

# CITY OF SHORELINE

## SHORELINE PLANNING COMMISSION MINUTES OF REGULAR MEETING

June 18, 2015  
7:00 P.M.

Shoreline City Hall  
Council Chamber

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### **Commissioners Present**

Chair Scully  
Vice Chair Craft  
Commissioner Maul  
Commissioner Montero  
Commissioner Mork  
Commissioner Moss-Thomas

### **Staff Present**

Steve Szafran, Senior Planner, Planning and Community Development  
Paul Cohen, Senior Planner, Planning and Community Development  
Juniper Nammi, Planner, Planning and Community Development  
Lisa Basher, Planning Commission Clerk

### **Others Present**

Todd Wentworth, Contractor, AMEC Foster Wheeler

### **Commissioners Absent**

Commissioner Malek

### **CALL TO ORDER**

Chair 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, Moss-Thomas and Mork. Commissioner Malek was absent.

### **APPROVAL OF AGENDA**

The agenda was accepted as presented.

### **APPROVAL OF MINUTES**

The minutes of June 4, 2015 were adopted as corrected.

### **GENERAL PUBLIC COMMENT**

No one in the audience indicated a desire to provide general public comments.

## **STUDY ITEM: CRITICAL AREAS ORDINANCE (CAO) – GEOLOGIC HAZARD AREAS**

Chair Scully announced that the Commission received a significant number of written comments from residents on 27<sup>th</sup> Avenue Northwest, and he invited Ms. Nammi to address the concerns that were raised.

### **Staff Presentation**

Ms. Nammi said this is the third of five meetings in which the Commission will discuss the CAO update, which is required by the Growth Management Act (GMA). The Commission's focus at this meeting will be the proposed changes to the provisions for geologic hazard areas. She explained that life safety and protection are the primary purposes of the provisions for geologic hazard areas, but the provisions for erosion hazard areas also address water resource protection.

Ms. Nammi advised that state regulations related to geologic hazard areas include erosion hazards, landslides, and seismic hazards (including tsunami hazards), volcanic hazards, and mine hazards. Because Shoreline is not located in a flow path and there has not been any mining in the area, the latter two are not applicable to Shoreline. In addition, the King County Hazard Assessment indicates there is no significant risk of tsunami along the City's shoreline and staff is not recommending that the CAO put additional regulations on the properties near water bodies. She summarized that the City currently regulates erosion hazards, landslide hazards and seismic hazards (focusing primarily on liquefaction).

Ms. Nammi introduced Todd Wentworth of AMEC Foster Wheeler, the qualified geotechnical engineer the City contracted with to provide a review of the Best Available Science (BAS) and recommend code changes to incorporate both BAS and best practices for regulating development in and near critical areas. She indicated that Mr. Wentworth was present to answer the Commission's technical questions.

Ms. Nammi emphasized that no substantive changes to the levels of protection have been proposed. Instead, the amendments are intended to clarify and simplify the codes. For example, the definitions and terms have been adjusted to bring them into consistency with current science. The intent is to make it easier to understand how to apply the code and have less need for interpretation.

Ms. Nammi said the City received questions from the public about the contract amount for the consultant's service. She answered that, to date, the amount paid has been about \$13,500. The maximum contract amount is \$18,734.

Ms. Nammi reminded the Commission that the primary goal of the CAO update is to incorporate BAS and the secondary goal is to make it clearer, more predictable, and easier for staff to rely on the critical area reports without having to second guess or continue to ask for missing pieces of information.

Mr. Cohen observed that the focus of the provisions for wetlands, streams, and wildlife corridors are focused on environmental quality, and the provisions for geologic hazard areas are more about public risk and safety. He reviewed that State Law does not specifically prohibit development on any type of Geologic Hazard Area, including steep slopes. Instead, the GMA allows each jurisdiction to decide on the level of public safety risk it is willing to accept. Generally speaking, the City Attorney has determined that the City cannot be found liable for merely permitting development in its jurisdiction. It

is the property owner and his/her geotechnical engineer that may be liable for failure of a slope and property damage.

Mr. Cohen said staff is recommending the City continue its current standard, for the most part, and prohibit development in very high risk landslide hazard areas. Development in all other less steep slopes, erosion and seismic hazard areas may be acceptable with a complete geotechnical analysis. While the buffer areas may be reduced, more study would be required to make these case-by-case decisions. Again, he said that as the Commission reviews the provisions, they should keep in mind the level of risk they believe the City should accept.

Ms. Nammi explained that when the City adopted its own Shoreline Master Program (SMP) in 2013, the initial intent was to incorporate all of its existing critical areas regulations into the SMP, but the State indicated that those pertaining to wetlands and flood hazard areas did not meet BAS. The State provided regulations for inclusion in the SMP, which are based on regulations that are applicable for Western Washington, they are not site-specific or unique to the 200 feet of shoreline that is regulated by the SMP. The proposed amendments discussed at the last meeting are intended to eliminate the duplicate flood plain regulations and relocate the already adopted wetlands regulation from the SMP to the CAO. No changes are proposed to the substantive standards that were adopted in the SMP, but they must be updated for consistency with the new State Rating System for Wetlands. She summarized that the existing geologic hazard area regulations were incorporated into the SMP, and the proposed changes should make it easier to administer and implement.

Ms. Nammi referred to SMC 20.30.030 and noted that a significant portion of the geologic hazard areas within 200 feet of the regulated shore lands are considered "small, steep slopes." Currently, the CAO allows specific activities to occur in areas which may be considered small steep slopes (areas of 40% slope or greater with a vertical elevation change of up to, but not greater than 20 feet). The proposed amendment would also allow activity in small steep slopes, but it would require a soils report prepared by a qualified geologist or geotechnical engineer to demonstrate that no adverse impact would result from the exemption. This is essentially the same as the treatment of moderate and high-hazard landslide areas. The consultant's BAS review indicates that landslides can and do occur on slopes of up to 20 vertical feet, and recommends that the City require review by a qualified professional.

Ms. Nammi referenced SMC 20.30.040, which currently allows height additions and additions of up to 750 square feet of new footprint to existing, nonconforming structures located within critical areas and/or their buffers. This allows increased impacts of the critical area without a qualified professional's review of the potential impacts and mitigation. The City's consultant recommends not allowing these modifications without a site specific critical area report. She explained that the proposed amendments would not alter a property owner's ability to rebuild, maintain and/or repair existing residents. However, additions to existing homes in ways that increase the impacts to the critical areas would no longer be exempt from review by a qualified professional. While this is a substantive change, it would only impact a small number of homes in the City.

Ms. Nammi said a new mapping section would be added. Although the current CAO refers to adopted critical area maps, it does not provide a specific list of the maps. The proposed amendment would add a list of the maps the City uses to determine whether or not a property is subject to the CAO. Calling out

the sources of the maps not only informs all those involved of where to look for data, it automatically updates to the most recent version of each map.

Ms. Nammi said there is nothing in the current CAO that requires immediate conversion of an existing single-family home's yard to native vegetation. However, there are native vegetation requirements if a property owner is receiving some benefit by adjusting and/or reducing a buffer or building something new that didn't exist before.

Commissioner Montero referred to an email received from two residents on 27<sup>th</sup> Avenue Northwest who indicated they spent 100s of hours participating in the City's 2013 SMP Update. Ms. Nammi said they are referring to the public meetings and meetings they specifically requested with City staff during the 2013 SMP process. They may have also been referring to the update to the floodplain regulations that occurred in 2012. Chair Scully asked if the residents on 27<sup>th</sup> Avenue Northwest would be impacted by the proposed changes to the geologic hazard area regulations. Ms. Nammi said there are minor, short slopes on some of the properties on the south end of 27<sup>th</sup> Avenue Northwest. However, with the transfer of the short, steep slopes from the very high risk landslide hazard classification with an exception into high risk landslide hazard classification with the ability to get alterations approved, the ability for these owners to modify their properties under the geologic hazard regulations would not change.

Commissioner Moss-Thomas asked when the CAO was last updated, and Ms. Nammi answered 2006. She reviewed the proposed changes to the geologic hazard area provisions as follows:

- **SMC 20.20 – Definitions.** Some changes were made in 2006 to the criteria for geologic hazard areas found in SMC 20.80, but the definitions were not updated to be consistent. In order to eliminate the inconsistencies, staff is proposing to delete the actual classifications (erosion hazard areas, seismic hazard areas, etc.) from the definition section. Rather than definitions, these are actually criteria for what category a property might fall into and are more appropriately located in SMC 20.80. Other changes include a definition outlining the licensing requirements for geologists and a definition for geologic hazard areas consistent with the State's definition.
- **SMC 20.80.030(F) – Exemptions.** Currently, Exemption F classifies small, steep slopes as very high risk landslide hazard areas between 10 and 20 vertical feet. Although alteration is normally prohibited, proposed activities could be exempted and allowed if they are deemed safe. Rather than an exemption from prohibited development, it was simpler to delete this section and recognize the landslide risk at a lower classification in SMC 20.80.220(B)(2).

#### **SMC 20.80.040 – Partial Exemptions.**

The consultant recommends against small increases to the footprint area or height without a site-specific study of the potential for geologic hazard area impacts. However, a site-specific critical area report would be required to identify and mitigate the potential impacts. The proposed language would continue to allow additions to and replacement of existing structures without a critical area report where the impact to the critical area would not be increased. Also, SMC 20.80.040(A)(2) was added to clarify that demolition of a structure would be allowed within geologic hazard areas or their buffers without a detailed critical area report if it is determined it can be done safely. This change is consistent with the City's current practice.

- **SMC 20.80.210 – Designation and Purpose.** This section reiterates the definition of geologic hazard areas, identifies why they are regulated and states the City’s goals for regulation of this type of critical area. The definition of “Geologic Hazard Area” is revised for consistency with the definition proposed in SMC 20.20.02, as well as the State’s definition. The section was also reorganized so the hazard areas are presented in a consistent order throughout the regulations. It was noted that while there is some minimal tsunami risk in Shoreline, staff did not deem it significant enough to require different regulations.
- **SMC 20.80.220 – Classifications.** In this section, a standard was added for clarification when delineating very high risk landslide hazard areas as different from moderate and high risk landslide hazard areas when based on slope. Staff is proposing that the moderate and high classifications be combined since they are regulated the same. Staff is further proposing that high risk landslide hazard areas be redefined to include areas previously defined as small steep slopes (up to 20 feet in height). These areas were previously classified as very high hazard based on slope, but activities could be exempted based on a report from a qualified professional demonstrating no increased risk. The definition would also clarify how hazard areas should be delineated when based on percent of slope. Section B.3 (very high risk) was reorganized and reworded for clarity and consistency with science. The new language clarifies how to classify areas of steeper slope that may be interrupted by benches or other variations in the topography. It essentially allows for delineation and protection of very high hazard areas within larger sloped areas that may be moderate or high hazard on average. The language was also updated to better identify areas of prior landslide activity and clarify that at least 20 feet of vertical height is needed before a slope would be classified as very high hazard based just on slope.

Figure 20.80.220(A) was provided to illustrate slope calculation for determining the top and toe of a landslide hazard area based on percent slope. It was noted that slopes of less than 10 vertical feet of change do not meet the definition of landslide hazard. Staff plans to add more drawings to illustrate how to find the very high hazard areas in what might be broad moderate or high landslide hazard slopes. The consultant also recommended changes to the seismic hazard area and erosion hazard area classifications to be consistent with BAS, but no substantive changes have been proposed.

- **SMC 20.80.222 – Mapping.** The current CAO does not specifically identify or list the maps that have been adopted into the CAO. The new mapping provision is intended to list the sources of information that are used to identify potential geological hazard areas. As an example, a GIS map of Shorewood Park was provided that identifies geologic hazard areas using green for slopes less than 15%, yellow for slopes of 15% to 40% and red for slopes greater than 40%. However, it was noted that the GIS Maps need to be updated to be consistent with newer contour maps and aerial photos that were prepared by the City in 2012. Chair Scully asked what it would take to update the GIS maps, and Ms. Nammi answered that she could provide the information at the next meeting. Ms. Nammi said analysis of LiDAR mapping (taking pictures of the topography through vegetation) is another option for identifying areas of prior landslide activity. Although many jurisdictions in the region have used this option, the City of Shoreline has not. She agreed to provide a cost estimate for this analysis, as well.

- **SMC 20.80.224 – Development Standards.** Rather than listing all of the exemptions in one section and having to clarify which type of critical area they apply to, this proposed new section would add a list of allowed activities and include the alteration provisions from SMC 20.80.240 so that what is allowed can be found in one place with clear statements of when permits and critical area reports are required, when mitigation is required, and when special approval processes apply. For example, the current erosion hazards alteration language allows some clearing and development in an erosion hazard area without a permit if it is less than a certain square footage, but the clearing and grading regulations require a permit for clearing and grading in a critical area regardless of the type. By moving this to an allowed activity (Subsection B.5), no critical area report would be required but a permit may be required.

Subsections C through E were moved from SMC 20.80.240, and text was added to clearly indicate whether alterations have to avoid impacts to hazard areas or are allowed with mitigation of the hazard and no increased risk. Alteration of moderate to high risk landslide hazard areas currently has some discretion about whether a critical area report would be required and how broad the scope of the report must be. BAS indicates that there are potential impacts that should be evaluated by a qualified professional. The proposed language would not substantially change what is and is not allowed, it simply clarifies how approval can be obtained.

New text was added to clarify when a critical area report is required and what the report serves to do for each type of hazard area.

The current language for erosion hazard areas (Subsection E) references a revegetation plan. However, the City does not currently have guidelines for revegetation of geologic hazard areas, and staff has not had time to develop the guidelines that are referred to. As a matter of practice, they have used the vegetated-related provisions from the wetlands section of the code to administer the revegetation requirement. Additional work on this section is planned.

- **SMC 20.80.230 – Required Buffers.** The current code requires a standard buffer of 50 feet for all landslide areas. The buffer can be reduced to 15 feet based on a qualified professional saying it is safe to do so. The proposed new provision clarifies what a buffer for a geologic hazard area is and when building or improvement setbacks may be required based on recommendations from qualified professionals. Rather than requiring a buffer and encumbering more of the site, a qualified professional would indicate when a buffer is needed for moderate or high landslide hazard areas. It was noted that, to date, staff has not encountered any moderate or high risk landslide hazard areas where a qualified professional recommended the site not be developed. They typically provide recommendations for how to safely develop the properties. This is not a change from current practice, but it would be explicitly allowed rather than happen by default. The required buffer for the very high risk landscape hazard areas would remain at 50 feet, with a potential reduction to 15 feet based on the findings of a qualified professional.
- **SMC 20.80.240 – Alterations.** This section is proposed to be moved to SMC 20.80.224.
- **SMC 20.80.242 – Critical Area Report Requirements.** This new section was created from the state example code and recommendations from the consultant. Staff recognizes that there are a

number of ways to address the issue, and the language needs more work. They are seeking feedback from the Commission. The State Department of Licensing put together some guidelines about what a standard report should look like, which is consistent with most of the reports the City currently receives. Inclusion of all of the requirements in the report versus referring to an outside document is also something staff is researching.

The proposed language attempts to identify what is needed for different types of geologic hazards; how they are assessed; and the specific methodology, documentation and analysis needed. It also includes language relative to mitigating the long-term impacts of the proposed development, and specifically calls out when the City would require a third-party review. As currently proposed, the City will accept the opinion of an applicant's qualified professional for projects in erosion hazard, seismic hazard, and moderate to high risk landslide hazard areas as long as the reports are complete and meet the submittal requirements and the recommendations meet code. A third-party review would be required when a site is so encumbered that it cannot be developed based on the CAO. In order to facilitate reasonable use, a more detailed mitigation of the potential risks would have to be presented. A third-party review would also be required when a buffer reduction or mitigation is proposed in a very high risk landslide hazard area.

- **SMC 20.80.250 – Mitigation Performance Standards and Requirements.** The qualified professional often recommends a structural design that mitigates the risk, accompanied by revegetation where disturbance is allowed. The current code refers to the general provisions for wetlands and streams for performance standards, and it is often unclear which ones might be relevant to a particular project in a geologic hazard area. Prior to the public hearing, staff will propose performance standards that apply specifically to geologic hazard areas.

Mr. Cohen said having clear requirements for geotech reports is important for building the City's confidence in accepting the recommendations and analysis of qualified professionals versus trying to second guess. Staff is also looking at other ways to build confidence in reviewing development proposals in geologic hazard areas. Options include special bonding requirements and inspection standards for contractors working in geologic hazard areas and liability waivers to be recorded on title for projects in very high risk landslide hazard areas. At this time, the City Attorney does not believe the City would be liable for development within very high risk landslide hazard areas that has been deemed safe by a geotech report, but it may be appropriate to have a liability waiver recorded on title.

Mr. Cohen summarized that all of the proposed amendments will be pulled together in a complete update to the CAO to meet the State's standards and deadlines, as well as BAS. However, the State is not concerned about the readability or administration aspect of the CAO. It is up to the City to make sure the provisions can be implemented and enforced. Based on public comments received to date, staff is concerned that many citizens do not have a clear understanding of the current CAO and/or the proposed changes. He asked for specific feedback from the Commission on whether they find the language readable and understandable. Staff will review the document again to make sure it is understandable and clear. The sections will be consolidated and a clean copy, as well as one with legislative marks, will be forwarded to the Commissioners for their review.

### **Public Comment**

**Jenny Scantlebury, Shoreline**, said she was present to represent the Richmond Beach Preservation Association, which includes 32 property owners along 27<sup>th</sup> Avenue Northwest. She submitted a letter for the public record. The letter points out that documents provided by the City relative to the CAO and SMP are proving to be challenging to absorb in a relatively short period of time. The Association has engaged legal counsel to help the property owners better understand the proposed changes. She said the Association will request an extension of the current deadlines related to the CAO at least until October of 2015 so they can properly understand the proposed changes and make sure there are no unintentional consequences. She said the Association will send a letter to the City to express their concerns, which will include a request to have further meetings with the City staff to clarify various issues within the document.

**Leslie Frosh, Shoreline**, said she lives on 10<sup>th</sup> Avenue Northwest. She pointed out there are substantial slopes between 205<sup>th</sup> and 198<sup>th</sup> and 10<sup>th</sup> Northwest to 12<sup>th</sup> Northwest, and she is concerned about how development on these slopes will impact adjacent residential properties. When trees are removed, the soil changes and the slide risk increases substantially.

**Steve Johnston, Shoreline**, thanked the City staff for making a monumental effort to change the code to make it easier to understand and said he supports many of the proposed changes. However, he voiced concern that the provision for development within the very high risk landslide hazard areas appears arbitrary and could deny a property owner potential property value. He felt that very high risk landslide hazard areas should be handled the same as moderate and high risk landslide hazard areas. Development should be allowed if an expert opinion deems it safe. He suggested that any critical area should be subject to expert opinion before activities are denied. He pointed out that a high risk landslide hazard area could have more risk than slope steepness conveys, and some very high risk landslide hazard areas may be safe to build on. He would like the CAO to be fair to all property owners.

### **Commission Discussion**

Commissioner Moss-Thomas requested clarification of the proposed language in SMC 20.80.224. Ms. Nammi explained that the underlined language in this section was moved from SMC 20.80.240. The double underlined language represents changes based on the sample code (Appendix C), other jurisdictional language, and recommendations from the consultant. She noted that Appendix C was published by Commerce as a guide for jurisdictions to use when drafting critical area regulations.

To address Mr. Johnston's concern, Ms. Nammi emphasized that the only type of geologic hazard area classification in the current and proposed code that would not allow alteration is the very high risk landslide hazard areas. There are three different ways an area could be classified as very high risk: a 40% slope at least 20 feet high, presence of groundwater seepage, and areas of prior landslide activity. If the City suspects any of these areas exist, a critical area report prepared by a qualified professional would be required. Based on the report, the City would confirm the classification; and with the exception of very high risk landslide hazard areas, an applicant could make a case for altering the critical area. Development in these areas would require the applicant to incorporate the recommendations of the qualified professional to ensure that the risk of hazard is not increased. Although development would not be allowed in very high risk landslide hazard areas, the buffer could be reduced from 50 feet down to



15 feet if it is deemed safe to do so. If reasonable use is denied, a property could be allowed to modify the area based on a qualified professional's recommendation on how it could be done safely.

Chair Scully referred to SMC 20.80.224(C), which prohibits development in very high risk landslide hazard areas and their buffers except as granted by a critical areas special use permit. He asked what is required to obtain this special use permit. Ms. Nammi explained that there are three possible permit types when reasonable use is denied. One is a shoreline variance for properties within the shoreline jurisdiction. A critical areas special use permit would be required when the use is a public agency or utility, and a reasonable use permit would be required for development of private property. She further explained that if all reasonable use of the property is denied, an applicant would have to show that the building footprint could be safely built without increasing the risk to life and property both on and off site.

Todd Wentworth, Geotech Engineer, AMEC Foster Wheeler, referred to Ms. Nammi's explanation of the three different ways an area could be classified as very high risk. He said he assumes Mr. Johnston is most concerned that the definition of a 40% slope that is at least 20 feet high is too broad, since the other two (groundwater seepage and areas of prior landslide activity) are pretty clear reasons.

Chair Scully asked the current deadline for City Council adoption of the CAO. Ms. Nammi reminded the Commission that they cancelled their July 2<sup>nd</sup> meeting, and staff needs additional time to compile the various sections of the code and follow up on all areas of research. The next Planning Commission meeting is scheduled for July 16<sup>th</sup>, and the public hearing before the Planning Commission is tentatively scheduled for August 20<sup>th</sup>. The City Council will review the draft CAO in September, with a tentative adoption date of October 5<sup>th</sup>.

Commissioner Montero requested a historical perspective of why the current code includes a partial exemption for homes constructed prior to November 27, 1990. Ms. Nammi said this language was included in the City's original CAO that was adopted in 2000, and it remained in the 2006 update. It may have come from the King County CAO that was adopted in 1990. Mr. Cohen said the intent was likely to provide some flexibility for owners of existing structures that are already in critical areas to be able to remodel their homes to some degree. Commissioner Montero asked if the City has received any public comments related to this provision, and Ms. Nammi said none of the public comments received to date explicitly addressed this provision. Mr. Cohen said staff believes there is sufficient flexibility in the code for existing houses in critical area buffers to expand somewhat. He specifically noted that the nonconforming provisions in the code apply to all uses and provide some flexibility, and a geotech report could also allow for some expansion. Staff did not believe it was necessary to specifically site residential uses that were constructed before November 27, 1990.

Commissioner Montero asked if staff anticipates proposing that, in addition to a third-party review, the City require the property owner to sign a liability waiver. Mr. Cohen said the liability waiver is just one option the City could consider, and staff will provide additional information at the next meeting about whether it would be necessary or not. Mr. Cohen clarified that a third-party review would be conducted by a consultant hired by the City. A first-party review would be done by the applicant's geotech.

Commissioner Moss-Thomas asked if applicants would be required to select a consultant from the City's list of qualified professionals to complete the critical area report. Mr. Cohen said that is the current requirement. However, staff will present some changes to this requirement at the Commission's next meeting. Mr. Wentworth explained that one of the main reasons for updating the CAO is to implement BAS as required by the State. Requiring a third-party review is one way to ensure that BAS is applied, as a third-party reviewer would not only check to see if the applicant has followed the code, but if the proposal meets the standard of practice (what most geotech engineers in the Puget Sound area would do). The third-party review provides assurance to the City that the proposed design is right. In some cases, applicants hire engineers to only do a small scope of work to keep the budget down or to meet a deadline. A third-party review can identify items that are lacking in the initial report. Mr. Cohen explained that the current process can result in unnecessary cost and time. The goal is to make brighter lines for when applicants can use their own consultants and when a third-party review will be required. The intent is to get staff out of the role of having to be the "expert."

Chair Scully referred to Mr. Johnston's earlier suggestion that some very high risk landslide hazard areas might be safe to build on. He asked if it would be appropriate to treat alterations of moderate to high risk landslide hazard areas and very high risk landslide hazard areas the same. For example, the City could require an expert report to prove there are no adverse impacts or safety risks, with a general assumption that if there is a very high risk, development would not be permitted. This would allow property owners an opportunity to demonstrate that their situation is one where development might actually work. Ms. Nammi agreed that is one approach the City could take, but it would set the regulations at a different level of risk tolerance and acceptance and a much greater reliance on the qualified professional saying it is safe to develop. Chair Scully observed that the concern should not just be the City's liability, but the property owners located at the bottom of the slope. Mr. Cohen pointed out that the study area must address impacts to surrounding properties.

Ms. Nammi said the City's current approach assumes that the risk is high enough that development should be prohibited unless reasonable use is denied. In these situations, it will come down to a compromise between reasonable use of the property and safety. She noted that the model code (Attachment C) allows flexibility for developers to design projects to a certain safety factor in any type of landslide hazard area. Mr. Wentworth said most cities in the area prohibit development in very high risk landslide hazard areas. Chair Scully agreed that this approach would be easier to administer, but Mr. Johnston's point is also important to consider.

Chair Scully expressed concern that requiring a liability waiver would increase the City's potential liability because it would admit that something needs to be waived. Mr. Cohen said he has had discussions with the staff person who administers Seattle's liability waiver, and he has also requested feedback from the City Attorney. He said the City of Seattle has had a lot of problems in the past, and they are looking for ways to avoid future litigation. Ms. Nammi asked Mr. Wentworth if the City of Seattle excludes development in very high risk landslide hazard areas. Mr. Wentworth said Seattle does not have this exclusion. It is an old city that was developed before there were sensitive or critical areas.

Commissioner Mork asked how the current and proposed code language would differ when applied to a property owner who wants to construct a wheelchair ramp on property that has a 12-foot slope. Ms. Nammi said the requirements would be the same, but the applicable regulations would be relocated to a

different section. Instead of being a very high risk landslide hazard area that would require an exemption for the specific activity, it would be classified as a high risk landslide hazard area, which would allow a property owner to show that it is safe to do the alteration. In both situations, a report would be required. Ms. Nammi observed that many property owners have said they wished that the restrictions had been noted on the title before they purchased a property.

Commissioner Moss-Thomas clarified that the liability waiver would be an agreement between the property owner and the City, which would be recorded on title. She asked if the waiver is intended to protect the property owner or adjacent property owners, particularly those downhill. Ms. Nammi explained that the current code requires a notice on title when development is proposed in a critical area or its buffer. The notice states that the City has special regulations that apply to at least a portion of the property and interested parties should contact the City for more information. However, a liability waiver would be a separate notice.

Commissioner Montero pointed out that the proposed timeline for review and adoption of the CAO update would provide more than four months for the Richmond Beach Preservation Association to review the proposed changes and provide additional comments. Ms. Nammi clarified that final adoption is scheduled for October, but the public hearing is currently scheduled for August. She said she cannot comment on whether or not the current schedule will be acceptable to the Association until she actually receives their follow up letter.

Chair Scully asked staff to prepare some alternative language for the very high risk landslide hazard areas as discussed earlier to provide an exemption from the arbitrary rules. However, the language should make it clear that it would only apply to a very few very high risk areas wherein development would be safe. Ms. Nammi summarized that she could provide language that gives the opportunity to have a qualified professional say that although it meets the slope criteria, based on a site-specific investigation, it is not a very high risk.

### **DIRECTOR'S REPORT**

Mr. Cohen did not have any items to report.

### **UNFINISHED BUSINESS**

There was no unfinished business scheduled on the agenda.

### **NEW BUSINESS**

Chair Scully referred the Commission to a letter related to a funding request for the youth athletic facility's grant application. The Commissioners indicated they had all reviewed the letter.

**COMMISSIONER MOSS-THOMAS MOVED THAT THE COMMISSION APPROVE, AS DRAFTED, THE LETTER RECOMMENDING THAT THE CITY OF SHORELINE YOUTH ATHLETIC FACILITY'S GRANT APPLICATION 15-1337 (TWIN PONDS PARK FIELD**

**TURF AND LIGHTING REPLACEMENT). COMMISSIONER MONTERO SECONDED THE MOTION, WHICH CARRIED UNANIMOUSLY.**

**REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS**

Commissioner Moss-Thomas reported that the Washington State American Planning Association (APA) has recently started publishing the *PLANNING COMMISSIONERS QUARTERLY*, which is an on-line resource. She receives it as a member of the APA, and it is sent to Planning Directors, as well, hoping they will forward it to planning commissioners. She asked Mr. Cohen to locate the document and forward it to the Commissioners.

**AGENDA FOR NEXT MEETING**

It was discussed that the July 2<sup>nd</sup> meeting was cancelled, and the Commission will continue their discussion of the CAO Update on July 16<sup>th</sup>.

**ADJOURNMENT**

The meeting was adjourned at 8:30 p.m.



Keith Scully  
Chair, Planning Commission



Lisa Basher  
Clerk, Planning Commission