

DRAFT

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION MINUTES OF REGULAR MEETING

December 19, 2013
7:00 P.M.

Shoreline City Hall
Council Chamber

Commissioners Present

Commissioner Scully, Chair Pro Tem
Commissioner Craft
Commissioner Montero
Commissioner Wagner

Staff Present

Rachael Markle, Director, Planning and Community Development
Steve Szafran, Senior Planner, Planning and Community Development
Lisa Basher, Planning Commission Clerk

Commissioners Absent

Chair Moss
Vice Chair Esselman
Commissioner Maul

CALL TO ORDER

The Planning Commission Clerk, Lisa Basher, called the regular meeting of the Shoreline Planning Commission to order at 7:01 p.m. and requested nominations for a Commissioner to chair the meeting.

COMMISSIONER CRAFT NOMINATED COMMISSIONER SCULLY TO SERVE AS CHAIR FOR THE DECEMBER 19TH MEETING. COMMISSIONER MONTERO SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

ROLL CALL

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

APPROVAL OF AGENDA

The agenda was accepted as presented.

APPROVAL OF MINUTES

The minutes of December 5, 2013 were adopted as submitted.

GENERAL PUBLIC COMMENT

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

STUDY ITEM: DEVELOPMENT CODE AMENDMENT – CHRONIC NUISANCE ORDINANCE

Staff Presentation

Ms. Markle advised that on January 27th, the City Council will be considering amendments to Title 9 of the Shoreline Municipal Code (SMC) to add a Chronic Nuisance Ordinance, which is intended to create a means for the City to enforce protection against chronic nuisance properties. While the bulk of the amendments are to Title 9 and under the purview of the City Council, the proposal also includes an amendment to Title 20, (Development Code), which requires the Planning Commission to hold a public hearing and provide the City Council with a recommendation prior to a Council decision.

Ms. Markle noted that the proposed ordinance would support City Council Goal 5, which calls for promoting and enhancing the City's safe community and neighborhood programs and initiatives. She explained that while the Planning and Community Development Department's Customer Response Team and the Police Department have been working together to resolve long-standing issues on properties that are being used for unlawful criminal purposes or in a manner that otherwise violates Shorelines Municipal Code, the City does not currently have laws in place that provide adequate tools to hold property owners responsible for correcting chronic nuisances when illegal activities or other code violations repeatedly occur on a property. She shared a few chronic nuisance cases the City has been working to resolve.

Ms. Markle advised that staff reviewed chronic nuisance ordinances from other jurisdictions. She noted that each of these ordinances included the following components:

- **A definition of what constitutes a chronic nuisance property.** The jurisdictions primarily defined a chronic nuisance in terms of the number and types of nuisance activities that have occurred or exist within a defined time period. As per the proposed ordinance, a "chronic nuisance" property would be defined as "a property in which three or more nuisance activities, as described in Title 9, exist or have occurred during any 180-day period; or seven or more nuisance activities have occurred in a 12-month period; or a property in which a request of execution of a search warrant has been the subject of a determination by a court two or more times within a 24-month period that probable cause exists that illegal possession, manufacture, or delivery of controlled substances or related offenses as defined by RCW Chapter 69.50 has occurred on the property."
- **A definition of "Nuisance Activity."** Each jurisdiction reviewed included a list or reference to conditions or violations of law that may contribute to a chronic nuisance. In general, the lists include nuisances as defined in the Revised Code of Washington (RCW) 7.48 and 9.66. In

addition to criminal laws, the City's list would include construction, land-use, solid waste, fire, surface water, animal, and health code violations.

- **A process for enforcing and remedying the chronic nuisance.** Adoption of a Chronic Nuisance Ordinance would make the act of repeatedly violating various City and State Codes become an enforceable act itself. In most jurisdictions researched, enforcement is handled by the police department. Staff is recommending a hybrid approach that mirrors how the City handles enforcement of other codes. As proposed, the Police Department would make the initial determination of a chronic nuisance property based on a five-step process. If the Police Department determines that a property meets the level of being a "chronic nuisance," a letter would be sent to the property owner that includes a description of the nuisances and a demand for a meeting between the Police Department and the owner or person in charge. At the meeting, the Police Department would work with the property owner to develop a timeline and plan to abate the chronic nuisance. If the property owner or person in charge does not enter into and fully complete the agreement, enforcement would be transferred to the Code Enforcement Team via issuance of a Notice and Order and the steps codified in SMC 20. If the property owner does not comply with the Notice and Order, the matter would be turned over to the City's legal department.

Ms. Markle said the amendment currently before the Commission would add "Violation of any of the provisions of Chapter 9.25 SMC, Chronic Nuisance Property" to the list of violations in SMC 20.30.740(A).

Ms. Markle explained that a new twist to the proposed amendments came up in a meeting yesterday with planning and community development, police, and legal department staffs. It was discussed that it might be possible to skip the Notice and Order process altogether and go straight to court since the steps taken by the Police Department can mimic those of the Notice and Order and it includes an appeal process. She summarized that, at this point, staff is not certain whether amendments to Title 20 will be necessary. She advised that the next step is to confirm which enforcement route will be best. If amendments to Title 20 are necessary, a public hearing would be scheduled before the Planning Commission on February 6th. The Council will discuss the proposed amendments on January 27th, with anticipated adoption on February 24th.

At the request of the Commission, Ms. Markle reviewed that the purpose of the study session on Title 20 is for the Commission to take public comment and ask questions of staff. A public hearing on the proposed amendment to Title 20, if it is deemed necessary, would take place on February 7th. After the public hearing, the Commission would forward a recommendation regarding the proposed amendment to Council. Commissioner Wagner reminded the Commissioners that their recommendation would be limited to the proposed amendments to Title 20. The proposed amendments to Title 9 are outside of the Commission's purview.

Public Comment

Robert Scott, Shoreline, said he supports the proposed ordinance, but wants to make sure that noise is part of the package and it can be enforced. He expressed concern that although the police have been

called on numerous occasions to address noise issues related to the tavern located nearby his properties at Echo Lake, no citations have been issued and the problem continues. One of his renters moved out, which resulted in loss of income for him.

Michael Read, Shoreline, shared his experience with a rental property in his neighborhood in North City that fit all of the criteria outlined in the staff's presentation: drug activity, prostitution, illegal car repair, domestic violence, noise, etc. He agreed that noise should be included on the list of chronic nuisances. Trespassing should also be included. He noted the level of angst that exists for residents who live near properties considered to be chronic nuisances. These situations make it difficult for surrounding neighbors to enjoy their properties. He noted that after failed attempts to work with the property owner, they contacted the City for help. However, the Police Department did not have the tools to force the landlord to evict the tenants. He hopes the proposed methodology gives the City the ability to address chronic nuisance situations in the future. It is important to add as many tools as possible for the City to deal with nuisances quickly.

Melinda Read, Shoreline, added that she and her husband own two rental homes in Shoreline, and she believes the tools proposed in the ordinance will bring absentee landlords around to realizing that people who live in the City won't abide with nuisance behavior any longer. She said her current home is surrounded by rental properties, and chronic nuisance properties make it uncomfortable for adjacent property owners. Landowners need to take responsibility for their tenants and be aware of what is going on related to their properties.

Ms. Markle said that, at this time, trespassing is not included in the ordinance. She agreed to research the possibility of adding it to the list of chronic nuisances. She encouraged members of the public to also attend the public hearing and share their thoughts about the proposed amendments.

Commission Discussion

Commissioner Wagner expressed concern that the proposed amendments would simply "push situations outside of the City's boundaries" and not do anything to remedy the problem. She suggested the City take a more holistic approach. For example, they could provide tools to help landlords understand how to get leases that allow them to be more involved. This could result in better outcomes when bad situations come up. Ms. Markle said the proposed ordinance would allow the City to deal with the "one house per year" that is criminally blatant, and she did not believe an educational program for landlords would resolve these infrequent problems. Thus far, the City does not have any better solutions.

Commissioner Craft asked if the proposed definition for chronic nuisance, which identifies the number and types of nuisance activities that must occur within a defined time period, would mirror the City of Seattle's approach. Ms. Markle said that, after receiving feedback from other jurisdictions, staff decided to lengthen the amount time between incidents because staff felt a 60-day period was too quick.

Chair Scully cautioned that the breadth of the proposed ordinance would involve more homes than just those where criminal activities occur. He noted that there are numerous properties within a 10-block radius of his home that would probably meet the definition of "chronic nuisance;" not because of criminal activity but because an elderly person or someone with a disability is not taking care of the

property. While he is not suggesting the ordinance be narrowed down to just criminal activity in a rental house, he hoped the tool box would not start and end with eviction. Oftentimes, a much more proactive and supportive approach is needed to get problem properties cleaned up.

Ms. Markle advised that the situations referenced by Chair Scully are handled through code enforcement, and the City is sensitive to people with mental illnesses and other disabilities. They typically do abatement for people who cannot physically or mentally achieve compliance. She said perhaps language could be added to make people feel comfortable that the City would not abuse this resource. The intent is to use it only to address repeat, criminal behavior situations. Civil violations were added to allow the process to move a little quicker.

Chair Scully suggested that if the focus of the ordinance is to address criminal situations, they should require a criminal law violation that is proven by preponderance in civil court. He expressed concern about adopting a broad and sweeping ordinance to address a narrow problem.

Ms. Markle advised that, in addition to dealing with criminal activities, the proposed ordinance would allow the City to address nuisance activities that take place inside a structure. She explained that while the current code has provisions for addressing code violations outside a home, it does not allow the City to address interior situations. She said the Council has also struggled with the concern about making the ordinance too broad.

Chair Scully recalled that at a previous discussion, the Commission talked about relying on calls for fire and police service as one of the criteria for identifying a property as a chronic nuisance. He said he would be against including this criterion because it could discourage people from reporting incidents.

DIRECTOR'S REPORT

Ms. Markle reported that staff is working to develop alternatives for the second design workshop and the draft Environmental Impact Statement (EIS) scoping meeting for the light rail station. In addition, scoping for the Point Wells EIS may begin as early as January 2014. Once notified by Snohomish County of the timeline for the EIS, the City will host an event to inform the citizens of Shoreline of the process. A scoping meeting will be held in Shoreline, and the City will prepare and submit comments. The Transportation Corridor Study will start in 2014, as well.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

There was no new business.

REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS

There were no Commissioner reports or announcements.

AGENDA FOR NEXT MEETING

Mr. Szafran announced that the January 2, 2014 meeting would be cancelled. The January 16th agenda would include a study session on the draft Comprehensive Plan Amendment Docket.

ADJOURNMENT

The meeting was adjourned at 7:43 p.m.

Donna Moss
Chair, Planning Commission

Lisa Basher
Clerk, Planning Commission