

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION MINUTES OF REGULAR MEETING

April 5, 2012
7:00 P.M.

Shoreline City Hall
Council Chamber

Commissioners Present

Chair Moss
Vice Chair Esselman
Commissioner Maul
Commissioner Montero
Commissioner Scully
Commissioner Wagner

Staff Present

Steve Szafran, Associate Planner, Community & Development Services
Miranda Redinger, Associate Planner, Community & Development Services
Juniper Nammi, Associate Planner, Community & Development Services
Brian Landau, Surface Water Manager, Public Works
Jessica Simulcik Smith, Planning Commission Clerk

Commissioners Absent

Commissioner Craft

Others Present

Mayor Keith McGlashan

CALL TO ORDER

Chair Wagner called the regular meeting of the Shoreline Planning Commission to order at 7:00 p.m.

Swearing In Ceremony for Newly Appointed Planning Commissioners

Mayor McGlashan formally swore in each of the new members of the Shoreline Planning Commission: David Maul, William Montero and Keith Scully.

ROLL CALL

Upon roll call by the Commission Clerk the following Commissioners were present Commissioners Esselman, Maul, Moss, Montero, Scully and Chair Wagner. Commissioner Craft was absent.

APPROVAL OF AGENDA

The agenda was accepted as presented.

DIRECTOR'S COMMENTS

There were no comments from the Director.

APPROVAL OF MINUTES

The March 1, 2012 minutes were adopted as amended.

GENERAL PUBLIC COMMENT

Mayor McGlashan welcomed the new Commissioners and thanked them for their service. He recognized the load the City Council places upon the Commission to provide recommendations to them.

STUDY ITEM – COMPREHENSIVE PLAN UPDATE – NATURAL ENVIRONMENT

Ms. Redinger announced that the City will launch the “Forevergreen” sustainability indicator tracking website at the April 16th City Council meeting.

Ms. Redinger also announced that the next (third) speaker series is scheduled for April 12th and will feature Jenny Pell, designer of the Beacon Food Forest. At the fourth speaker series on April 25th, Rob Bennett from the Portland Sustainability Institute will discuss the topic of eco-districts in preparation for the Commission’s May 3rd discussion on housing and economic development. Both events are scheduled from 6:30 to 8:30 p.m. in the Shoreline City Council Chambers. Chair Wagner suggested that staff forward an invitation via Plancom to each of the Commissioners.

Ms. Redinger explained that the Commission would continue to discuss and provide input on the various elements of the Comprehensive Plan update over the next several months. Once each element has been reviewed, staff will compile a draft Comprehensive Plan Update for the Commission to review. This will be the subject of a public hearing in the fall, after which the Commission will forward a recommendation to the City Council.

Staff Presentation

Ms. Redinger advised that in the previous version, the policies relating to the natural environment were contained in the Land Use Element. However, with all the recent emphasis on the natural environment, staff felt it would be appropriate to create a separate Natural Environment Element. She suggested the Commission review the draft language and provide feedback.

Commissioner Moss said it appears that Attachment E from AHBL was prepared before the staff edited and prepared the language that is now before the Commission for review. Ms. Redinger answered that Attachment E was prepared in 2007 before the City’s Sustainability Strategy was adopted.

Commissioner Maul asked if the Transfer of Development Rights (TDR) concept was taken out because it did not become a regional reality or if this was a policy decision made by the City. Ms. Redinger said staff is seeking direction from the Commission regarding this issue. While staff has not developed draft TDR policies, she has not heard any specific objections to the concept, either. Commissioner Maul asked if the original plan was to do an intra-city TDR or to participate in a regional TDR program. Ms. Redinger answered that this was never decided.

Commissioner Moss reported that the Growing Transit Communities Task Force for the North Corridor has discussed how TDRs might be used. Because the Comprehensive Plan would be in effect through at least the beginning stages of the light rail alignment along Interstate 5, she sees value in recognizing TDRs in the Comprehensive Plan as a possible option. Commissioner Scully concurred. He recalled that there has been a push to get a state-wide TDR program in place on the realization that people are not participating in the local programs. He recommended the City participate in both regional and state TDR programs that come forward in the future. The Commission reviewed the document and made the following comments:

- **Introduction.** Ms. Redinger said the City’s Surface Water Manager has recommended that the introduction narrative be refined by pulling text from the Sustainability Strategy. Chair Wagner reminded the Commission of the City Council’s direction to reduce the size of the Comprehensive Plan by eliminating redundancies, etc. She suggested that some of the goals in the draft language may not be different enough to warrant their own bullet point.

Commissioner Esselman questioned how relevant the information contained in the introduction would be in the future. Commissioner Scully suggested that the entire second paragraph, which talks about the City’s website to track indicators of environmental sustainability over time, is unnecessary. Ms. Redinger said the website offers a way to track implementation of the policies contained in the Natural Environment Element and will hopefully be a useful tool in perpetuity. Commissioner Moss suggested the second paragraph would be better placed in an overall introduction to the Comprehensive Plan rather than the Natural Environment Element. Ms. Redinger agreed that this paragraph could be moved to the Comprehensive Plan introduction, which contains a significant amount of background information.

- **Framework Goal 8 (FG8).** Commissioner Esselman expressed the need to ensure that “innovative” is not interpreted as “experimental.” Innovative development practices must have credibility. Ms. Redinger reminded the Commission that the framework goals were adopted by the City Council and will not be changed as part of the Comprehensive Plan Update. However, they could create some language to clarify the term “innovation.”
- **Natural Environment Goal V (NE V).** Commissioner Scully noted that the language in this goal was changed from “ensure clean air” to “protect clean air.” While he agreed that “ensure” is a high bar, they should remember that goals are intended to be aspirational. The City’s goal should be to ensure clean air and water. He explained that the development regulations are supposed to implement the Comprehensive Plan goals, and using the terms “shall” and “ensure” would require the City to adopt development regulations to implement the goals. Commissioner Esselman said it is the City’s practice to have less prescriptive Comprehensive Plan goals. Ms. Redinger agreed the City tends to use “should” type verbs in the goal setting and policy language (Comprehensive Plan) and more prescriptive language in the development regulations.
- **Natural Environment Land Use Policy 16 (NE 16).** Commissioner Esselman pointed out that the word “should” is not typically used in the goals and policies. She suggested this be changed to a more consistent term.

- **Natural Environment Land Use Policy 18 (NE 18)**. Commissioner Maul questioned the need for this policy since development is not usually allowed in critical areas. Ms. Redinger said the recent update to the Tree Code further restricts clearing and development in critical areas. Mr. Szafran said the development code regulation that requires wetland restoration if development occurs within a wetland or its buffer is used frequently. Ms. Redinger reminded the Commission that one of the purposes of the Comprehensive Plan policies is to support development of code language. Commissioner Maul asked if the Department of Ecology and the Army Corps of Engineers would be involved when development occurs in critical areas. Ms. Nammi answered that review by a state agency is required when the State Environmental Protection Act (SEPA) is triggered. This happens most often when there is a Critical Area Reasonable Use Permit or a Special Use Permit. She explained that a Critical Area Reasonable Use Permit is for private development on lots that are so constrained by critical areas that the property cannot be developed with an allowable use. Special Use Permits are for utilities and government and/or institutional facilities that are required to occur within a critical area.
- **Deleted Natural Environment Land Use Policy (Between NE 21 and NE 22)**. Commissioner Scully requested clarification for why staff is proposing to delete this policy. Ms. Redinger explained that this policy was determined to be superseded because it was already required by some other state or local law. Ms. Nammi further explained that the City is not required to protect all of the priority species and habitats that are referenced. However, the policy clarifies that the City intended to include priority species and habitats in the Fish and Wildlife Section of the Critical Areas Ordinance. The Commission agreed that this policy should be included.
- **Natural Environment Land Use Policy 36 (NE 36)**. Commissioner Scully asked if the intent of this policy is that any land use decision should consider the long-term impacts on the natural and human environments. Ms. Redinger said this policy was taken directly from the Sustainability Strategy (guiding principle). She agreed it could be clearer.
- **Natural Environment Land Use Policy 37 (NE 37)**. Commissioner Montero suggested that this policy is redundant and could be reworded to simply say, “lead by example or learn from other successes and design our programs as models.” The remainder of the Commission concurred.
- **Natural Environment Policy Recommendations from Southeast Neighborhoods Subarea**. Chair Wagner asked staff to explain why they are recommending these policies be included in the Natural Environment Element of the Comprehensive Plan. Ms. Redinger recalled that during the Southeast Neighborhood Subarea Plan process, Council Member Hall suggested that the policies in the subarea plan’s natural environment section that were not specific to the subarea should be incorporated into the Comprehensive Plan. Ms. Redinger thought that policies could be included in the Natural Environment Element of the Comprehensive Plan. She recalled that the Commission and City Council agreed that these policies should be incorporated citywide rather than applying them just within the subarea. She said the Natural Environment policies could be incorporated under appropriate subheadings elsewhere in the Element or they could just be placed at the end. The title of the heading was not intended to remain. Commissioner Moss agreed that including the policies would be consistent with recent Commission discussions.

- **Natural Environment Land Use Policy 16 (NE 17).** Commissioner Esselman observed that all of the other policies begin with an active verb, except NE 17. She suggested it be changed to read, “minimize the removal of healthy trees.” The Commission concurred.
- **Other Potential Additions.** Ms. Redinger suggested that it might be more appropriate to place “green building” policies in the Housing and/or Economic Development Elements. She said that, at some point, the Commission will have a discussion about mandating and incentivizing green building. They will also discuss the appropriate threshold at which green building would be required. The City could adopt one of the available “green building” codes or cobble together language that is more unique to Shoreline. If they are going to move towards adoption of green building requirements in the Development Code, it would be helpful to have a policy in the Comprehensive Plan to cite as justification. Commissioner Moss agreed that green building policies should be located in another element of the Comprehensive Plan, since buildings are not part of the natural environment.

Ms. Redinger said staff is still considering the best approach for effective group-edit of upcoming Comprehensive Plan elements that are not taken directly from master plans. They will continue to consult with technology staff and the legal department and provide information to the Commission as soon as possible.

Public Comment

No one in the audience expressed a desire to comment during this portion of the meeting.

STUDY ITEM – DEVELOPMENT CODE AMENDMENTS RELATED TO FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOODPLAIN MANAGEMENT

Staff Presentation

Ms. Nammi explained that the City is required by FEMA to adopt a Floodplain Management Ordinance (FMO) (SMC 13.12), which would replace the current Flood Damage Prevention Ordinance (SMC 16.12). In addition, replacement of this chapter also requires associated changes to Title 20 of the Development Code including Subchapter 5 (Flood Hazard Areas) of the City’s Critical Areas Ordinance (SMC 20). She advised that the proposed FMO is the responsibility of the Public Works Department Surface Water Division, and they have worked closely with the Planning & Community Development Department to draft the proposed revisions. The Planning Commission is specifically responsible for reviewing the proposed amendments to SMC 20 and forwarding a recommendation to the City Council.

Mr. Landau explained that three options were given for complying with the performance standards of the Reasonable and Prudent Alternative (RPA) outlined in the September 22, 2008 Biological Opinion for the implementation of the National Flood Insurance Program (NFIP) in the Puget Sound Region. One of the more strongly suggested options is to develop and implement a floodplain ordinance based on the model ordinance that was prepared by FEMA and approved by the NFIP. He said the Public Works staff has been working with Planning & Community Development staff to create a new ordinance that places the various development code regulations into a separate floodplain management

section. He noted that, as per the newly designated FEMA floodplains, about 15 to 18 parcels in Shoreline may be affected by the ordinance. With the exception of one commercial property, the impacted parcels are all residential.

Ms. Nammi once again explained that the City's current Floodplain Management Regulations are located in SMC 16.12 (Flood Damage Prevention) and SMC 20.80 (Flood Hazard Section of the Critical Areas Ordinance). The language in both sections is basically the same and is based on the old approach of bare minimum protection of structures in the floodplain. It does not include any provisions to protect riparian habitat and it does not go far enough with life safety protection of structures. She advised that, at a minimum, the City is required to include some provisions for Frequently Flooded Areas in the Critical Areas Ordinance (CAO). Rather than having two sets of regulations, one in the Critical Areas and another in the new FMO, staff is proposing that the CAO be amended to refer to the FMO (SMC 13.12) to find the standards for floodplain protection. In the case of a stream, bog or wetland, the CAO regulations related to wetlands and streams would still apply. In addition, habitat protection elements would be added to the FMO to comply with the Endangered Species Act (ESA).

Commissioner Moss asked how the proposed FMO would tie in with the City's Shoreline Master Program (SMP). Ms. Nammi said that at some point, the proposed FMO standards would be applied to hypothetical situations to determine how the SMP, CAO and FMO interact together. She emphasized that if development is allowed to occur within the floodplain, it is likely the more restrictive CAO and SMP would apply.

Commissioner Maul asked about the process for reviewing permits for properties located within floodplains. He specifically asked if a board of appeals would be set up for this purpose. Ms. Nammi said there would be no board of appeals. The review and permit mentioned in the FMO is the floodplain development permit. She said that at this time, staff reviews building permit applications for properties within floodplain areas based on the current floodplain regulations, the SMP and the CAO. However, the proposed amendment would take the floodplain review out of the building permit and place it in the Floodplain Development and Variance Permits. These new permits would have to be done before an actual building permit application is submitted. The review of the Floodplain Development and Variance Permits would be coordinated between the Public Works and Planning & Community Development Departments, and it would be the Floodplain Administrator's responsibility to ensure the regulations are met. To avoid inspection duplication, the building inspectors would be responsible for inspection of floodplain requirements. The permits would likely be Type A permits, so there would be no administrative appeal. Appeals would go directly to the Superior Court. She said the details of the review process, as well as the appeal process, would be clearly outlined in the FMO.

Commissioner Montero asked the age of the FEMA maps the City is using to create the FMO. Mr. Landau answered that the existing maps are very old. However, the City recently submitted a proposed map and a Flood Hazard Study completed in 2009 of the north branch of Thornton Creek to FEMA. This information is currently going through FEMA review, and he anticipates that the Flood Insurance Rate Map will be finalized later in the year. In addition, King County recently completed a Coastal Flood Hazard Study, and a new flood hazard map was created for all the shorelines in King County. He said that while there have been no recent updates to the Boeing Creek Floodplain Map, the existing map would still apply to the few affected properties. Ms. Nammi added that because of the topography near

Boeing Creek, almost all of the structures are located well above the floodplain. She advised that the new maps would be available at the public hearing.

Chair Wagner reminded the Commission of the City Council's goal to make the permit process faster and clearer. She asked if the City is required to create a different permit application. Ms. Nammi clarified that the permit requirement for floodplains already exists, but the City has not been administering it to the letter of the regulation. She said staff is proposing a new type of application that would help answer property owners' questions before they get into full design of their projects. Chair Wagner questioned whether requiring a property owner to obtain a development permit, a shoreline variance, and a floodplain permit would be the most efficient approach. Placing the requirements in three different sections of the code may be confusing. Ms. Nammi said permit requirements are clarified in pre-application meetings and through customer information that is provided ahead of time. Many of the applications can move forward concurrently. She commented that routing just the specific floodplain information to the Public Works Department rather than the entire building permit would make the review go much faster. She commented that requiring a review by the Public Works Department would result in better protection of the floodplains and better protection of life and property.

Ms. Nammi reviewed each of the proposed changes as follows:

- **SMC 20.80.010(B)(4).** The new FMO specifically states that one of its purposes is to meet the requirements of the NFIP. Rather than stating the purpose three places in the code, staff is recommending deleting the statement from the general CAO purpose statement. The statement would remain in the Flood Hazard Areas Section of the CAO (SMC 20.80.360). It would also be placed in the FMO.
- **SMC 20.80.360(A).** The amendment in this section provides a new definition for flood hazard areas to be consistent with the new FMO.
- **SMC 20.80.360(C).** This section would be removed because it is not directly related to what the City can regulate.
- **SMC 20.80.370.** This section has been amended to simplify the explanation of how flood hazard areas are determined and classified. It also adds a reference to the more detailed regulations proposed for SMC 13.12. Older language that is no longer accurate would be deleted.
- **SMC 20.80.380 through SMC 20.80.410.** The language in these sections is no longer applicable and would be deleted. A new section, SMC 20.80.380(A), would be added to make it clear that all development within designated flood hazard areas must comply with SMC 13.12.
- **SMC 20.20 (Definitions).** A number of the definitions in SMC 20.20 related to Flood Hazardous Areas and Floodplain Regulations would be deleted to be consistent with the proposed FMO. Chair Wagner asked if most of the definitions are standard. Ms. Nammi said they are either required definitions or they are being proposed in a section of code that is not open for the Commission's recommendation. Many came from FEMA's model ordinance, and it is not within the Commission's purview to revise them.

- **SMC 20.30.040.** The changes in this section establish two new application types. The Floodplain Development Permit and Floodplain Variance.
- **SMC 20.30.333 and SMC 20.30.336.** In addition to the two new permit types, there is also a specific permit process for Critical Areas to address projects that require either a Critical Area Special Permit or a Critical Area Reasonable Use Permit. Because it would be redundant and not allowable to require the same review under a Critical Areas Special Use or Reasonable Use Permit, SMC 20.30.333 and SMC 20.30.336 would be amended to make it clear that these permits would not be applicable to flood hazard areas.

Commissioner Scully asked the threshold for needing a Floodplain Development Permit. Ms. Nammi said any substantial improvement in the regulatory floodplain would require a permit. She specifically referred to the definition for “Substantial Improvement.” Commissioner Scully asked if this is the same definition that is used for other types of permits. Ms. Nammi said it is specific to floodplains and is required by FEMA. She reminded the Commission that the definition of “Regulatory Floodplain” has been modified to take the riparian zones into consideration.

Commissioner Maul asked if projects that are less than 50% of a structure’s value would be exempt from the permit requirement. Ms. Nammi said the property owner would have to submit for a Floodplain Development Permit, but the conclusion would be that the project is exempt from the requirements of the FMO. The FMO would apply to new construction, as well. Commissioner Maul asked if property owners would be able to obtain flood insurance for these properties. Mr. Landau answered that FEMA requires property owners within the regulatory floodplain to purchase flood insurance. Ms. Nammi explained that the City’s nonconformance standards allow a property owner 12 months to rebuild a property that is destroyed by fire or natural disaster. However, the floodplain regulations require replacement structures to meet all of the new FMO standards.

Commissioner Moss commented that anytime there is more than one applicable ordinance or regulation, the strictest application holds. Ms. Nammi concurred. For example, even though an FMO regulation might allow a 1,000 square foot addition next to Thornton Creek, the CAO would not allow the addition if the property is located within the wetland or its buffer. The CAO would only allow up to 750 square feet, as long as the structure would not further encroach into the critical area.

Commissioner Montero asked if the entire property would have to comply with the FMO standards, even if only a portion of the property is located in a flood zone. Ms. Nammi answered that the owner would be required to apply for a Floodplain Development Permit. If it is determined that the proposed project would be located outside of the floodplain area, it would be exempt from the FMO requirements. The FMO would only apply if the proposed project is located within the regulatory floodplain.

Mr. Landau commented that with the new studies that have been completed, the City now has detailed base flood elevations. This information will help expedite the permit process, as well.

- **SMC 20.30.410(A)(3).** The provisions that apply to subdivisions are proposed in the new FMO. Therefore, staff recommends adding compliance with the new Chapter 13.12 to the environmental review criteria for preliminary subdivisions.
- **SMC 20.30.740(A).** “Violations of any of the provisions of Chapter 13.12 SMC” would be added to the list of violations subject to the provisions of Subchapter 9 (Code Enforcement).

Ms. Nammi said that due to the likelihood that the majority of the Floodplain Development Permits will conclude that the projects are exempt from the regulations, staff is proposing a minimum one-hour review fee.

Ms. Nammi announced that a SEPA notification would be issued next week, and staff anticipates a Determination of Nonsignificance because the regulations would actually be better for the environment. A public hearing on the Development Code amendments has been scheduled before the Planning Commission on May 3rd. The full amendment package would be submitted to the City Council for a public hearing in June.

Commissioner Moss asked if much of the language in the proposed FMO would come from the model ordinance provided by FEMA. Ms. Nammi answered that the model ordinance was a joint project with local, county and state jurisdictions based on the best available science from the National Marine Fisheries Service. She acknowledged it is the simplest approach, but the City could also choose to prohibit development in the floodplain or review projects for compliance with ESA on a permit-by-permit basis.

Ms. Nammi said a draft of the proposed ordinance would be provided to the Commissioners at their next meeting, along with the floodplain maps and examples of how the ordinance would interact with other regulations. Commissioner Moss clarified that the Commission would not be invited to provide input on the proposed FMO. The ordinance would be provided to the Commission for information purposes to help them understand how it works with the proposed Development Code amendments.

Public Comment

No one in the audience indicated a desire to address the Commission during this portion of the meeting.

DIRECTOR’S REPORT

Mr. Szafran announced that the City Council adopted the last packet of Development Code amendments with one change to the accessory dwelling unit (ADU) provisions. There are now three potential ADU situations: attached ADUs, detached ADUs and ADUs contained under one roof on different levels. Attached and detached ADUs would be limited to 50% of the primary dwelling. If an ADU is under the same roof on separate levels, it could be any ratio.

NEW BUSINESS

Election of Chair and Vice Chair

Ms. Simulcik Smith referred the Commissioners to the rules and procedures for election of officers. She opened the floor for nominations for Planning Commission Chair.

COMMISSIONER ESSELMAN NOMINATED COMMISSIONER MOSS AS CHAIR OF THE PLANNING COMMISSION.

There were no other nominations, and Ms. Simulcik declared nominations closed.

THE COMMISSION UNANIMOUSLY APPROVED THE ELECTION OF COMMISSIONER MOSS TO THE POSITION OF CHAIR FOR A ONE-YEAR PERIOD.

COMMISSIONER WAGNER NOMINATED COMMISSIONER ESSELMAN AS VICE CHAIR OF THE PLANNING COMMISSION.

There were no other nominations, and Chair Moss declared the nominations closed.

THE COMMISSION UNANIMOUSLY APPROVED THE ELECTION OF COMMISSIONER ESSELMAN TO THE POSITION OF VICE CHAIR FOR A ONE-YEAR PERIOD.

REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS

Commissioner Wagner referenced the draft letter from the Commission to the City Council that she prepared with assistance from staff. The letter specifically refers to three topics that are currently on the Commission's parking lot agenda: adequacy of the tree canopy study, neighborhood compatibility/neighborhood character and design review, and neighborhood meeting process. The Commission agreed that the draft letter should be forwarded to all Commissioners for continued discussion at their next meeting.

Chair Moss welcomed the new Commissioners and thanked them for volunteering to serve on the Commission. She said she looks forward to their input and participation.

AGENDA FOR NEXT MEETING

Mr. Szafran reminded the Commission that Jenny Pell, designer of the Beacon Hill Food Forest, will present the April 12th Speaker Series. The April 19th meeting agenda will include a discussion about the Capital Facilities/Utilities Comprehensive Plan Element. The Public Works Director will also provide a presentation about utilities acquisition.

It was noted that Commissioners should arrive to the April 19th meeting at 6:45 p.m. for a group photograph. Ms. Simulcik Smith agreed to remind the Commissioners to come early.

ADJOURNMENT

The meeting was adjourned at 8:37 p.m.

Donna Moss
Chair, Planning Commission

Jessica Simulcik Smith
Clerk, Planning Commission

TIME STAMP
April 5, 2012

CALL TO ORDER:

Swearing In Ceremony for Newly Appointed Planning Commissioners

ROLL CALL:

APPROVAL OF AGENDA:

DIRECTOR'S COMMENTS:

APPROVAL OF MINUTES:

GENERAL PUBLIC COMMENT: 5:30

STUDY ITEM – COMPREHENSIVE PLAN UPDATE – NATURAL ENVIRONMENT:

Staff Presentation: 6:20

Public Comment: 48:50

STUDY ITEM – DEVELOPMENT CODE AMENDMENTS RELATED TO FEMA FLOODPLAIN MANAGEMENT:

Staff Presentation: 49:04

Public Comment: 1:24:50

DIRECTOR'S REPORT: 1:25:04

NEW BUSINESS

Election of Officers: 1:26:04

REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS: 1:28:28

AGENDA FOR NEXT MEETING: 1:33:01

ADJOURNMENT