

**CITY OF SHORELINE**  
**SHORELINE PLANNING COMMISSION**  
**MINUTES OF REGULAR MEETING**

May 21, 2015  
7:00 P.M.

Shoreline City Hall  
Council Chamber

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**Commissioners Present**

Chair Scully  
Vice Chair Craft  
Commissioner Malek (arrived at 7:07)  
Commissioner Maul  
Commissioner Montero  
Commissioner Mork  
Commissioner Moss Thomas

**Staff Present**

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

**CALL TO ORDER**

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

**ROLL CALL**

Upon roll call by the Commission Clerk the following Commissioners were present: Chair Scully, Vice Chair Craft and Commissioners Maul, Montero, Mork and Moss. Commissioner Malek arrived at 7:07 p.m.

**APPROVAL OF AGENDA**

The agenda was accepted as presented.

**APPROVAL OF MINUTES**

The minutes of May 7, 2015 were adopted as presented.

**GENERAL PUBLIC COMMENT**

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

**STUDY ITEM: CRITICAL AREAS ORDINANCE (CAO) UPDATE**

## **Staff Presentation**

Ms. Nammi explained that the State's Growth Management Act (GMA) requires the City to periodically update its Critical Areas Ordinance (CAO) to be consistent with Best Available Science (BAS) for the respective critical areas that are regulated. The purpose of tonight's meeting is to review the purpose and process for the update. In addition, staff will review the existing CAO and briefly explain the proposed changes. She reviewed that there are two categories of critical areas. First, are those that have a primary purpose of life-safety protection (drinking water supply and seismic, landslide, flood, and erosion hazards), as well as a secondary role on the ecosystem functions that benefit the citizens of Shoreline. Second, are the ecologically-valued critical areas that provide functions that cannot always be replaced or are expensive to replace with infrastructure, and they often provide the home and the habitat for species. These include fish and wildlife habitat conservation areas, streams and wetlands.

Ms. Nammi briefly explained how to use the City's website to access a map of the City's critical areas and the data that is currently available for each one. She advised that, based on the current data, critical areas are found in about two-thirds of the City's parks and in all but one of the neighborhoods, and there are likely others that have not yet been identified. These critical areas provide erosion control, natural beauty, air and water quality, fish and wildlife habitat, sport fish, etc. She cautioned that, as the Commission reviews the CAO, it will be important to carefully consider the balance between protecting the critical areas from both immediate and cumulative impacts and protecting private property rights and allowing for a reasonable use of property.

Ms. Nammi advised that an attachment in the Staff Report includes the current CAO and its associated definitions. However, there are other regulations in the Shoreline Municipal Code (SMC) that pertain to critical areas. For example, two sections of the administrative section of the SMC guarantee that the owner of a site that is completely encumbered by critical areas can find a path to reasonable use through a more rigorous review and mitigation process. She explained that the general provisions in the CAO apply to all types of critical areas in the City. However, there are some exemptions for certain activities that would not permanently damage the site. Staff is hoping to improve and clarify the current language in the CAO that explains when critical area reports are required and who must prepare the reports.

Ms. Nammi recalled that since the CAO was last updated, the State Environmental Policy Act (SEPA) was amended. Rather than requiring SEPA anytime a critical area overlaid a property, the thresholds for SEPA were changed so that SEPA is no longer required except on lands covered by water or for permit types that specifically require SEPA review. The idea is that the critical area regulations do an adequate job of protecting the resources.

Ms. Nammi explained that each type of critical area has its own section in the CAO that includes a classification system and provisions that are intended to restrict and protect the critical areas. For some classifications, modifications are allowed with mitigation, and each section includes requirements for monitoring to ensure success of the modification. She said that the types of permits that often include critical areas are Building Permits, Site Development Permits, Reasonable Use Permits, and Tree Evaluation Forms. She shared an example of a current permit in which a property owner wants to tear down an existing structure and replace it with a larger home that is located closer to or within the standard buffer (115 feet) for a Type II Wetland. With a mitigation plan, the current code allows the

buffer to be reduced by a certain amount if the resulting smaller buffer would have more function and value. The idea is that the smaller buffer would work better than the existing, larger buffer. In this situation, the applicant is requesting to build a bridge that would essentially remove 40 or 50 square feet of the wetland. Because the work is on lands covered by water, a SEPA review is required, as well as hydrologic project approval from the Department of Fish and Wildlife. In addition, the applicant is required to replace the lost wetland function by enhancing 12 square feet of wetland for every one square foot of wetland that is impacted.

Commissioner Moss asked if the CAO provisions would also apply to a property owner who wants to do an addition that does not change the footprint of the home or encroach further into the wetland. Ms. Nammi said the property owner would be required to hire a wetland professional to delineate the edge of the critical area, and the standard buffer would be applied. Nothing further would be required if the project falls completely outside of the buffer area. If the project falls within the standard buffer, mitigation might be required. If the house is already in the minimum buffer, the current regulations would allow a property owner to add up to 750 square feet of new footprint in the buffer, as long as the structure does not get any closer to the critical area. That means the buffer could be impacted without any mitigation requirement. The current exemption for commercial, non-residential and multi-family structures allows for repair, replacement and/or modification, but no change to footprint.

Ms. Nammi explained that the City last updated its CAO in 2006 when some moderate changes were made. The GMA requires that the current update be completed by June 30, 2015, but it is not anticipated the City will meet this deadline. She advised that grants tied to the GMA may be withheld if the City is more than 12 months out of compliance, and the City's proposed timeline for development and adoption of the update will keep the City in compliance with this 12-month cushion.

Ms. Nammi advised that the update process must include meaningful participation and the standards must be brought into alignment with Best Available Science (BAS). She reviewed that the City updated its flood hazard regulations in 2012 to be in compliance with the Endangered Species Act, and there are no aquifer recharge areas in the City. Therefore, no BAS updates are needed for these two sections. While it is appropriate to protect ground water from pollution, the private uses of ground water are protected through the surface water regulations that are managed by the Public Works Department. The CAO provisions will have indirect impacts by having buffers that help infiltrate, filter and improve water quality, return ground water to the aquifers, etc.

Ms. Nammi said the update would focus on changes to the sections related to geologically hazardous areas, fish and wildlife habitat, wetlands and streams. In addition to making the provisions consistent with BAS, the intent is to make the CAO more predictable and clear. Standards would be added for critical area reports, the exemptions and allowed activities would be clarified, and the standards for the critical area review process would be improved. Problematic and unclear code sections would also be modified.

As the update process moves forward, Ms. Nammi cautioned that it is important to keep in mind that translating science into regulation is not easy. The information must be analyzed to best fit the City, and the goal is to provide clear requirements that also allow some flexibility. BAS varies in detail and scenario for each type of wetland. For example, the Department of Ecology (DOE) tracks 122 wetlands

for testing buffer widths and calibrating their rating systems, but it is important to keep in mind that not all of the buffers studied are in urban areas. Therefore, the buffers the DOE has suggested may not always be feasible in mostly built-out environment. It is also necessary to balance the public benefits with the impacts to private property owners.

At the request of Chair Scully, Ms. Nammi reviewed that two public meetings have been held to date to solicit input from stakeholders, and staff has been researching BAS and critical area provisions from other jurisdictions. The City has hired a consultant to help inform the staff on geologically hazardous areas, but has opted not to hire a consultant for wetlands, streams, and fish and wildlife habitat at this point in time. This is the first meeting of five with the Planning Commission. At each meeting, the Commission will work through one or two sections of the regulations. A tentative date for a public hearing and recommendation from the Commission is scheduled for July 16<sup>th</sup>. Following the Commission's recommendation, the Council will conduct two study sessions and make a final decision by mid September.

Ms. Nammi reviewed that the recently updated Shoreline Master Program (SMP) had to include regulations for wetlands because the DOE determined that the section of the City's current CAO pertaining to wetlands did not meet BAS. The CAO update will also include moving the appropriate sections of the SMP pertaining to wetlands into the CAO so there is just one set of regulations. She briefly reviewed the other changes that are being considered as follows:

- **Critical Area General Provisions (SMC 20.80.010 through 20.80.110).** It is anticipated that this section would be changed to improve the general standards for critical area reports, change the process for reviewing critical area reports and the involvement of qualified third-party reviewers, clarify allowed activities and exemptions, and update the definitions related to critical areas (SMC 20.20 and 20.30.333 to 20.30.336).

At this time, the City has an approved list of qualified professionals who have met the City's qualifications, and the City does not accept critical area reports from anyone else. While the list shows experience on paper, it does not have any impact on the scope of what the consultants do. Clarifying exactly what needs to be included in a critical area report or mitigation plan will help the City receive the same kind of report from any of the qualified professionals. Currently, if the City receives conflicting or inconsistent information, it can require the applicant to pay for another consultant to review the original report and proposal. However, this is not a consistent trigger, and none of the staff is qualified in the specific areas being regulated. While trusting the recommendation of the applicant's qualified professional works in some cases, it may be appropriate to require a third-party review for more complicated cases. Some cities allow applicants to hire their own consultants, and a third-party review would automatically be required whenever there is a critical area. However, if an applicant uses a consultant the City contracts with and sets the scope of the report, he/she would not be required to pay for a second consultant to review the original report. She said the goal is to make the requirement more consistent without having it be too expensive every time there is a critical area.

Many other cities list what uses are allowed in critical areas and what uses are allowed with a critical area report. The City's CAO simply includes a list of exemptions, and no report or review would be

required. Staff believes it is appropriate to provide clarification in this section. For example, the CAO does not currently require a permit for small clearing in erosion hazard areas, but the clearing and grading section of the code requires permits for clearing and grading in critical areas and/or their buffer.

The definitions related to critical areas in general would be updated so they are consistent. The goal is to remove the definitions related to the types of classifications from the definition section. These definitions would only be found in the CAO regulations for that particular type of critical area. Including the definitions in both places requires that both sections be updated when changes are made.

- **Wetlands (SMC 20.80.310 through 20.80.350).** The majority of updates in these sections will focus on BAS and removing redundancy. The current approach is to move the regulations that have already been review and adopted through the SMP to the CAO and then clarify the language for ease of use and predictability. The SMP would have to be updated to incorporate the revised CAO language. It might also be appropriate to point the SMP to the Floodplain Management Regulations that were done in 2012.

The State's rating system and recommended buffers work well in undeveloped areas where new development is taking place, but the distances they require for uninterrupted vegetation do not exist for the majority of the wetlands in the City. Similar to the current CAO, staff believes it will be important to facilitate a reduced or average buffer that enhances and restores what has been previously degraded. While there appears to be some flexibility as to what the buffers should be, they are typically larger than what the City currently has.

- **Geologic Hazard Areas (SMC 20.80.210 through 20.80.250).** The City hired Todd Wentworth, of AMEC Foster Wheeler, to complete a review of BAS for geologic hazard areas and provide recommendations for updating the existing regulations. The anticipated changes include improving standards for critical area reports and hazard assessments, updating the definitions of geologic hazard types for consistency with BAS and to eliminate redundancy, and clarifying allowed activities and applicable exemptions.

Tsunami hazards fall under this section because they are usually triggered by earthquakes. However, the City's hazard mitigation report indicates a very low risk for tsunami hazard, so this category will be left out. The section will continue to address landslide hazards, erosion hazards and seismic hazards (liquefaction).

The current exemption for very high hazard areas (between 10 and 20 vertical feet in height), the activities proposed can be exempted from the CAO if it is safe to do so. In theory, none of the critical area regulations would apply, but a critical area report and hazard assessment would be required before the exemption would apply. Rather than making this an exemption, it might be better to redefine the landslide hazard areas. Another option would be to allow the activity with a report that demonstrates no increased risk of the hazard.

While most of the geological hazard areas have good habitat on them, in part because the regulations require that they be kept in native vegetation, their primary function is life safety. Landslides do not happen predictably and in every identified area. There have been two small landslides within the past ten years in Shoreline. The question the City must answer is how much risk it is willing to take when it comes to regulating geologic hazard areas. Right now, they have a very high hazard category that prohibits any activity, including the removal of trees. Engineering can find a solution that, within some level of error, might make it safe to build on a slope. The model code the State put together for geological hazard area says that projects can be approved if the applicant can demonstrate a certain factor of safety. The City could decide to allow an applicant to modify any type of geologic hazard area as long as it is deemed safe. Engineered solutions require maintenance and have a finite life span, and they may or may not be designed and built correctly. The Commission will have to have a discussion about these risks.

- **Fish and Wildlife Habitat Conservation Areas and Streams (SMC 20.80.260 through SMC 20.80.300 and SMC 20.80.460 through SMC 20.80.500).** For consistency, the State requires that cities adopt their water type classification system for streams as laid out in the Forest Practices Manual. Rather than considering a number of functions and values, the classification system is intended to address habitat and flooding. It distinguishes streams by whether or not they run all the time or every year and if there is habitat present. The regulations are intended to predominantly address the habitat piece, and many jurisdictions have combined their fish and wildlife and stream sections. While you can have fish and wildlife habitat areas that do not have streams and/or wetlands, they are rare and typically around a particular priority species the state has identified.

Staff will lead a discussion about whether or not it makes sense to combine the two sections and have them work together better. As it is currently set up, staff does not use the fish and wildlife habitat regulations as much as they should when assessing the size of a buffer and appropriate enhancements. The likelihood of changing the actual buffer widths for streams is fairly low, and the buffers they are recommending for riparian areas are comparable to the City's current buffer requirements. The update will just give a different name and a slightly different definition to the City's streams.

### **Public Comment**

**Tom Jamieson, Shoreline**, voiced concern that the public outreach for the CAO update is off to a bad start. The public did not receive sufficient notice, information or resources at the two public meetings held in May to provide meaningful suggestions on how the CAO could be improved. Although the Staff Report indicates that the two meetings (May 5<sup>th</sup> and May 14<sup>th</sup>) were open conversations about the existing regulations with a request for comments on how they could be improved, it is important to know that the public did not receive a copy of the regulations prior to the meeting, and there were just a few copies available at the meeting. The City's webpage for the project did not contain a link to the current regulations (SMP 20.80), the GMA, or the Revised Code of Washington (RCW) 36.70.A, all of which would have been relevant in preparing adequate comments. He questioned why the comments from the two meetings were not ready for inclusion in the Staff Report, since very few comments were received. The two public meetings were advertised in *CURRENTS*, which was sent out on May 1<sup>st</sup>, just four days before the first of the two public meetings. He said he raised his concern to City staff at the

May 5<sup>th</sup> public meeting, and he saw no remedy as of the May 14<sup>th</sup> meeting. Today, however, the webpage has been updated with links to the SMP. He asked that the Commission take immediate action to improve communication with the public for the remainder of the project.

**Yoshiko Saheki, Shoreline**, said she learned at one of the public meetings that a study would be done on Twin Ponds Park and Paramount Open Space, both of which have critical areas. Her understanding is that the studies are being done in conjunction with the 145<sup>th</sup> Street Station Subarea Plan and rezone. Once the study is completed, she asked that it be readily available on the City's website. She believes the study would be of general interest to park users, regardless of any impact the study might have on the temporarily halted rezone. She asked when the results of the study would be incorporated into the forthcoming subarea plan and rezone. She also asked if the study of the two parks might also inform the current corridor study.

Director Markle thanked Ms. Saheki for the idea of posting the Paramount Open Space and Twin Ponds Park reports online when available. She said staff is beginning to talk with the consultant about the scope of the studies so they can get started and be completed by the time the process for the 145<sup>th</sup> Street Station Subarea Plan is restarted. Once information from the two studies is available, it could be shared with the Public Works Department for consideration as part of the 145<sup>th</sup> Street Corridor Study, as well.

Director Markle advised that the City has received public comments regarding the CAO update, and some adjustments have been made based on the feedback. Although *CURRENTS* is a helpful advertising tool, it is not published on a monthly basis. The public meetings were also advertised in other venues, such as the Council of Neighborhoods, and the City's Neighborhoods Coordinator did a mailing to the people on her list. Ms. Nammi acknowledged that the City could always do better with public outreach. The project started quickly, and the timeframe is short. Recognizing that notification in *CURRENTS* would not be published until May 1<sup>st</sup>, staff attended meetings of the Parks Board and Council of Neighborhoods in late February and early March to let them know that the process was starting. Announcements were also published in the April and May *E-News* via the "Alert Shoreline Program." She summarized that the CAO public meetings were meant to start the conversation and allow citizens an opportunity to identify issues they would like staff to consider when writing the regulations. Five Planning Commission and three City Council meetings have been scheduled to continue the discussion. All of these meetings will be open to the public, and agenda materials will be available at least a week before the meeting dates. She summarized that staff is doing its best to provide better information going forward, given the staffing resources they have. This is not a high budget process, and the work must be balanced with staff's other responsibilities.

Ms. Nammi advised that once the draft regulations have been published, the website will provide a box that citizens can use to submit comments directly to the City. She acknowledged that staff did not have time to put together all of the information they wanted to include on the website prior to the first public meeting. They have tried to act on comments from the public as soon as they are received, and the comments received at the May 5<sup>th</sup> meeting were posted on the site just prior to the May 14<sup>th</sup> meeting. As additional resources are brought to their attention, they will be added to the website. In addition, interested citizens can contact her via telephone or email to request additional information. She briefly reviewed all of the information that is available on the project website, noting that a link to the GMA has not been added yet, but is available via the Department of Commerce link.

Commissioner Montero asked if the presentations to the Parks Board and Council of Neighborhoods were similar to the staff's presentation to the Commission. Ms. Nammi answered that the meetings were intended to be informational to identify the sections that needed to be updated and the tentative timeline. They invited both groups to share the information with their neighbors, businesses, community groups, etc.

Chair Scully asked what the solution would be if the DOE's buffers for wetlands are larger than what the City could possibly impose. Ms. Nammi responded that options include buffer averaging, which means the same square footage of buffer would be required, but the buffer might be wider and narrower in some locations. Another option is buffer enhancement, which means removing invasive species, planting additional habitat, etc. so that the net result is an increase in function. The City could also decide to propose a more reasonable buffer because it is not practical to apply the DOE's buffer guidance on the majority of the City's wetlands. She summarized that the DOE has offered eight different solutions for applying their buffer guidance.

### **DIRECTOR'S REPORT**

Director Markle did not have any items to report.

### **UNFINISHED BUSINESS**

There was no unfinished business scheduled on the agenda.

### **NEW BUSINESS**

No new business was scheduled on the agenda.

### **REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS**

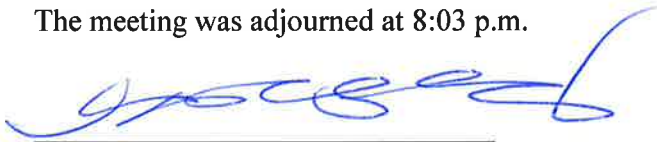
There were no reports or announcements.

### **AGENDA FOR NEXT MEETING**

Mr. Szafran reviewed that the agenda for the June 4<sup>th</sup> meeting will include continued review of CAO Update, as well as the 2<sup>nd</sup> batch of Development Code Amendments.

### **ADJOURNMENT**

The meeting was adjourned at 8:03 p.m.



Keith Scully  
Chair, Planning Commission



Lisa Basher  
Clerk, Planning Commission