

# CITY OF SHORELINE

## SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF REGULAR MEETING

April 20, 2006  
7:00 P.M.

Shoreline Conference Center  
Mt. Rainier Room

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### **COMMISSIONERS PRESENT**

Chair Piro  
Vice Chair Kuboi  
Commissioner Broili  
Commissioner Hall  
Commissioner Harris  
Commissioner Phisuthikul  
Commissioner McClelland  
Commissioner Pyle  
Commissioner Wagner

### **STAFF PRESENT**

Steve Cohn, Senior Planner, Planning & Development Services  
Matt Torpey, Planner II, Planning & Development Services  
Jessica Simulcik Smith, Planning Commission Clerk

### **CALL TO ORDER**

Chair Piro called the regular meeting of the Shoreline Planning Commission to order at 7:08 p.m.

### **ROLL CALL**

Upon roll call by the Commission Clerk, the following Commissioners were present: Chair Piro, Vice Chair Kuboi, Commissioners Broili, Hall, Harris, McClelland, Phisuthikul, Pyle and Wagner.

### **APPROVAL OF AGENDA**

The Director's Report and Reports from Committees and Commissioners were placed on the agenda after the Department of Ecology's presentation. In addition, a discussion of possible follow up items from staff based on the presentation regarding the 2005 Wetlands Classifications Manual was added to the agenda. The remainder of the agenda was approved as presented.

### **APPROVAL OF MINUTES**

No minutes were available for approval.

## **GENERAL PUBLIC COMMENT**

There was no one from the public in the audience.

## **STAFF REPORTS**

### **Department of Ecology Guest Speaker – 2005 Wetlands Classifications Manual**

Mr. Torpey recalled that when going through the process of updating the Critical Areas Ordinance in 2005, the Commission and staff expressed a desire to change and update the City's wetland rating system, but they agreed it was too large of a task to handle at that time. Now that the Critical Areas Ordinance has been adopted as per the required timeline, staff is prepared to discuss the issue of wetland ratings with the Commission. Mr. Torpey introduced Eric Stockdale, Senior Wetlands Specialist from the Department of Ecology, who was present to speak to the Commission regarding the Western Washington Wetland Rating System. He would also discuss some of the potential options the Commission could consider when reviewing the City's Critical Areas Ordinance in the future.

Mr. Stockdale pointed out that the Growth Management Act requires that local jurisdictions include Best Available Science (BAS) in developing policies and regulations, including those for critical areas. The BAS Volume I document was completed in August of 2003 and BAS Volume 2 was completed in August of 2004. In addition, the Corps of Engineers and the Environmental Protection Agency have just completed their work on a document that provides guidance for wetland mitigation. The Department of Ecology has also compiled a synopsis of how the Western Washington Wetland Rating System works, and they are currently working on a tool that would provide a landscape approach to wetland protection.

Mr. Stockdale emphasized that the BAS documents are not a state rule, but are intended to provide guidance to local governments. They only cover freshwater wetlands and not riparian areas or streams. He noted that not all subjects are covered adequately in the documents because there is a lack of scientific information in some cases. Mr. Stockdale explained that the BAS Volume I draws the following conclusions:

- Permitting does not meet the goal of no-net-loss because it does not adequately account for landscape scale processes that sustain wetlands.
- Functions of wetlands are affected by actions in other parts of the landscape. While a wetland may be avoided, its hydrology might not be protected because of development outside of the wetland.
- Decisions made without an understanding of landscape factors will not protect wetland functions.
- Regulations and permitting alone fail to protect existing functions because exemptions contained in many local land use regulations nibble at the resource without adequate mitigation. In addition, buffers degrade and shrink over time, and a "buffers only" approach represents a moderate risk approach to protecting wetlands. In many cases mitigation fails or falls short of protecting the wetlands, and landscape-scale processes that drive wetland

functions are not properly accounted for. The greater the reliance on a site-specific regulation, the more stringent the regulation must be to overcome risk.

Mr. Stockdale advised that BAS Volume II offers options for wetland management. The main focus of the document is to lay out a framework for managing wetlands, analyzing the landscape and wetlands, and developing plans and policies to address wetland protection as part of the Comprehensive Plan process. The document also outlines non-regulatory tools that are available, as well as recommendations on how to characterize risk and approach wetlands from an adaptive management perspective. He noted that many of the planning tools are very limited in an already built out urban environment such as Shoreline.

Mr. Stockdale advised that the wetland rating system was developed in the early 1990's and significantly updated in 2004 into two documents, one for Western Washington and one for Eastern Washington. The new rating systems were intended to provide a rapid function method that can be applied in a just a few hours in most situations. Both were designed to differentiate wetlands based on their sensitivity to disturbance, their rarity, the ability to replace them, and the functions they provide.

Mr. Stockdale explained that the Western Washington Wetland Rating System is four-tiered, based on a wetland's need for protection and management. It is used to describe criteria for avoidance, width of buffers and mitigation ratios. While it does not characterize streams, riparian areas or other valuable aquatic resources, it does meet the definition of "best available science" under the Growth Management Act. He further explained that the rating system characterizes three main groups of wetland functions: habitat, water quality and hydrological.

Mr. Stockdale advised that the Department of Ecology has spent a tremendous amount of time considering the science of wetland buffers. Buffers are important and critical to maintaining wetlands and their functions. Available literature makes it clear that several key factors should be considered when determining the adequacy of a buffer on a critical area such as wetland type and its function as determined by category or score from rating, the intensity of the impacts from the adjacent land use, and the character of the existing buffer (i.e. slope, soils, vegetation).

Mr. Stockdale explained that determining how wide a buffer should be is largely an exercise of deciding how much risk is acceptable. It is important to consider an adequate buffer to protect a wetland from adjacent development. In addition, there are quite a few species of wildlife that depend on the riparian zone around a wetland to meet part of their lifestyle requirements. He advised that the scientific literature reports a wide range of buffer widths needed to protect wetlands depending on the functions and the acceptable level of risk. Smaller widths increase the risk to wetland functions and larger widths decrease the risk to functions.

Mr. Stockdale advised that the BAS Guidelines provide three alternatives for managing wetlands:

- **Alternative 1** is based only on the wetland rating score. While this is the simplest alternative, it is also the most restrictive. This alternative identifies a specific buffer requirement for each category of wetland, even though the wider buffers are only needed for some wetlands within

each rating category. This would not be a preferred approach because there are other tools that could be implemented at the site scale.

- **Alternative 2** is based on the rating score and the intensity of impacts from the proposed activity. This alternative allows jurisdictions to use existing zoning designations and basin conditions to refine land use impact categories. Buffers could be reduced if the adjacent land uses would have a low or moderate impact.
- **Alternative 3** is based on the rating score, the intensity of impacts from the proposed activity, and the functions or sensitivity of the wetland to disturbance. This alternative is used by many local governments and incorporates flexibility and provides predictability. It includes criteria for increasing, decreasing and averaging buffer widths and represents a moderate risk approach to wetlands.

Mr. Stockdale advised that one of the benefits of the new rating system is that it allows jurisdictions to consider how the rating system scores the different functions at a given site. For example, a low habitat score would require a much narrower buffer, depending on the intensity of the adjacent wetland, than a wetland that scores high. In addition, the new rating system also addresses wetlands that are very sensitive to changes in water chemistry such as bogs. Estuarine wetlands are also addressed differently. While they don't have a function assessment method for estuarine wetlands, protection measures are prescribed primarily due to their value and rarity.

Mr. Stockdale pointed out that Alternative 3 has the most flexibility to meet conditions that allow a reduction in buffer. The first condition would allow width reduction based on reducing the intensity of impacts from proposed land uses. He referred to the table on Page 10 of Appendix 8-C, which provides examples of site design measures to minimize the level of impact. Utilizing these measures could result in a reduction of impact from high to moderate, thus reducing the necessary buffer requirements. The second condition would allow a buffer width reduction where existing roads or structures lie within the buffer.

Mr. Stockdale said there are also conditions for increasing the width of a buffer. He explained that the buffer recommendations are based on the assumption that the buffer is well-vegetated. If a buffer is not well vegetated, a jurisdiction could require that it be enhanced and/or vegetated or that it be made wider in order to perform the necessary function. He said jurisdictions could also require additional width if the buffer is located on a steep slope. Also, if a wetland and/or its buffer is used by sensitive species a jurisdiction could require that the buffer width be increased.

Mr. Stockdale advised that using buffers alone is a blunt regulatory tool, particularly using Alternative 1. Buffers are not necessarily the best or only way to protect wetlands, but are typically the approach local governments have decided to use. The Department of Ecology is recommending that local governments consider a more systematic approach to prescribing buffer widths. He said that using a landscape approach to protect wetland function would be best since it would allow jurisdictions to incorporate stormwater management considerations, prescribe and protect wildlife corridors to connect wetlands to each other, and fold in a restoration planning element.

Mr. Stockdale provided an example of a wetland in Mukilteo that was rated using the Western Washington Wetland Rating System. He emphasized that the habitat point is the score used to determine the wetland buffer. Using Alternative 1, the required wetland buffer for this particular wetland would be 300 feet, and Alternative 2 would require 300 feet for a high intensity development, as well. Alternative 3 would allow a reduction of the buffer requirement to 110 feet if site buffer management protection measures were implemented to address the impacts.

Vice Chair Kuboi asked who would be responsible for determining whether or not impacts to a wetland could be reduced enough to warrant a reduction in the buffer requirement. Mr. Stockdale said the local jurisdictions would be responsible for making this determination. The Department of Ecology's intent was to make recommendations for consideration, with the understanding that they would have to be integrated at the site scale. Vice Chair Kuboi expressed his concern that Alternatives 2 and 3 both include mechanisms that infuse evaluation, subjectivity and interpretation into the process. While this allows flexibility to incorporate best available science, it could also be used as an opportunity for getting around the requirements. Mr. Stockdale said the Department of Ecology has been asked to mediate situations where there are disagreements amongst consultants. In addition, he said the Department of Ecology has trained more than 300 people to use the rating system. They have found that, with training, the error of margin can be greatly reduced to an acceptable level. Mr. Torpey said he participated in the Department of Ecology's training program and found that the system is not difficult to use. Commissioner Pyle added that the training course goes through the guidance document piece by piece, which is helpful.

Next, Mr. Stockdale reviewed examples of another wetland in Mukilteo and a wetland on the Sammamish Plateau, both were rated using the Western Washington Wetland Rating System. He explained that the development on the Sammamish Plateau was able to completely avoid the wetland, but no consideration was given for stormwater runoff or the wetland's connectivity to other wetlands in the vicinity. This resulted in negative impacts to the wetland. He emphasized that poor erosion control during construction significantly contributes to wetland degradation, as well. He referred to Yellow Lake, which is located on the Sammamish Plateau, where no erosion control was required for an 8 to 12 acre development. All of the sediment from this bare ground ended up in the lake. He summarized that in order for buffer requirements to be effective, they must be used in conjunction with stormwater management requirements.

Mr. Stockdale concluded his presentation by stating that the Growth Management Act charges local governments with the responsibility to protect existing functions, and was not intended to protect against the extinction of threatened or endangered species or to protect future or past functions. The goal of the Department of Ecology's recommendations is not to force the restoration of non-conforming uses. Rather, the goal is to not increase the degree of non-conformity. He explained that determining buffer widths is an exercise in risk management, and "big scary" buffers apply only in very limited circumstances. Buffer Alternative 3 was designed to be flexible and site specific and was developed in close consultation with local governments, planners, biologists and consultants.

Mr. Stockdale reviewed the list of jurisdictions within Washington that have adopted Alternative 3 or some version of Alternative 3 as part of their critical areas ordinances. He noted that many other jurisdictions are currently reviewing the option, as well.

Commissioner Pyle referred to the table on Page 10 of Appendix 8-C, which lists examples of measures to minimize impacts to wetlands from proposed changes in land use that have high impacts. He asked how these measures could be integrated into the City's Development Code, understanding that there may be conflicting regulations in other sections of the Development Code that would not allow a measure to be implemented. Mr. Stockdale answered that if a measure is against the City's Development Code, it would be dishonest for a developer to qualify for lenience.

Commissioner Pyle referred to the conditions that would allow a jurisdiction to require a greater buffer, particularly if a buffer area was devoid of vegetation. Mr. Stockdale said the City could either require a larger buffer or require that the existing buffer be enhanced to perform the required function. The City has the responsibility to make sure that the buffer functions properly. He said he anticipates a developer would rather revegetate a buffer area than increase its size.

Commissioner McClelland referred to the rezone the Commission recently considered near Echo Lake, and asked if the Commission discussed the impact created by stormwater runoff into the lake. Commissioner Broili added that the developer was allowed to reduce the buffer because their design utilized low impact techniques. Mr. Torpey explained that Echo Lake is a Class II Wetland, which requires a 115 foot setback. However, because the existing buffer consists of a gravel parking lot, the City allowed the developer to reduce the proposed buffer in exchange for significant improvements in the remaining buffer area.

Vice Chair Kuboi emphasized that the goal of the rating system is to maintain the existing function, not improving it. However, if a buffer is compromised, the system also provides incentives for a developer to improve it. Mr. Stockdale explained that any change of use or redevelopment would be required to meet the new standards. Vice Chair Kuboi expressed concern that the existing Department of Ecology language does not make this clear.

Commissioner Broili clarified that the rating system is based on what the wetland is now, and not what it used to be or what it could be in the future. Mr. Stockdale said that is correct in terms of scoring, but the rating system could also be used hypothetically at a site to make some assumptions about improvements that are being proposed to see if the rating would change. Commissioner Broili expressed his concern that, even with adoption of the new rating system, they are slowly losing ground and not improving the quality and functions of the wetlands. Mr. Stockdale said the issue is more related to the application of the site protection measures than the rating system. He said the Department of Ecology recognizes that there must be a nexus between the impact and the mitigation. A local jurisdiction's critical areas ordinance could not require something that is in excess of the anticipated impact. However, it is difficult to address the cumulative impacts from development, and the rating system is not the right tool to use. It is intended to be a tool for considering the site scale, but local jurisdictions must also use the landscape tool to address the cumulative effects of development and develop with a restoration plan to achieve a net gain.

Commissioner Broili said it is becoming better understood that protecting the upland areas is just as important as protecting the function of the wetland buffers. Mr. Stockdale said this would depend on the type of sediment generated by a development that is immediately adjacent to a wetland. He said that what is generated higher in the watershed that ends up in the lake would not be addressed by the buffers on the lake. The buffers on the lake should be geared towards the effect of the development on the lake and the habitat needs of the species that are using it. Upland sediment should be controlled through the City's stormwater regulations. Commissioner Broili summarized that the City allows a lot of undesirable development practices to happen further upland, which ultimately impact what is happening to the wetlands.

## **DIRECTOR'S REPORT**

Mr. Cohn reported that Rachel Markle has returned to work, but Jeff Ding has left the City to work at a private consulting firm. Staff also lost their intern who was helping with a variety of projects. The City intends to replace both positions.

Mr. Cohn reminded the Commissioners of the Volunteer Appreciation Breakfast on Friday, April 28<sup>th</sup>, at 7:30 a.m. He further reminded them that a coffee and cake reception has been scheduled for May 8<sup>th</sup> at 7:00 p.m. to recognize outgoing Planning Commission and Library Board Members.

Mr. Cohn announced that each of the Commissioners received updates to the Shoreline Municipal Code and Shoreline Development Code.

Mr. Cohn further announced that the next two Commission Meetings would be videotaped and televised. Chair Piro reminded the Commission that a study session regarding the hazardous tree regulations has been scheduled on their May 4<sup>th</sup> agenda. He suggested this be made clear in the notices that are provided to the public, since the format would be different and no public comment would be allowed once the study session begins. Mr. Cohn advised that the SEPA Notice of Application would go out on April 24<sup>th</sup> for the code change, and this would include notice for the public hearing on May 18<sup>th</sup> and the workshop (not legally required) on May 4<sup>th</sup>.

## **REPORTS OF COMMITTEES AND COMMISSIONERS**

### **Highland Terrace Neighborhood Meeting**

Commissioner Hall reported that he and Commissioner Harris attended the Highland Terrace Neighborhood Meeting. Because of the staff's presentation, the audience focused on just a few pending and future actions. The citizens expressed particular concern about the trees that would be cut down to accommodate the Highlands Utility Yard Project. They would like the City to prevent the developer from removing the trees, even though they are on private property. He said staff also provided an outline about the process of governance (the role of the Commission, Council and staff), which was beneficial, and the City Council Members who were present at the meeting offered strong support to the

City staff. Commissioner Harris agreed that Mr. Tovar's presentation was well received by everyone in attendance at the neighborhood meeting.

### **Echo Lake Neighborhood Meeting**

Vice Chair Kuboi reported that he and Chair Piro attended the Echo Lake Neighborhood Meeting, at which the South Echo Lake Revised Site Plan was discussed. A subset of the presentation was related to the proposed YMCA Project. He said he did not find the revised site plan substantially different, as far as intent, from the plan the Commission previously reviewed. The site is in the process of being sold, but the dark green buffer area (shown on the site-plan) would be retained by the current owner to develop as a buffer area.

Vice Chair Kuboi noted that reference was made at the meeting regarding a traffic study that would be presented to the City Council. He said he was surprised to learn this since revisions to the Transportation Master Plan require a review by the Planning Commission before being presented to the City Council for final approval. Chair Piro clarified that provisions in the Transportation Master Plan called for some transportation plan sub area studies, specifically in the area around 175<sup>th</sup> and Meridian Avenue. He recalled that the Planning Commission previously discussed a desire to be part of this process. Mr. Cohn said he would follow up on the matter and report back to the Commission.

Chair Piro said the presentation provided by staff at the neighborhood meeting set the context for a lot of the questions that were raised. Most of the discussion centered on finding the source of pollution in Echo Lake and possible solutions to remedy the problems. He said he and Vice Chair Kuboi were asked to respond to some questions, as well.

Vice Chair Kuboi said that, at the meeting, there appeared to be a wide divergence and misunderstanding regarding access to the waterfront from the South Echo Lake site. Because the project will not come back before the Commission for further review, he urged staff to make it very clear to the public about what kind of access would be available to the waterfront. Mr. Cohn agreed to check into this question.

Commissioner Hall referred to the recently approved contract rezone that was granted for the South Echo Lake Project. He noted that there were two primary vehicular access points, one on 192<sup>nd</sup> Street and one on Aurora Avenue North, with an emergency access point on Aurora. Now there appears to be two primary vehicular access points on 192<sup>nd</sup> Street and two on Aurora Avenue. Because this would radically alter the safety of the area for pedestrians and transportation, he said he does not view the site plan changes as minor. He recalled that at the public hearing, a great deal of concern was expressed about open space and pedestrians. He further pointed out that the large courtyard that is now being proposed appears to privatize the open space, and breaking up the buildings would make the open space less inviting. One significant issue raised at the hearing was whether or not the open space would be public or private; a dedication versus an easement. He summarized that the original site plan offered a far more inviting access not only to the lake, but the visual corridor, as well. He said he would like an explanation from Mr. Tovar about how he believes the proposed changes would be considered minor. He reminded the Commission that as part of the contract rezone, they granted the Planning Director the



authority to approve minor changes to the site plan. However, he does not feel the proposed changes could be considered minor. The remainder of the Commission agreed that it would be helpful for staff to provide a report at a subsequent meeting regarding the proposed changes to the site plan.

## **PUBLIC COMMENT**

There were no members of the public in the audience.

## **UNFINISHED BUSINESS**

### **Discussion on Planning Commission Retreat and Joint Meeting with the Parks Board**

Mr. Cohn said staff is still working on the agenda for the joint Parks Board/Planning Commission meeting and would report further at the next Commission meeting.

Mr. Cohn suggested that the Commission brainstorm ideas and topics of discussion for the upcoming Commission Retreat. Staff would use the Commission's input to develop an agenda for the retreat.

Commissioner McClelland suggested that the Commission review situations where changes took place to site plans after the Commission had reviewed the applications and made recommendations to the City Council. She suggested they discuss an appropriate process that would allow administrative changes to come back to the Commission for review, if only to keep them informed.

Vice Chair Kuboi said it would be appropriate for the Commission to spend some time at their retreat developing their own work plan for the remainder of 2006. He noted that the Commission does have some discretionary time, and they should plan in advance how to use it.

Commissioner Phisuthikul said he would like the Commission to hold a retreat discussion regarding the possibility of revisiting the "Vision for Shoreline." Commissioner McClelland asked that staff provide an update on the Central Shoreline Sub Area Plan, as well. In addition, Chair Piro said he would like the Commission to hold a retreat discussion regarding future opportunities for increased interaction with the City Council.

Vice Chair Kuboi recalled that at that last retreat, the facilitator expected all of the Commissioners to put some thought into each of the topics prior to the meeting. He suggested that they follow this same process, and said he could work with the facilitator to collect information from each of the Commissioners in advance. The remainder of the Commission agreed this would be appropriate.

Mr. Cohn advised that staff would attempt to schedule the retreat for July 20<sup>th</sup>, which is a regular Commission meeting date.

Commissioner Hall urged each of the Commissioners to review the materials regarding the hazardous tree ordinance prior to the public hearing on May 18<sup>th</sup> so they are prepared to deliberate immediately after taking public testimony. Chair Piro agreed. However, he expressed his concern about whether or

not the Commission would be able to make a recommendation on May 18<sup>th</sup>, given that they anticipate a significant amount of public participation. If they are unable to make a recommendation on May 18<sup>th</sup>, he suggested they schedule continued deliberation to occur as soon as possible. The remainder of the Commission concurred.

## **NEW BUSINESS**

### **Request for Follow Up Items Based on the Presentation Regarding the 2005 Wetlands Classifications Manual**

Commissioner Hall expressed his belief that no matter what wetland classification system the City uses, the City's buffer requirements appear to fall at the lower end of the range. He said he would not recommend the Commission revisit the issue of buffer widths at this time. Chair Piro inquired if the City is required to review their Critical Areas Ordinance on a regular basis. Commissioner Hall said the Growth Management Act limits the City to updating their Comprehensive Plan no more than once a year, but the development regulations could be updated at any time, as long as they remain consistent with the Comprehensive Plan. He emphasized that the City's Critical Areas Ordinance was just recently accepted by the City Council, and no appeals have been filed to date. If no challenges are submitted, the ordinance would be officially adopted in just a few weeks.

Vice Chair Kuboi requested that staff provide feedback regarding the official map that was created to illustrate the right-of-way boundary on Aurora Avenue North. He asked staff to report about whether or not the document worked the way staff intended. Was it a positive piece of information, or did it create more turmoil?

## **AGENDA FOR NEXT MEETING**

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

## **ADJOURNMENT**

The meeting was adjourned at 9:35 p.m.

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Rocky Piro  
Chair, Planning Commission

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Jessica Simulcik Smith  
Clerk, Planning Commission