

# CITY OF SHORELINE

## SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF REGULAR MEETING

May 1, 2008  
7:00 P.M.

Shoreline Conference Center  
Mt. Rainier Room

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### Commissioners Present

Chair Kuboi  
Commissioner Behrens  
Commissioner Broili  
Commissioner Kaje  
Commissioner Perkowski  
Commissioner Pyle  
Commissioner Wagner

### Staff Present

Rachael Markle, Assistant Director, Planning & Development Services  
Steve Cohn, Senior Planner, Planning & Development Services  
Jessica Simulcik Smith, Planning Commission Clerk  
Renee Blough, Technical Assistant, Planning & Development Services

### Commissioners Absent

Vice Chair Hall  
Commissioner Piro

### CALL TO ORDER

Chair Kuboi called the regular meeting of the Shoreline Planning Commission to order at 7:06 p.m.

### ROLL CALL

Upon roll call by the Commission Clerk, the following Commissioners were present: Chair Kuboi, and Commissioners Behrens, Broili, Kaje, Perkowski, Pyle and Wagner. Vice Chair Hall and Commissioner Piro were excused.

### APPROVAL OF AGENDA

Mr. Cohn said the City Attorney has advised that the Commission could close a public hearing prior to their deliberations and still be allowed to ask questions of each other and staff. They would not be allowed, however, to ask questions of the public. The Commission agreed they wanted to leave the public hearing open until after they have completed their deliberations. Ms. Simulcik Smith cautioned that only one motion could be on the table at any time. If a main motion is on the table, the Commission cannot move to close the hearing until they have voted on the main motion. Staff agreed to seek further feedback from the City Attorney prior to future public hearings.

The Commission agreed to place Item e of the public hearing after Item g. The remainder of the agenda was accepted as proposed.

## **DIRECTOR'S REPORT**

Ms. Markle reminded the Commissioners of the volunteer breakfast that is scheduled for May 2<sup>nd</sup> at 7:30 a.m. She also reminded the Commission that outgoing Planning Commissioners would be recognized by the City Council at their meeting on May 5<sup>th</sup>.

## **APPROVAL OF MINUTES**

The minutes of April 17, 2008, were accepted as amended.

## **GENERAL PUBLIC COMMENT**

**Les Nelson, Shoreline**, recalled that at an earlier presentation, Paul Cohen used a computer program from Google Earth called Sketch Up. Mr. Nelson commented at the time that everything looked too far in the distance when compared to a photograph he submitted. He distributed a handout of several photographs, one of which provides a clearer picture of what a structure would look like from the street level. The photograph suggests that the building would be even more looming than shown in the pictures he submitted earlier. As the Commission considers the issue of neighborhood views, he invited them to visit sites with a 50 millimeter camera lens in order to get an accurate picture of what the view would look like.

Commissioner Wagner noted that one of the pictures provided by Mr. Nelson removes one of the very large trees that are pointed out in other pictures. Mr. Nelson said these trees are on the subject property, but he didn't want to make his issue about just one property. Commissioner Wagner asked the height of the trees, and Mr. Nelson said they are about 65 to 80 feet high. He noted that the dotted line illustrates the proposed height of the building at 80 feet.

Commissioner Behrens pointed out that because of the physical terrain of the street, the view impact would change depending on where a person stands. He noted that the further you stand away from the building, the larger it would appear.

## **PUBLIC HEARING ON MASTER PLAN AMENDMENTS**

Chair Kuboi reviewed the rules and procedures for the legislative public hearing and then opened the hearing.

## **Staff Overview and Presentation of Preliminary Staff Recommendation**

Ms. Markle referred to the proposed annual 2007 Comprehensive Plan amendments. She noted that the City did not receive any public initiated amendment proposals in 2007; all of the amendments were initiated by staff. She emphasized that the public comment period would remain open until action has been taken on the amendments by the City Council. She announced that the City Council would hold a study session regarding the proposed amendments on May 27, and they are tentatively scheduled to take action on June 9<sup>th</sup>. A SEPA determination was issued today.

Ms. Markle reminded the Commission that the main purpose of the amendments is to streamline Master Planning for essential public facilities, create a definition for Planned Areas, differentiate Planned Areas from subareas, create a definition and complete the development process for Master Plan permits, and require Shoreline Community College to apply for a Master Plan permit. She reviewed each of the amendments as follows:

- **Streamline Master Planning for essential public facilities.** Ms. Markle noted that the Comprehensive Plan encourages Master Planning for single-family institutions and essential public facilities. However, the Comprehensive Plan states that an amendment to the Comprehensive Plan would be required to adopt a Master Plan. This requirement has had the effect of discouraging Master Planning because, in some cases, an applicant would have to wait almost a year to have their application reviewed. In many cases, applicants have instead utilized the special use and conditional use permit process on a piecemeal basis. Ms. Markle said staff does not believe adoption of a Master Plan would include any information that would necessitate amending the Comprehensive Plan.

Ms. Markle explained that there are numerous benefits associated with Master Planning, and that's why the Comprehensive Plan encourages it. It's a way to cumulatively address traffic, stormwater, critical areas, parking, safety, etc. in a holistic way. She advised that individual building permit applications with a conditional use or special use permit do not trigger the extensive studies that would be required for a Master Plan permit. Master Planning provides an excellent opportunity to holistically look at design, use, and compatibility issues. She said the Master Plan process would allow the City to develop site-specific development standards to address the impacts based on extensive analysis that would occur. Because Master Plan permits would not be considered policy documents, a Comprehensive Plan change would not be necessary. A Master Plan permit would result in a long-range site plan, with phased mitigation to address the impacts. In addition, phased infrastructure improvements would be identified.

- **Define and differentiate Subarea Plans and Planned Areas.** Ms. Markle recalled that the City recently employed the Planned Area tool with Ridgecrest. The product of this effort was a set of specific development regulations that apply to a delineated area, and that is what staff envisions a Master Plan permit would be, as well. Therefore, staff is recommending that the terms and processes be consolidated and renamed "Planned Area." She briefly reviewed the differences between Subarea Plans and Planned Areas. She explained that Subarea Plans can only be initiated by the City, and they can occur at any time and are not restricted by the once-a-year annual review cycle. In addition Subarea Plans may or may not include development regulations, and they allow for broader uses. Planned Areas can be initiated by the City or a private entity, and they can only occur as part of the annual review. Planned Areas can also be subsets of a Subarea Plan, and they are defined more narrowly.
- **Identify a public process for private property owners to prepare comprehensive long-range plans.** Ms. Markle advised that this issue has come up, and staff believes it is important to decide whether or not this would be an appropriate tool to offer property owners. She advised that the proposed amendment would allow a private property owner to apply for a site-specific Comprehensive Plan amendment and rezone to Planned Area during the annual review of the Comprehensive Plan, and this would be a quasi-judicial action. In order to change the zoning and

development standards, an applicant would be required to apply for a Master Plan permit, which would be a quasi-judicial action, as well.

Ms. Markle explained that the quasi-judicial process is highly recommended by the Association of Washington Cities as a process to use when there is a specific property owner or entity that stands to be affected by the change. They also recommend the quasi-judicial process be used whenever there is doubt. In addition, staff recommends the quasi-judicial process because the legislative process doesn't have the same noticing requirements. The quasi-judicial process requires a neighborhood meeting, posting on the site, mailed notice to property owners within 500 feet, and a public hearing by the Planning Commission. The legislative process does not have all of these requirements.

- **Relocate Master Plan processes from Comprehensive Plan to the Development Code.** Ms. Markle pointed out that while Comprehensive Plan Land Use Policies 76 and 77 provide great information, they contain information that is similar to a development checklist the City uses for permits. Staff suggests this information really belongs in the Development Code, and the proposed amendments would accomplish this goal.

Ms. Markle reviewed the proposed Development Code amendments as follows:

- **Add a definition for Master Plan permit.** Ms. Markle advised that the proposed definition would read, a permit that establishes site-specific permitted uses and standards for Planned Areas or essential public facilities.
- **Add Master Plan permit as a Type C permit.** Ms. Markle explained that this change would define the process as quasi-judicial. It explains the purpose for the Master Plan permit and outlines the criteria for adoption. The existing Development Code does not contain this type of information.
- **Rename and add 1<sup>st</sup> Northeast Transfer Station, CRISTA, Fircrest and Shoreline Community College as Planned Areas 1, 3, 4, and 5.** Ms. Markle recalled that Commissioners pointed out during the study session that the City's first Master Plan was the 1<sup>st</sup> Northeast Transfer Station. It was recommended that this be added to the proposed language. Ms. Markle said this amendment is intended to equal no change. She explained that, with the exception of Shoreline Community College, the zoning in place for each of the Planned Areas is exactly the same as what currently exists, but it is depicted in writing versus a symbol on the zoning map. She said the purpose of this change is to set the stage to apply for a Master Plan permit.

Ms. Markle reminded the Commission that Shoreline Community College would be defined differently than the other Master Plan areas. The proposed language would require them to apply for a Master Plan permit in order to do anything other than what's allowed by the underlying zoning. She explained that staff believes the college has reached critical mass in terms of being able to assess, mitigate and address the impacts. Staff believes the Master Plan process would be the best way to accomplish this goal.

Ms. Markle emphasized that the proposed amendments would not change the development controls currently in place for Shoreline Community College, CRISTA, 1<sup>st</sup> Northeast Transfer Station or Fircrest.

However, they would identify and define a process for applying for a Master Plan permit, specify who can apply for a Master Plan permit, and create specific criteria to review the Master Plan permit.

Ms. Markle reminded the Commission that, as they make their decision, they must consider both the Comprehensive Plan decision criteria and the criteria for Development Code amendments. She advised that while the proposed amendments would meet all three of the Comprehensive Plan review decision criteria, they are most consistent with the following two:

- **The amendments are consistent with the Growth Management Act (GMA) and not inconsistent with Countywide Planning Policies and the Comprehensive Plan.** Ms. Markle noted that GMA encourages predictability and timely permitting processes and supports ensuring that adequate public facilities and services are present for development. In addition, GMA supports protecting the environment and enhancing the state's quality of life, as well as reducing urban sprawl and encouraging affordable housing to all economic segments of the population. She summarized that, in one way or another, each of the Master Plans would address some or all of these goals. She pointed out that the overarching goals of the Countywide policies would be supported by the smooth siting of public capital facilities and the promotion of orderly development. Regarding the City's own Comprehensive Plan, Ms. Markle noted that Land Use Policy 76, which would be joined with Policy 75, encourages Master Planning for essential public facilities.
- **The amendments will benefit the community as a whole and will not adversely affect community facilities or the public health, safety or general welfare.** Ms. Markle explained that the very purpose for Master Planning is to holistically plan for traffic, transition, open space, protection of critical areas, reducing impacts from drainage, etc. All of these would provide a benefit to the community. In addition, supporting the maintenance and development of essential facilities would have a benefit to Shoreline residents and the region as a whole.

Next, Ms. Markle referred to the criteria that must be considered when reviewing amendments to the Development Code and noted that an amendment is required to meet all three criteria. Staff recommends that the proposed amendments are in accordance with the Comprehensive Plan and that they would not adversely affect the public health, safety or general welfare. In addition, the amendments would not be contrary to the best interest of the citizens and property owners of the City of Shoreline.

Ms. Markle reported that the City received three written comment letters regarding the proposed amendments over the past several days. She suggested the Commission could recess the meeting for a short time in order to review the new document that was submitted. In addition, she proposed the Commission and staff carefully review the comment letter submitted by the Washington Department of Social and Health Services (DSHS) regarding the Fircrest Campus. She noted that the first two pages provide a support letter related to the general process, but the remainder of the document provides suggestions for specific amendments to the proposed language. She said that after further deliberation the Commission could recommend approval of the amendments, recommend approval as amended, recommend denial, or they could request more time or information to formulate a recommendation. The Commissioners indicated they already had an opportunity to review the new written comments that were submitted. Therefore, they decided there was no need to recess the meeting.

## **Questions by the Commission to Staff**

Commissioner Pyle noted that the proposed amendments would require a quasi-judicial process, which is a process that is likely to be used when the action would affect one specific group or area. The legislative process would be used to review applications that apply more broadly throughout the City. He questioned why the quasi-judicial process was not used by the Commission when they reviewed the proposed zoning for the Ridgecrest Commercial Neighborhood. He said that he can understand using a quasi-judicial action process for Master Plans that apply to very specific locations, but he questioned if a quasi-judicial process would be used when considering Planned Area zoning designation changes in the future. Ms. Markle advised that if the applicant were a private entity, the quasi-judicial review process would be applicable. If the City is the applicant, it may not be necessary.

Commissioner Pyle advised that an applicant would not be able to obtain a Master Plan permit unless they already have Planned Area land use designation and zoning. Commissioner Pyle pointed out the Planned Area zoning would likely be unique to the site or geographic area. He further pointed out that a Master Plan is designed to mitigate for impacts to communities related to critical areas, traffic, etc. If there are already zoning controls in place under the Planned Area zoning designation for that specific geographic area, he questioned if the Master Plan would supplement or override the Planned Area zoning. Ms. Markle answered that the Master Plan permit would override the Planned Area zoning. She noted that, as currently proposed, Fircrest would be required to meet the underlying zoning requirements until a Master Plan permit has been obtained, and then the Master Plan permit would prevail. DSHS recommends an additional bullet to make it very clear that the underlying zoning would no longer apply after a Master Plan permit has been adopted.

Commissioner Pyle invited staff to explain the impetus for doing a Master Plan when everything that could be achieved through the Master Plan process could also be achieved through the Planned Area zoning designation. Ms. Markle replied that the Planned Area zoning designation would not provide any advantage to private applicants. It's merely a way to designate the property on the map. A property owner would not be granted anything more than the underlying zoning would allow until a Master Plan permit has been obtained.

At the request of Chair Kuboi, Ms. Markle clarified that the term "private property owner" means someone other than the City. This could include the State, the County, the City and/or private commercially held properties. Chair Kuboi clarified that the process that was used incident to the Ridgecrest Commercial Neighborhood Planned Area Action has no direct bearing on what the Commission may or may not propose tonight. The Commission's recommendation does not necessarily have to conform with the process that was used for Ridgecrest. Ms. Markle agreed that the Commission's proposal could deviate from the process that was used previously.

Commissioner Wagner asked staff to walk the Commission through a full example, from start to finish, of how the proposed language would be applied to a subject property. Ms. Markle used the example of a private property such as the Sears site. If all of the property owners joined together to do something special and unique that none of the City's zoning districts would allow, their only option would be to submit an application for a site-specific Comprehensive Plan amendment and associated rezone during

the City's annual review process. The City would process the amendments together sometime during the next year, and the application would be reviewed by the Planning Commission in a quasi-judicial hearing process. She clarified that although Comprehensive Plan amendments are typically legislative actions, rezone applications unless they are citywide rezones are always quasi-judicial actions. Therefore, the higher form of review would be required, which in this case would be quasi-judicial. An applicant would be required to make their case before the Commission and Council as to why they deserve or need the Planned Area designation. The Commission would make a recommendation to the City Council, who would make the final decision. Commissioner Wagner summarized that if the application were approved, the property would be identified in the Comprehensive Plan as a Planned Area and the zoning map would identify it as a Planned Area with the underlying zoning in place until an actual Master Plan permit application has been approved. The Master Plan permit would require a quasi-judicial process, as well.

Commissioner Wagner asked what benefits the community would receive from requiring a property owner to go through the Master Plan process after the Comprehensive Plan has been updated to identify the property as "Master Plan" and the zoning map and development code have been amended to identify the property as Planned Area. Ms. Markle answered that a greater level of detail and analysis, as well as additional public involvement, would be required at the Master Plan permit stage. Commissioner Wagner asked if an approved Master Plan permit would be similar to a binding site plan, which identifies what future development would really look like. Ms. Markle said the level of detail required could vary. Commissioner Wagner inquired if future development permits would become administrative actions once a Master Plan permit has been approved. Ms. Markle answered affirmatively, with one exception. SEPA would still be required for any building that goes over the threshold, and this would allow the City an opportunity make improvements to the Master Plan, if necessary.

Commissioner Behrens asked staff to identify the differences between the type of information an applicant would be required to submit in order to get a Planned Area designation and what would be required to obtain a Master Plan permit. Ms. Markle said that the proposed language does not specify the information that would be required to obtain a Comprehensive Plan amendment, but the proposal would be required to meet the review criteria. However, as a planner advising an applicant, she would tell them that a certain level of investment would likely be required in order for them to sell their proposal to both the Planning Commission and the City Council. It would be up to the applicant to decide how much money and time they want to spend to provide the necessary data for the Commission and City Council to make a decision.

Commissioner Behrens said he can understand how a major agency such as Fircrest and/or Shoreline Community College would have the wherewithal and the assets to put together an adequate presentation for the Commission and City Council to consider their request. However, private applicants may be at a disadvantage in knowing exactly what they need to submit to get their plans approved. He suggested they consider splitting the two types of applicants and treating private parties differently than public entities. The language could provide a checklist of items a private entity would have to supply as part of their application. This would also make it clear to the Commission as to how much and what information they should give merit to when considering Comprehensive Plan amendments.

Ms. Markle said she is not as concerned about the level of detailed information provided at the Planned Area level because the Commission and City Council would not be approving anything at the Planned Area stage other than allowing a property owner the opportunity to apply for a Master Plan permit that may or may not get approved. An applicant would be required to provide a full range of data at the Master Plan permit stage. Commissioner Behrens said the quicker and more thorough a decision can be made about whether an applicant would be able to move forward, the better it would be for everyone. Once an applicant has obtained approval for a Planned Area, he/she would move forward more aggressively. The costs would also increase, resulting in both the City and the applicant having a vested interest in getting the Master Plan permit completed. In the end, a proposed Master Plan to implement a Planned Area may be found unacceptable. He suggested the proposed language require a decision earlier in the process so the applicant and City doesn't end up wasting their time and resources. Ms. Markle agreed it would be better to provide a checklist of information that should be provided early in the process, but she has not been able to define the exact information that should be required at the Planned Area amendment stage. Finding this balance usually takes place as City staff works with individual property owners.

Commissioner Broili said that while he partially agrees with Commissioner Behren's concern, he reminded the Commission that one of the goals of the proposed amendments is to maintain flexibility in the process. As an applicant goes through the Comprehensive Plan amendment process, it is important to allow some flexibility because it is typically not yet clear what the end product would be. Secondly, he suggested the information required for each Comprehensive Plan amendment application should be based on the potential impacts of the change. For example, more significant information should be required for the Sears site since it could potentially have huge impacts down stream because it is the headwater of Boeing Creek. Another site may have significantly less impact so the City could be looser about what information an applicant submits at the Comprehensive Plan amendment stage. While a checklist would be important, there must be some flexibility during the earlier level to allow the City to move through the process more quickly, depending on the potential impacts. Ms. Markle agreed and said that this type of advisement would take place when staff meets with a potential applicant.

Commissioner Kaje shared concern about how the Commission would make a recommendation on a potential Comprehensive Plan amendment application. He referred to the three criteria the Commission must consider when reviewing Comprehensive Plan amendment. Instead of providing a list of the information an applicant must provide, perhaps it would be more appropriate to identify separate criteria the Commission and City Council would use when reviewing Planned Area applications. He suggested it is important for an applicant to clearly understand the criteria the decision makers would use to evaluate a proposal. Ms. Markle said this would be one option, but she suggested that perhaps the rezone criteria would address Commissioner Kaje's recommendation. If not, she could foresee site-specific Comprehensive Plan change criteria that could be specifically applied to Planned Area applications.

Commissioner Wagner pointed out that proposed Planned Areas 1, 3, 4 and 5 are not currently zoned as Planned Areas. She asked Ms. Markle to describe the process these entities would utilize to obtain a Master Plan permit. She also asked for clarification of how the proposed amendments would apply to the 1<sup>st</sup> Northeast Transfer Station, which already has an approved Master Plan. Ms. Markle explained that Shoreline Community College could begin their Master Plan process at any time, but they would



not be allowed to do anything other than what's allowed by the underlying zoning until a Master Plan permit has been approved. There would be no change for the 1<sup>st</sup> Northeast Transfer Station site. They are consistent with their current zoning, but the proposed amendments would set forth a process for amending their Master Plan. The same would be true for Ridgecrest, Fircrest, Shoreline Community College and CRISTA would be required to obtain a Master Plan permit to change the underlying zoning controls. If the City adopts the proposed Planned Area zoning, these three sites would be consistent with zoning map. An adopted Master Plan would be consistent, as well, because the proposed language identifies the zoning that would be applied until a Master Plan permit is approved. Commissioner Wagner summarized that zoning would be adopted concurrently with the Comprehensive Plan amendment for these areas.

Steve Cohn reviewed the City's current rezone criteria as follows:

- The rezone is consistent with the Comprehensive Plan.
- The rezone will not adversely affect the public health, safety or general welfare.
- The rezone is warranted in order to achieve consistency with the Comprehensive Plan.
- The rezone will not be materially detrimental to uses or properties in the immediate vicinity of the subject rezone.
- The rezone has merit and value for the community.

Commissioner Kaje voiced his opinion that the rezone criteria would not sufficiently address the concern he raised earlier about providing additional guidance to the applicant. While the proposed language for the Planned Area zoning designation provides a definition and identifies the types of things it is designed to address, it is fairly broad. The properties where this concept would be applied have different locations, uses, etc. While he understands that additional details would be required during the Master Plan permit stage and the City would have the ability to reject a Master Plan permit proposal, he felt it would be useful for both the City and the applicant to provide some criteria to address this special case.

Ms. Markle noted that the definition of a Planned Area has a narrower scope, and she suggested perhaps it would be appropriate to develop the additional criteria discussed by Commission Kaje as part of that definition. Commissioner Kaje said his recommendation would be to either develop additional criteria or create a more specific definition of when a Planned Area might be appropriate. It shouldn't be left to the staff's judgment to determine if a site is unique or not. Ms. Markle remarked that it would be up to the Commission and City Council to make this judgment decision, but she agreed it would be helpful to have criteria to aid them in their decision making process.

Chair Kuboi inquired if creating a checklist or further amplifying the criteria associated with Planned Areas would have to be captured as part of a Comprehensive Plan amendment, or could the concept be implemented outside of the amendment process. Ms. Markle answered that a checklist could be created at any time, but any additional criteria would require a Development Code amendment that should logically occur as part of the proposed amendments. However, it could occur later, as well. Chair Kuboi summarized that the Commission's underlying concern is that they don't want to lead an applicant down the road, expending a fair amount of time and money, only to be disappointed when they get to the actual Master Plan permit step. Commissioner Berhens said it is also important to make sure

the plans presented as part of the Comprehensive Plan amendment for a Planned Area designation and the plans submitted as part of the Development Code Master Plan permit amendment are consistent.

Chair Kuboi pointed out the process would give staff a lot of discretion in the guidance they provide to an applicant. He suggested the Commission must decide to what extent they want the process to be laid out more definitively in writing and to what extent they feel comfortable with a process that is very heavily dependent on staff's discretion and their interpretation of the Comprehensive Plan criteria and the definitions for Planned Areas and Master Plans.

Commissioner Pyle said he fails to see a benefit from the proposed three-tiered process (Comprehensive Plan amendment, rezone, Master Plan). He questioned the need for a Master Plan at all. Instead, they could move the Master Plan criteria to a new section called Planned Area rezone criteria. It seems the City could provide a process for doing a concurrent Comprehensive Plan amendment and rezone that would effectively rezone a specific piece of property like a Master Plan. All the zoning controls for that specific property would be put in place through the Planned Area zoning designation, which would have its unique controls exactly the same as a Master Plan. The same criterion that has been proposed for a Master Plan permit could be used for a Planned Area rezone. Ms. Markle cautioned that a developer may not want to spend a significant amount of money applying for a Master Plan permit until they have some assurance the City would support the Planned Area concept for their property.

Again, Ms. Markle said her main concern is to get Shoreline Community College, Fircrest, and CRISTA to the point where they have the ability to apply for a Master Plan permit outside of the annual review process. The proposed two-step process would allow this to occur. At this time, the City has not identified any other properties where the concept would be applied. Commissioner Pyle pointed out that a quasi-judicial or legislative process would be required for the land use designation amendment and Planned Area designation rezone and a separate quasi-judicial process for the Master Plan. Ms. Markle clarified that the Comprehensive Plan amendment and rezone applications would be combined into one action. Therefore, a Master Plan permit would require a two-step process for private property owners, and a one-step process for the three entities listed above. While the Commissioners could recommend a less cumbersome process for private property owners, as well, she felt the Commission would be more comfortable with more process and opportunity for review.

Commissioner Pyle inquired if a private property owner would be required to go through the SEPA process three times in order to obtain a Master Plan permit. Ms. Markle said the SEPA process would be required at varying levels, throughout all three stages.

Commissioner Behrens asked if it would be helpful to look at the proposal as one way of dealing with CRISTA, Fircrest and Shoreline Community College and then creating a separate process that would apply to private developments. He said his concerns are more focused on private properties since the City is more apt to get good information and a professional presentation from an agency. However, he is not sure a private developer should be penalized or rewarded based on their ability to make a presentation.

## **Public Testimony or Comment**

**Dennis Lee, Shoreline**, used the Sears property as an example of how the proposed process would be applied. He explained that a developer could try to justify very dense multi-family development on the site because he has worked with businesses in the area and they've agreed to freeze their zoning to community business and not residential. Because the proposal for a Planned Area designation would be a legislative action, the applicant would be required to develop his/her own criteria sufficient to sell the proposal to the City. He summarized that it appears the Master Plan permit process would be the time when the City would address the nuts and bolts of the proposed change. He suggested the proposed process would be a way of creating a Planned Area in a quasi-judicial setting, which did not occur for the Ridgecrest area. He said he supports the intent of the proposed language, but suggested its success would depend on how well the public process functions.

**Les Nelson, Shoreline**, pointed out that the basic intent of the Growth Management Act process for changing comprehensive plans is to do it concurrently. While the proposed amendments are being considered as part of the annual cycle, it appears they would allow future Comprehensive Plan amendments to be adopted out of the cycle. He questioned why this would be allowed in some situations and not in others. He also questioned the difference between subareas and Planned Areas. He noted that the Puget Sound Hearings Board has issued a decision that "whatever the name (neighborhood plan, community plan, business district plan, specific plan, Master Plan, etc.), any land use policy plan, in general, that purports to guide land use and decision making in a portion of a city or a county is a Subarea Plan. While a city or county has discretion whether or not to adopt a Subarea Plan, the Subarea Plan would be subject to the goals and requirements of the act and must be consistent with the comprehensive plan." He summarized that whatever the plan is called, it's still to be considered a Subarea Plan. Therefore, he questioned how the City could have different definitions or descriptions for Planned Areas versus subareas. He summarized that the GMA has removed the discretion of cities and counties to undertake new localized land use policy exercises that are disconnected from the citywide, regional, and statewide objectives embodied in the Comprehensive Plan. This may also pertain to how the City deals with Master Plans.

## **Final Questions by the Commission**

The Commission discussed the schedule for completing their review of the proposal and making a recommendation to the City Council in preparation for their May 27<sup>th</sup> study session. It was noted that the Commission could postpone their recommendation until the May 15<sup>th</sup> meeting. Staff agreed to provide draft criteria for the Commission to consider at their May 15<sup>th</sup> meeting. The checklist could be considered at a later date. It was suggested the Commissioners forward their recommendations for language changes to staff via email as soon as possible.

Commissioner Broili suggested the draft criteria address the following: maintenance and restoration of the environmental function within the site, mitigation of economic impacts, enhancement of the social impacts, and enhancement of neighborhood character.

Commissioner Kaje said the criteria he envisions would be more related to the level of information provided by an applicant. The information must provide a reasonable understanding of what is being

proposed. Perhaps the criteria could be tied to the definition and purpose of a Planned Area. The intent of the criteria would be to coax an applicant to commit to a certain path, without requiring all the details mentioned earlier by Commissioner Broili. The information must be adequate enough to convince the Commission of the need to support the Planned Area proposal. Ms. Markle suggested that procedural requirements are typically provided in the form of a checklist, which could be provided later. However, she agreed it would be appropriate for the Commission to consider additional Comprehensive Plan review criteria as part of the proposed amendments.

Commissioner Pyle said he could support the proposed concept, with criteria added for the rezone component. He summarized that during the Comprehensive Plan amendment process, an applicant would be required to identify how a use would be consistent with a Comprehensive Plan. The rezone application would require an applicant to identify the vision for how the use would actually be built out on the site. The Master Plan permit review process would address all of the nuts and bolts associated with development of the property.

Commissioner Perkowski agreed with previous concerns that the proposed language could result in situations where the City leads an applicant to believe a Master Plan permit would be approved. However, if additional criterion is added, this should not be a significant problem. The two-step process would allow for an initial analysis and a lot of feedback. Approval of a Comprehensive Plan change would not guarantee that a Master Plan permit would later be approved. Issues of concern could be identified during the first phase, and an applicant could be prepared to address them as part of the final Master Plan phase.

Chair Kuboi summarized that the Commission generally supports the idea of coming up with criteria. Ms. Markle agreed to prepare draft criteria based on the Commission's direction. She could forward the draft language to each of the Commissioners, inviting them to provide feedback as soon as possible. The language could be further refined based on the additional feedback, and the final proposal could be presented to the Commission for review and action at their May 15<sup>th</sup> meeting. Chair Kuboi pointed out that the Commission would allow citizens to provide comments related to the proposed revisions at their May 15<sup>th</sup> meeting. Staff agreed to make the updated draft language available to the public via the City's website by May 12<sup>th</sup>.

Commissioner Pyle asked how a property owner would go about amending a Master Plan. Ms. Markle answered that the proposed language outlines this process. She noted that the comment letter from DSHS provided more ideas for amending a Master Plan. She suggested the Commission review these suggestions, as well.

Commissioner Pyle asked if the proposed language places requirement on property ownership. Ms. Markle said there is no limit on the number of property owners. Commissioner Pyle asked if the underlying zoning could be modified during a rezone to Planned Area to limit or otherwise control a property's potential to develop under the Master Plan. Could identified issues be addressed as part of the Planned Area? Ms. Markle replied that the City could create zoning provisions that lessen the development potential.

Commissioner Pyle asked how other regulations such as transition area requirements would be applied to a Planned Area zone. Ms. Markle said the Master Plan permit would have to specifically call out anything that's different from what current exists or add it back in. If the Commission wants transition area requirements to apply to a Planned Area, they must specify that in the language. Commissioner Pyle summarized that the Master Plan permit would become a license to deviate from the standards that would typically apply to the property if it were not a Planned Area.

Commissioner Wagner asked staff to explain the differences between a Subarea Plan and a Planned Area. Ms. Markle said a Planned Area land use designation would be similar to other land use designations. It's a designation on the map versus a specific plan. Commissioner Wagner summarized that a Planned Area land use designation would be identified in the Comprehensive Plan, and the zoning map would also identify the property as Planned Area. However, the Subarea Plan concept refers to a process that is not defined on any map. Ms. Markle agreed that subareas are not designations on the map; they are something that is directed by policy statement from the Comprehensive Plan. A Subarea Plan would be policy based and provide guidance for future development. The Planned Area concept would identify the property as such on a map and provide policies for what could and could not occur on the property. The Master Plan permit process would further define the zone. Commissioner Wagner summarized that a Subarea Plan provides guidance for where the City would like to go, but it is not prescriptive. Mr. Cohn added that a subarea is a subset of the Comprehensive Plan, so the policies would be implemented by zoning or capital facilities decisions.

Commissioner Kaje referred to the proposed changes to Comprehensive Plan Land Use Goal 3 on Page 37 of the Staff Report. He summarized that the point of the proposed change is to say that incentives could be provided in these situations in order to preserve open space. He questioned what incentives could be provided in a City initiated Subarea space. Commissioner Broili pointed out that Subarea Plans can only be initiated by the City. Therefore, there is no need to include the term "City-initiated." Ms. Markle agreed to come back with new language for the Commission to consider.

Ms. Markle reviewed the DSHS policies as follows:

- **Land Use Policy 34.** Ms. Markle explained that the proposed language would add a description explaining why the Fircrest Campus should be a Planned Area. She noted that DSHS has recommended changes to correct inaccurate data such as the acreage. They also clarified the uses on the site and pointed out that 36 acres of the site are considered excess. Something may be going on that is not related to the not-for-profit agency. She said she would support all of the proposed changes to this policy, and she invited the Commissioners to review the DSHS proposal and forward their responses to her via email.
- **Land Use Policy 74.** Ms. Markle advised that staff does not support this proposed change. She explained that this policy is about siting new essential public facilities, and the City doesn't currently have a process for this. She said she is not eager to circumvent the siting process in anyway. She did not recommend the Commission accept this change.

- **Ordinance 292.** Ms. Markle advised that DSHS has asked staff to clarify the language describing amendments in Ordinance 292. She agreed the language is useless since the map is what actually amends Ordinance 292. She agreed to change the description.
- **Section 20.30.337.B.2.** Ms. Markle advised that DSHS is suggesting a revision to this section, which addresses decision criteria related to mitigation impacts. She said staff does not support DSHS's proposal to add the word "significant" before "impacts." The impacts should not have to be significant to be considered.
- **Sections 20.30.337.B.4 and 30.30.337.B.5.** Ms. Markle said staff believes the additional language proposed by DSHS would be redundant and unnecessary.
- **Section 20.30.337.B.6.** Ms. Markle said staff supports the recommendations from DSHS for this section. DSHS is recommending the addition of "significant" in this situation. While a property owner would not be able to eliminate all conflicts, they should definitely eliminate the significant ones.
- **Section 20.30.337.B.** Ms. Markle advised that this recommendation would correct an error in numbering, which has already been done in the most current version of the document.
- **20.30.337.C.3.** Ms. Markle said DSHS has recommended some criteria for differentiating major and minor amendments to a Master Plan. Staff supports this change, and the last draft of the proposal indicated the City would develop procedures and criteria that would allow for amendments to the Master Plan permit. Some amendments may not be considered minor, but many of them may be perfectly okay. This would be decided during the permitting process. The DSHS is suggesting a few amendments that would be considered minor upfront. She said if the Commission wants to head in this direction, they should make sure the list includes all of the amendments that would be considered minor upfront.
- **Section 20.100.310.** Ms. Markle explained that DSHS suggests that this section be changed to include a subsection stating that once a Master Plan is adopted, it would replace the uses and standards of the R-6 zone. She said this addresses the comment raised earlier about whether the zoning would be replaced by the Master Plan. She indicated her support of this proposed change.
- **Section 200.100.310.D.** Ms. Markle said that DSHS is proposing that the language in this section be changed to provide an exception for situations where specific regulations are adopted through a Master Plan. She said she supports this proposed change.

Ms. Markle invited the Commissioners to provide feedback via email regarding staff's analysis of the proposed changes submitted by DSHS. That would allow her to incorporate the changes into the next draft that is presented to the Commission for review on May 15<sup>th</sup>.

Commissioner Kaje referred to DSHS's proposed change to Section 20.30.337.B.6 and noted that the Commission already agreed to change the word "limit" to "minimize." Therefore, there may be no need to add the word "significant."

Chair Kuboi referred to Section 20.30.337.C.3 and inquired if the word "vesting" includes deviations. Ms. Markle suggested a new Subsection D called amendment, be added to this section. She summarized there are three ways to change a Master Plan permit. One would be a major change which would trigger a redo of the public process. Minor changes are those that fall within the Master Plan terms and conditions and would not require a new public process. Changes that are intended to apply more current Development Code regulations would subject the entire Master Plan to the current Development Code regulations across the board. While these amendments would not trigger a new public process, they would be considered more significant than minor amendments. Ms. Markle said the intent of the latter option is to allow developers, for example to amend their Master Plans in order to meet the newer, more stringent stormwater management standards. She further explained that it would be impossible for the City to require a developer to comply with all land use regulations enacted after the application was vested since the Master Plan would be considered a special zone. This would apply only to requirements in the general section of the Development Code such as landscaping, stormwater, parking, etc.

Ms. Markle advised that if an applicant decided to apply the new stormwater standards, staff would also have to consider other general standards that would be applied. She said she only sees this change as a positive benefit to the community, so no public process would be necessary. Chair Kuboi expressed concern that an applicant might try to keep only those standards that are in his/her favor. She noted the City Attorney recommended the proposed language to prohibit picking only those new regulations that benefit the project.

Commissioner Behrens summarized that the proposed language would exclude Master Plan developments from having to meet the existing Development Code standards. A special set of regulations would be created to apply to these specific areas. Therefore, he expressed his belief that the City should not allow a developer to change the Master Plan to include some new regulations but not others. He suggested that the Planned Area language should be written in such a way to allow specific changes that don't presently exist in the code to be implemented in the future. He suggested staff seek direction from the City Attorney about how this could be accomplished. Ms. Markle indicated she would support a process that allows staff to administratively approve changes to Master Plans that are clearly beneficial to the environment. She agreed the process could be made part of the amendment criteria that is developed as part of a Master Plan permit.

Commissioner Broili said he doesn't mind allowing a property owner to pick and choose which new standards they use, so long as whatever they choose is more stringent than what is called for as part of the approved Master Plan permit. It is important to allow flexibility for developers to be innovative in addressing issues such as the environment. Commissioner Perkowski said he, too, would support this concept since it would allow a developer more flexibility to incorporate innovative concepts. He said he also agreed with DSHS that there should be some separation between what are considered major and minor conflicts between the Master Plan property and adjacent uses.

Ms. Markle advised that she would either re-write this section or propose that it be eliminated entirely and that criteria be developed individually for each Master Plan permit.

Commissioners Perkowski and Wagner indicated they may not be present at the May 15<sup>th</sup> meeting when the hearing would be continued. They inquired how they should go about providing their comments for consideration during the hearing. Mr. Cohn noted that the hearing was a legislative process, so Commissioners Perkowski and Wagner would be able to submit written comments for the Commission's consideration on May 15<sup>th</sup>.

### **Closure of the Public Hearing**

**COMMISSIONER WAGNER MOVED THE COMMISSION CONTINUE THE PUBLIC HEARING ON MASTER PLAN AMENDMENTS TO THURSDAY, MAY 15, 2008. COMMISSIONER KAJE SECONDED THE MOTION. THE MOTION CARRIED 7-0.**

**COMMISSIONER WAGNER MOVED TO EXTEND THE MEETING 15 MINUTES, TO 9:45 P.M. COMMISSIONER BEHRENS SECONDED THE MOTION. THE MOTION CARRIED 6-1.**

### **REPORTS OF COMMITTEES AND COMMISSIONERS**

There were no reports from Commissioners

### **UNFINISHED BUSINESS**

There was no unfinished business scheduled on the agenda.

### **NEW BUSINESS**

#### **Review Planning Commission Hearing Rules and Bylaws**

Mr. Cohn advised that staff is in the process of updating the Planning Commission Bylaws to reflect current practices of the Commission. For example, the Bylaws would no longer identify an ending time for Commission meetings.

Chair Kuboi referred to Resolution 182 and noted that some items on the list were of particular interest to him in terms of how the Commission has procedurally conducted their meetings. He suggested the Commission take action on the revisions to the bylaws, but that they revisit Resolution 182 for further discussion. Mr. Cohn emphasized that any revisions to Resolution 182 would have to come from the City Attorney or the City Manager's Office since the resolution applies citywide and not just to the Planning Commission. Chair Kuboi agreed that while the Commission is not being asked to take action on the resolution, he would like an opportunity to obtain greater clarity from the City Attorney at some point in the future. Ms. Simulcik Smith referred to a document prepared by the Assistant City Attorney, which summarizes Resolution 182 into eight bullet points on how quasi-judicial hearings are supposed to be conducted.



**COMMISSIONER BROILI MOVED TO APPROVE THE STAFF'S RECOMMENDED CHANGES TO THE BYLAWS. COMMISSIONER BEHREN'S SECONDED THE MOTION.**

**Les Nelson** expressed concern about moving the "Director's Report" to the end of a meeting agenda since members of the public have often left the meeting by that time and would not have an opportunity to provide comments. He recommended they leave it at the beginning of the meeting.

Commissioner Behrens requested clarification between the terms "Director's Comments" and "Director's Report." Mr. Cohn explained that "Director's Comments" would allow the Director an opportunity to provide brief comments at the beginning of the meeting. However, the Director's intent is to let the Commission and public get on with the public business of the meeting, and that's why he saves his general "Director's Report" until the end in most cases. He noted the Commission has been operating in this manner for the past year.

Commissioner Kaje referred to the proposed amendment that would reduce the maximum time of the "General Public Comment" period from 20 minutes to 15 minutes. He questioned why staff is proposing this change and cautioned that the public may interpret this change to mean the Commission doesn't want to hear from the public as much. Mr. Cohn noted that in many other jurisdictions, most public comments are submitted in writing and public comments at the beginning of the meeting tend to be brief in order to get to the public business that is scheduled on the agenda.

Commissioner Broili said that when there are controversial issues, there have been numerous occasions when the "General Public Comment" period has ended up taking a huge amount of the meeting time. However, he reminded the Commission that part of their responsibility is to hear comments from the public. Therefore, limiting the opportunity for the public to comment may be counterproductive. Mr. Cohn noted the Commission had a choice: to hear about items that are not on the agenda at every meeting, or to encourage the public to talk about the issue during the public hearing process. If the latter course is chosen, they could invite the public to submit written comments, but not allow them to take up time at the meeting when other agenda items have been scheduled for discussion. Commissioner Wagner pointed out that in the two years she has been on the Commission, she could not recall a time when the "General Public Comment" period extended beyond 20 minutes. She suggested the time limit remain at 20 minutes.

Chair Kuboi pointed out that the next paragraph would allow the Chair discretion to limit or extend the time limitations and number of people permitted to speak. However, this would apply to public comment that follows a staff report. He suggested the bylaws be changed to allow the Chair discretion over public comment, in general. In order to acknowledge the business scheduled on the agenda and the need to manage the meeting time, he suggested the language be changed to indicate that "General Public Comments" would generally be limited 20 minutes. The language could also be changed so that the Chair's ability to limit or extend the public comment time could be applied to all public comment periods scheduled on the agenda.

Commissioner Behrens pointed out that Roberts Rules of Order allow an opportunity for the Commission to suspend the public comment rules if a significant number of citizens want to speak regarding a matter. However, this would be a special circumstance.

**COMMISSIONER BROILI AMENDED HIS MOTION TO MOVE THE COMMISSION APPROVE STAFF'S RECOMMENDED CHANGES TO THE BYLAWS, WITH TWO CHANGES TO SECTION 4: PUBLIC COMMENT. INSTEAD OF STRIKING OUT "TWENTY" [MINUTES] AND INSERTING "FIFTEEN," REVERT BACK TO ORIGINAL LANGUAGE AND REARRANGE THE STRUCTURE OF OTHER EXISTING LANGUAGE. COMMISSIONER BEHRENS SECONDED THE AMENDMENT. THE MOTION CARRIED 7-0.**

### **Update on the Comprehensive Housing Strategy**

The Commission postponed this discussion to a future meeting.

### **ANNOUNCEMENTS**

There were no additional announcements.

### **AGENDA FOR NEXT MEETING**

The Commissioners had no comments to make regarding the agenda for the next meeting.

### **ADJOURNMENT**

**COMMISSIONER WAGNER MOVED TO ADJOURN THE MEETING AT 9:50 P.M. COMMISSIONER PERKOWSKI SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

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Sid Kuboi  
Chair, Planning Commission

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Jessica Simulcik Smith  
Clerk, Planning Commission