or upzoning. Lake Sawyer, Jones Lake and Lake 12, and Rock Creek are very sensitive areas and need stronger protection so the entire town can enjoy. She shared the negative effects that have contributed to Lake Sawyer's issues. Furthermore, she recommends that any developer who is requesting an upzoning would need to prove that their development wouldn't have any negative impacts to the sensitive areas adjoining their development. In closing, she feels that developer requesting an upzoning would have to prove that their development doesn't have any negative impacts on any sensitive areas and which sensitive areas border their project. Further more, the SEPA reviews proving that this process has been done *prior* to any upzoning takes place.
- ❖ Kristen Bryant from Bellevue – Ms. Bryant stated that there is conflicting information about the protection of the environment. She states there are developer interests that state the code is fully protective and the studies will be done. She agreed that the studies will be done, but not until someone applies for a permit, or if they are required to apply for a site specific rezone, they would need to submit those to our code. The code is state law minimum so she would hope an ecological inventory would help to provide areas where the city would like to seek funding for open space, impact fees to protect it and do more to improve the code. She's opposed to using such an inventory in a way that could be contrary to what the original requestors goals were, such as waiving reports for developers in the future because the city feels it's been done in the past so it's ok. Ms. Bryant concluded by saying that there needs to be an assurance that it's being done in the correct way or it would be a poor use of public funds.

After asking three times if there were any additional speakers and hearing/seeing no one, Chair Olson closed the Public Hearing 4b (Conduct a feasibility study, including costs and scope of operations, on conducting an ecological inventory) at 6:40 p.m.

Chair Olson realized that after Public Hearing 4a, he forgot to ask the Commissioners if they had any questions or statements. So he asked the Commissioners if they had any questions, clarifications or comments for either 4a (Delete policy ED-4.5 from the Economic Development Chapter or move it to the Transportation Chapter), or 4b (Conduct a feasibility study, including costs and scope of operations, on conducting an ecological inventory).

Commissioners had questions regarding both 4a and 4b, so Chair Olson turned it over to Director Davis, along with Ms. Adams, to answer those questions.

Director Davis reported that it was brought to City Council and was approved to purchase a new ESRI system to update our GIS mapping. Ms. Davis gave a brief overview of the systems capabilities (i.e. showing wetlands, critical areas, sensitive areas, etc.) stating that it will allow the staff to access more accurate information with ease.

It was opened up to the Commissioners once again for any questions clarifications or comments which Director Davis answered. Chair Olson asked if there were any further questions and seeing/hearing none, he closed this portion of the Public Hearing.

c) Repeal city prohibitions on marijuana businesses and update land use chapter as needed to facilitate appropriate siting.

Chair Olson opened the Public Hearing 4c at 6:56 p.m. and then turned it over to Director Davis and Ms. Adams to give a brief overview of repealing city prohibitions on marijuana businesses, as well as updating the land use chapter as needed to facilitate appropriate siting. Ms. Adams who gave the brief presentation while sharing her screen.

Staff's recommendation: Staff recommends adding a policy to Chapter 5 Land Use, Section 5.13 Commercial Goals and Policies that states: "Policy LU-50: Analyze the siting of marijuana retail businesses to ensure they are permitted in the appropriate zoning district and to limit impacts on the surrounding community."

Chair Olson opened the Public Comments portion of the Public Hearing and asked if there was anyone who wanted to speak. Those were as follows:

- ❖ Henry Knies from Black Diamond – Mr. Knies wanted to know why is the Planning Commission putting the cart before the horse? Black Diamond City Council hasn't even decided that businesses like this should be permitted within their jurisdiction. Mr. Knies believes it's irrational for the Planning Commission to consider changing the Comprehensive Plan before the City Council has made any decisions.

After asking three times if there were any additional speakers and hearing/seeing no one, Chair Olson closed the Public Hearing 4c (Repeal city prohibitions on marijuana businesses and update land use chapter as needed to facilitate appropriate siting) at 7:03 p.m.

Chair Olson asked the Commissioners if they had any questions, clarifications or comments for 4c (Repeal city prohibitions on marijuana businesses and update land use chapter as needed to facilitate appropriate siting). Chair Olson turned it over to Director Davis and Ms. Adams who gave explanation to the questions asked.

d) Reconsideration of the 2019 FLUM including possible reversion to the 2009 FLUM, and corresponding updates to the zoning code for consistency with the Comprehensive Plan and the FLUM, and to begin narrowing discrepancies with the PRSC's VISION 2040 and 2050 (as applicable) and Regional Growth Strategy.

Chair Olson reported that there was mis-information on a website which is not the City of Black Diamonds, but a private party/group. There were about 6 parcels that were incorrect on the website so he advised everyone to read the Packet Material that is on the city's website.

Chair Olson opened the Public Hearing regarding the topic "Reconsideration of the 2019 FLUM including possible reversion to the 2009 FLUM, and corresponding updates to the zoning code for consistency with the Comprehensive Plan and the FLUM, and to begin narrowing discrepancies with the PRSC's VISION 2040 and 2050 (as applicable) and Regional Growth Strategy" at 7:11 p.m. He then turned it over to Director Davis and Mr. Portmann who is the Sr. Planner for the City. Mr. Portmann gave an extensive presentation while sharing his screen. He expressed the importance of correcting any/all errors and to have all their maps and documentation accurate. He gave an overview of the topics that will be presented for discussion. Discussion points were: Inconsistencies, Consolidations, Scrivener's Errors, Undesignated Parcels, Zoning Map Scrivener's Errors and Split Zoning.

There were two (2) issues with incorrect information on the staff report only, which Ms. Adams gave clarification. The correct information listed below:

1. Inconsistency #4 – It states 1st and nothing listed a. but the 2nd parcel # was accidentally left off.
Correction: 2nd Parcel # 1021069105.
2. Consolidation #4 – Looking at the Info Section in the Table and regarding #3. All parcels are surrounding Lake 12 and the largest parcel number

is #0721079008 which is just for identification purposes if someone is looking on maps and can't find it. And the existing uses are Single Family Home and Vacant Parcels.

Chair Olson asked Director Davis to give some clarification of both maps so citizens have a better understanding of what the differences are. Director Davis turned it over to Mr. Portmann who gave a brief explanation; the FLUM Map acts as Policy and the Zoning Map acts as Regulation.

Chair Olson opened the Public Comments portion of the Public Hearing and asked if there was anyone who wanted to speak. Those were as follows:

- ❖ Kristen Bryant from Bellevue – Ms. Bryant stated that she sent some comments earlier and hopes the Commissioners had time to review them. She is unhappy that the staff report only came out a week ago on 9/1 coming into a holiday weekend. She feels that it doesn't give the public very much time to review it and prepare, especially with having these very important issues that are being decided on. She stated that the staff report shows reduced density but there is still approximately 100-120 acres of dense acreage for development which is zoned medium density. This means it can go up to 12 units per acre of medium density residential or commercial. Friends of Black Diamond sent in a traffic report that they had done because of WSDOT's and PSRC's information that there is no plan or money to widen Highway 169. So the Comprehensive Plan's Traffic Appendix cannot assume that. The traffic model from Friends of Black Diamond versus the city's traffic model, does assume that all projects for intersection improvement are completed. There is a ripple effects that goes into the FLUM Map which will affect the city's traffic for decades. The city's traffic model doesn't even include the FLUM map, but it does include Ten Trails and the projects proposed, and it's difficult to see where the additional development can possibly be accommodated by the roads in 15 years. If you apply for a permit and you don't have the zoning, you're not going to get it. But the City's Municipal Code Chapter 16.10 explains that an owner can apply for a zoning change to be consistent with the FLUM. And if they follow that process and submit all the required documents, it goes through the quasi-judicial zoning process and it's very difficult to not give the zoning to a land owner if their FLUM designation is commercial or higher density.
- ❖ Angela Fettig from Black Diamond – Ms. Fettig believes the FLUM should be reverted back to the 2009 version, then developers must analyze the impacts if they want a Comprehensive Plan FLUM change. She stated that there needs to be an in-depth analysis on how it will affect all types of housing needs, what impact it will have on schools, emergency services,

loss of light industrial revenue, parks, wildlife, neighboring cities, roads and traffic. She feels it's irresponsible to bring in more traffic and residents when our police department can't keep up due to the growth. Ms. Fettig states the growth is too much too fast, and the city has far more growth already planned and approved than the regional share of King County's Growth Target and Growth Management Acts. It ruins the small town feel and just encourages long distance commuting. Ms. Fettig concluded by referring to Chair Olson's earlier comments regarding the website with inaccurate parcel information. She stated that they are accurate parcel numbers which were put out by the city in 2019.

- ❖ Bill Kombol from Black Diamond – Mr. Kombol began by saying the 78 page staff report is very nuanced and comprehensive in how it addresses the different challenges the city faces with inconsistencies, split zoning, etc. He feels those who feel it would be best to revert back to the 2009 plan is misguided. Returning back to some of that zoning would produce as much intense development as they fear. He concluded by stating he felt the city staff got most of it right in balancing where the city needs to move to, and provided comments where he felt the information was inaccurate.
- ❖ Henry Kneis from Black Diamond – Mr. Kneis had questions about the legitimacy of tonight's meeting with 78 pages being available to the public on 9/1, followed by a 3-day holiday weekend, and then ask for public comment on 9/7. There are 4 categories of changes and 25 parcels that are affected. He said there is no way that a member of the general public could read such a document and absorb the material, not to mention prepare to make meaningful comments at a public hearing a week later. If the city believes that this satisfactorily meets the public comment requirements, he feels it's inadequate and illegal.
- ❖ Kelley Sauskojus from Black Diamond – Ms. Sauskojus agrees with the commenter before her that it's not reasonable for the city to think that the public could read through 78 pages and comprehend what it all means. In addition to bring meaningful comments less than a week later to the Public Hearing. She further went on to say that the decisions that we make today are going to affect the city for years to come. Traffic and pedestrian safety is already out of control.
- ❖ Gary Davis from Black Diamond – Mr. Davis said he expressed the same sentiments as Mr. Kneis and Ms. Sauskojus just did. They stated everything that Mr. Davis was wanting to say.
- ❖ Cynthia Essick from Black Diamond – Ms. Essick stated that she has lived at the south end of Lake Sawyer since 1968. When they wanted to build a house on their 1 acre of land, they had to go around to neighbors and get signatures. Now there are 12 homes being built on an acre just so someone can make money. Ms. Essick expressed her issues regarding traffic from large developments, speeding traffic, kids safety and home to

the wildlife being destroyed. She concluded by saying she totally agrees with the previous speakers.

- ❖ Bill Bryant from Black Diamond – Mr. Bryant stated that the parcels of Palmer Coking Coal (PCC) are zoned High Density and these parcels were formerly a coalmine and gravel pit. He stated that the owner has had violations from the Department of Ecology (DOE) and before changing the zoning, it needs to be checked with the DOE and should be either Mineral or Light Industrial, not Residential or Commercial. Mr. Bryant concluded by saying the FLUM changes are totally optional. The city can make land use zoning equal to current use which are: Mineral, Forestry, Light Industrial and Low Density. These allow tax revenues without burdening roads or schools. A rezone must show that it's in the public interest.

After asking three times if there were any additional speakers and hearing/seeing no one, Chair Olson closed the Public Hearing 4d (Reconsideration of the 2019 FLUM including possible reversion to the 2009 FLUM, and corresponding updates to the zoning code for consistency with the Comprehensive Plan and the FLUM, and to begin narrowing discrepancies with the PRSC's VISION 2040 and 2050 (as applicable) and Regional Growth) at 8:01 p.m.

Extensive back and forth discussion took place between the Commissioners and Director Davis.

5) STUDY/WORK SESSION - September 21, 2021 Discussion and Diliberation about Public Hearings

Director Davis advised that the items discussed tonight, and the public comments received, are to be thought over and researched if they needed to, and then additional discussion can occur at the Special Meeting on September 21st.

6) UNFINISHED BUSINESS - None

7) PUBLIC COMMENTS -

- ❖ Henry Kneis from Black Diamond
- ❖ Gary Davis from Black Diamond
- ❖ Bill Bryant from Black Diamond
- ❖ Renee Mix from Black Diamond
- ❖ Kristen Bryant from Bellevue

With no other persons requesting to speak, Chair Olson closed the Public Comments at 8:46 p.m.

8) COMMUNITY DEVELOPMENT DEPARTMENT REPORT -

Director Davis advised that three (3) Commissioner's terms expire on December 31, 2021. She would like for Chair Olson, Commissioner Ambur and Commissioner McCain to think it over if they would like to continue on with another term. The deadline to inform her with their decision is September 17, 2021 if they will continue on with the Planning Commission as the soliciting process to seek applicants for the Planning Commission would begin now. Two (2) of the Commissioners voiced their decision; Chair Olson and Commissioner Ambur would like to continue.

9) ADJOURNMENT -

Commissioner Jensen **Motioned** to adjourn the meeting. **Second** Commissioner McCain. **Vote**, Motion **passed 6-0**.

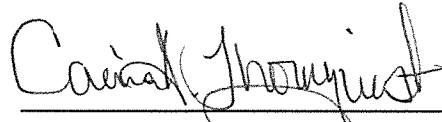
The meeting ended at 8:51 p.m.

These minutes were respectively recorded by Carina A. Thornquist, Deputy City Clerk

ATTEST:



John Olson, Chairperson



Planning Commission Secretary