

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF REGULAR MEETING

October 6, 2005
7:00 P.M.

Shoreline Conference Center
Rainier Room

PRESENT

Chair Harris
Commissioner Kuboi
Commissioner Phisuthikul
Commissioner Broili
Commissioner McClelland
Commissioner Hall

STAFF PRESENT

Rachael Markle, Assistant Director, Planning & Development Services
Paul Cohen, Senior Planner, Planning & Development Services
Jeff Forry, Permit Manager, Planning & Development Services
Jessica Simulcik Smith, Planning Commission Clerk

ABSENT

Vice Chair Piro
Commissioner MacCully
Commissioner Sands

1. CALL TO ORDER

The regular meeting was called to order at 7:05 p.m. by Chair Harris, who presided.

2. ROLL CALL

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

3. APPROVAL OF AGENDA

The agenda was approved as submitted.

4. DIRECTOR'S REPORT

Ms. Markle reported that the interview process for the new Planning and Development Services Director is underway. The application period has also closed for the positions that were vacated by Ms. Spencer and Mr. Pyle. Staff will begin screening the applications soon.

Ms. Markle referred the Commission to the minutes from the Economic Development Task Force meetings and advised that they were provided to the Commission for their information.

5. APPROVAL OF MINUTES

The minutes of September 15, 2005 were approved as amended.

6. GENERAL PUBLIC COMMENT

There was no one in the audience who wished to address the Commission during this portion of the meeting.

7. REPORTS OF COMMITTEES AND COMMISSIONERS

Commissioner McClelland inquired how many Commissioners signed up to attend the American Planning Association Conference. She suggested they organize a carpool to the event, and the remainder of the Commissioners agreed.

8. STAFF REPORTS

a. Sidewalks & In-Lieu-Of Program

Mr. Forry referred the Commission to the staff report that was prepared by Mr. Pyle to provide an overview of the current Fee-In-Lieu-Of Program. This program allows an applicant to provide a payment of fees in lieu of constructing frontage improvements. He said the purpose of his presentation was to review the current standards and policies for the Fee-In-Lieu-Of Program. He referred the Commission to their copy of Ordinance 303, which was adopted by the City Council in May of 2002 and codified as part of Section 20.70.030 of the Shoreline Municipal Code (SMC). He noted that several other attachments relative to the adoption of Ordinance 303 were also provided in the Commission's packet.

Mr. Forry advised that residential curb, gutter and sidewalk improvements are regulated under SMC 20.70.030. As per this code, all new construction for residential development and remodel/addition where work being done exceeds 50 percent over the property's assessed valuation are required to provide full frontage improvements. However, the code also provides for partial exemptions to this requirement, which includes at a minimum, sidewalks and drainage facilities. He explained that adoption of Ordinance 303 enabled the City to enter into agreements with developers to use the funds the developer would otherwise have spent on frontage improvements to supplement a public

improvement project. These funds must be used to fund pedestrian improvement projects located in the vicinity of the development activity. The intent of the program is to promote connectivity of sidewalks and drainage improvements on a citywide basis and to help avoid the piecemeal installation of frontage improvements that provide no connectivity to other pedestrian facilities.

Mr. Forry advised that if a developer decides to participate in the Fee-In-Lieu-Of Program, he/she must complete an application. Once a request has been made, the City's Development Review Engineer would complete a site visit to ensure there are no special circumstances on the site and verify the cost estimates provided by the developer. Some of the determining factors used by the Development Review Engineer to review an application include bus routes and pedestrian facilities for access to schools or parks, as well as the class of the roadway. He pointed out that prior to building permit issuance, developers or homeowners are not required to indicate whether they would participate in the Fee-In-Lieu-Of Program or apply for a right-of-way permit to construct the improvements. However, this decision must be made prior to the City issuing a Certificate of Occupancy.

Mr. Forry reported that in 2004, there were 28 homes that were candidates for the Fee-In-Lieu-Of Program. Of those 28 homes, 24 were new construction and 4 were remodel projects. Sixteen of them were required to build the improvements, 10 volunteered to participate in the program, and 2 have not finalized their building permits. He referred to a map that was provided to identify where projects have been undertaken in the City. He further reported that approximately \$53,000 in fees was collected in 2004 from the 10 projects that opted to use the Fee-In-Lieu-Of Program, which is approximately \$5,000 per application. He pointed out that the City's cost for improvement of any individual sidewalk program runs between \$100 and \$150 per linear foot. A developer's cost for putting in a sidewalk would be based on their actual material and labor costs at the time, but it runs somewhat less than the City's cost due to the City's requirement to pay prevailing wages.

Commissioner Phisuthikul asked if there are any limitations regarding when and where the money from the program must be spent. Mr. Forry answered that the ordinance requires the money be spent for improvements within the general vicinity of the project. Ideally, the applicant would agree to a capital improvement project in the neighborhood that the money could be applied to. He pointed out that because the City's Sidewalk Program does not specifically identify capital improvement projects throughout the City, not all of the funds have been specifically designated to a project. He further pointed out that the next Transportation Plan Update would designate sidewalk projects. However, he cautioned that it is important for the Commission to understand that \$53,000 would not pay for a significant amount of sidewalk area at the City's cost.

Mr. Forry explained that the fees are collected under a State statute that provides for voluntary payment of fees-in-lieu-of such as construction and capital improvements. The fees are subject to review after a five-year period. Therefore, any fees collected could be retained for five years, but must be used within that timeframe.

Commissioner Hall inquired regarding the fundamental policy problem that led to adoption of the Fee-In-Lieu-Of Program (Ordinance 303). Mr. Forry answered that there are certain situations in which the City would not want frontage improvements to be made, and Ordinance 303 was adopted to address the

issue of equity. It was also adopted as a potential method of funding future capital improvements projects. However, there was no good estimation of the types of revenues the City would receive from the program.

Commissioner McClelland pointed out that another concern was that, as originally adopted, SMC Section 20.70.030 sometimes resulted in situations of “sidewalks to nowhere.” The Commission previously discussed that rather than having chunks of sidewalks located here and there, the money should be collected to do a continuous sidewalk project.

Commissioner Hall said he has heard concerns expressed by the community, as well as various Commissioners, that there are pieces of sidewalk being constructed randomly in areas where no other sidewalks, curbs and gutters are located. These pieces of sidewalk do not appear to have a significant public benefit. He expressed his concern that the current Fee-In-Lieu-Of Program has not really done anything to address the problem of “sidewalks to nowhere.”

Mr. Forry agreed and reported that the Public Works Department is considering this concern as they review options for the Transportation Plan Update for sidewalks. He advised that the standard for private development proposals requires concrete sidewalks, curbs and gutters. However, there are a variety of techniques the City can use to meet the standard for City-initiated pedestrian pathways, such as rolled curbs, asphalt pathways, separated pathways from the roadway, etc. The City’s engineering staff is looking at a strategy for providing different alternatives for private development so that easier sidewalk connections can be made. In conjunction with this, they are working to identify definitive sidewalk routes for the City.

Commissioner Phisuthikul asked if the funds from the Fee-In-Lieu-Of Program have been used to start any City pedestrian project. Mr. Forry said the moneys have not been expended on any project to date because there hasn’t been a capital improvement project that the moneys could be applied to. In addition, the amount of money has not been sufficient to do any significant sidewalk construction. However, a recent developer has requested to participate in the Fee-In-Lieu-Of Program and the monies would be applied to the Interurban Trail Project.

Chair Harris asked if money from the Fee-In-Lieu-Of Program could be used for Neighborhood Traffic Safety Program Improvements. Mr. Forry said consideration has been given to this option, but none of the money has gone to these types of projects yet. Ordinance 303 requires that the funding be used strictly for sidewalk improvements, and no policy statement has been issued to change this requirement.

Commissioner Kuboi asked how the City determines how close to the development site the in-lieu-of funds must be spent. Mr. Forry referred to SMC Section 20.70.030.C.3.b.ii (Attachment 1 on Page 26 of the Staff Report) which states that the Planning Director and the applicant must agree on the amount of the in-lieu-of payment and the capital project for which the payment should be applied. It requires that the Director give priority to capital projects in the vicinity of the proposed development. However, there is no set criterion for determining the exact vicinity.

Commissioner Phisuthikul estimated that the City is collecting only about 50 percent of the actual cost of improvements that are done by the City because a developer is only required to pay about \$75 per foot for sidewalk improvements, when the City must pay about \$150 per foot. Mr. Forry agreed that is correct.

Commissioner McClelland said that when the Commission originally discussed the Fee-In-Lieu-Of Program in 2002, it was their desire that instead of dumping money into a general public works fund for any project in the City, the fee should be applied to a project in the vicinity of the development. The intent was that the money would be spent on connecting sidewalks, which would provide some visual impact to a neighborhood. However, she pointed out that the City has not collected enough money to do any significant sidewalk improvement. She concluded that unless there is a huge development proposal, it would take the City a long time to accumulate enough money to construct a project that would have an impact to the community. She summarized that she is not convinced the Fee-In-Lieu-Of Program is effective. Mr. Forry explained that the Fee-In-Lieu-Of Program is development driven. Since the majority of development activity in Shoreline is rehabilitation, renovation, and rebuilding of properties, there is no organized method to provide a connection.

Commissioner Hall agreed with Commissioner McClelland that the driving force behind Ordinance 303 is not being met at a rapid enough pace to meet the community's interest in having a connected pedestrian system. He suggested the Commission break out of the box and consider different alternatives. He recalled that when the Commission recently reviewed a proposal for 15th Avenue, they specifically discussed the issue of sidewalks. They talked about the potential of requiring an applicant to extend a sidewalk beyond the subject property to a bus stop, intersection, etc. The City Attorney cautioned that any Commission requirements placed on a development permit must meet certain very clear legal standards and be associated with the impact of the proposed development. Commissioner Hall said he would be in support of retaining the Fee-In-Lieu-Of Program. But in the meantime, he suggested the Commission explore the option of requiring frontage improvements to extend to the nearest corner, nearest crosswalk, nearest bus stop, nearest sidewalk, or twice the length of the frontage on the site. He said he recognizes that this alternative would impose an additional cost on the developer, but there would be a guarantee that the sidewalk would reach somewhere.

Commissioner Broili agreed that the Commission should consider the alternative brought forward by Commissioner Hall. He further suggested that the Commission consider raising the fee to match the City's cost of constructing a sidewalk. A developer would be able to choose to either meet the requirements of Commissioner Hall's recommendation or pay a greater fee-in-lieu.

Chair Harris asked if the concepts presented by Commissioner Hall and Commissioner Broili would apply to single-family development, as well. Commissioner Hall clarified that his proposed alternative should probably only apply to multi-family and subdivision development proposals. Commissioner Phisuthikul pointed out that the Fee-In-Lieu-Of Program only applies to single-family development. He advised that in order to implement Commissioner Hall's alternative, the framework of the Fee-In-Lieu-Of Ordinance would have to be altered.

Commissioner Phisuthikul expressed his concern that because the money collected from the Fee-In-Lieu-Of Program must be spread out through the neighborhoods in the City, it would be difficult for the City to amass enough money to do any type of pedestrian improvement project on any significant scale, unless a sidewalk improvement program has already been funded for the neighborhood. Mr. Forry agreed that this is the most significant problem associated with the current program.

Commissioner Broili referred to a neighborhood on 201st and pointed out that while 201st is a residential street, there are no sidewalks and the residents don't want sidewalks. However, if someone were to redevelop on this street, they would be required to either construct sidewalk improvements or participate in the Fee-In-Lieu-Of Program. Mr. Forry said the City's first requirement would be for frontage improvements and associated drainage facilities. Second, the project could be evaluated for the Fee-In-Lieu-Of Program, and this could be approved provided the road is not a bicycle route and doesn't require a connector to a school or park, etc.

Commissioner Broili expressed that he believes the Fee-In-Lieu-Of Program is seriously flawed and does not provide for flexibility. The program establishes a predetermined paradigm that there must be sidewalks on both sides of the streets. However, there are new paradigms now about how streets should be developed. For example, the City of Seattle is doing SEA Street Projects where sidewalks are only being constructed on one side of the street, except on designated streets. When considering the existing Fee-In-Lieu-Of Program from a citywide perspective, he said he feels the whole program must be rethought, and they must carefully decide exactly what they are trying to achieve. Rather than taking a patchwork approach, the Commission should go back to the drawing board and think about the issue in a much broader perspective. They should consider the definition for sidewalks and how drainage facilities and sidewalk and street improvements could be tied together to result in more economical methods that have less impact on the environment.

Commissioner McClelland reminded the Commission that when they discussed the Fee-In-Lieu-Of Program three years ago, there was an underlying assumption that they wanted safe pedestrian and bicycle pathways in the City. The industry standard for accomplishing this goal is through the development process. The City has succeeded in getting developers to pay their fair share of the improvements, but it has been too piecemeal. She suggested that they leave the Fee-In-Lieu-Of Program alone, but also have a discussion on other alternatives to address the City's goal of obtaining safe pedestrian and bicycle pathways. Rather than being a failed or flawed effort, the Fee-In-Lieu-Of Program is just a tiny piece of the big picture and they need more.

Commissioner Kuboi pointed out that in order for the Fee-In-Lieu-Of Program to be utilized, there must be a bilateral agreement between the City and the Developer. He asked if City staff has ever considered the option of making the program unilateral, wherein the City could require a developer to participate. This would address situations when the City code requires the construction of a sidewalk in front of just one property on a street that has no sidewalks. Mr. Forry answered that the City does not currently have a provision in the code that would allow them to require a developer to participate in the program. He further answered that staff has had some internal discussions regarding this concept and has also given consideration to the amount the City charges a developer who participates in the program. The amount was deliberately set at a lower rate to encourage participation in locations where the City did not feel a

sidewalk would be appropriate. They also wanted to make the cost equitable for homeowners who are redeveloping their properties since much of the development in Shoreline is homeowner driven.

Mr. Forry suggested it would be beneficial for the City Engineer to provide the Commission with the same presentation she provided to the City Council regarding the sidewalk program and the City's current strategies. He felt this might help the Commission get a clear understanding of how they want to proceed on the issue of sidewalks.

Commissioner Broili said he is nervous about the whole Fee-In-Lieu-Of Program being left intact because it could encourage developers to construct sidewalks in inappropriate locations in order to avoid having to participate in the program. He would rather the City require a developer to contribute a set amount into a sidewalk and street improvement fund. This fund would eventually be large enough for the City to implement a meaningful project.

Commissioner Phisuthikul said he would like residential development on corner lots to be restricted from participating in the program. Development of corner lots should require sidewalks in order to make the street corners safer.

Chair Harris said he has constructed a number of street improvements. He recalled that when King County had control of Shoreline, it was common to widen the shoulder of a road by eight feet to provide pedestrian space. But in the urban areas, the City of Shoreline later adopted a policy of requiring curb, gutter and sidewalk for all residential development and redevelopment. He expressed his belief that if the property owners who live on residential streets that do not currently have sidewalks had a clear understanding of the City's current policy, they would be opposed to it.

Chair Harris pointed out that a developer would be able to construct a sidewalk at a much lower cost than the City currently charges for their Fee-In-Lieu-Of Program. He said the critical factor associated with the cost is for engineering work. He suggested the City could come up with a boilerplate engineering design for sidewalks, thus allowing them to eliminate the engineering portion of the fee. This would make the Fee-In-Lieu-Of Program more attractive to developers.

Commissioner Hall explained that implementation of Commissioner Broili's recommendation would involve the collection of impact fees, which is another option for collecting money for transportation improvements, etc. He suggested it would be appropriate for the Commission to consider other options, in addition to the Fee-In-Lieu-Of Program, that would allow the City to provide an efficient and connected pedestrian network in less than 50 years. In order to accomplish this goal, he suggested the Commission consider how the City could reduce the cost of providing an efficient pedestrian network. Secondly, the Commission should discuss options for funding the sidewalk program to a greater level. In addition to general public funding sources, other options would include impact fees, local improvement districts, and increased developer funding.

Commissioner Broili pointed out that there are numerous opportunities throughout the City to create pedestrian corridors that aren't necessarily along streets. These opportunities include interconnecting neighborhoods and further development of trails that have been created along designated streets that

have remained undeveloped. These could be developed into pedestrian corridors that link various streets, thus negating the necessity for sidewalks in some areas. He suggested the City should first conduct a study to identify where the pedestrian corridors are needed. Next, the City should consider a program similar to the City of Seattle's SEA Street Program, which resolves several problems at once. He pointed out that sidewalks result in additional impervious surface, and stormwater issues must be dealt with at the same time. He referred to a recent memorandum from the Public Works Department regarding the option of combining City funds to allow them to resolve stormwater issues in conjunction with street and sidewalk development. He pointed out that the City of Seattle found that their new program significantly lowered the cost of their street improvements. At the same time, they have been able to create traffic calming and better landscapes, as well as give property back to property owners adjacent to the streets, etc. Commissioner Broili summarized that the Commission must come up with a strategy that looks at the needs of the whole City. Second, they must identify the best available technologies that provide the best value, are comprehensive and holistic in their approach.

Commissioner Kuboi pointed out that various City departments are currently considering elements of the sidewalk issue. He cautioned that the Planning Commission does not really have the authority to come up with ideas that would be binding on the other City entities. He asked staff to explain the Planning Commission's role in the process. Once again, Mr. Forry recommended that a presentation by the City Engineer might provide some clarity on the City's master plan for sidewalks, aside from the Fee-In-Lieu-Of Program.

Commissioner Hall referred to the map that was provided by staff to identify the City's current sidewalk plan and pointed out that the Community has expressed that they are unsatisfied with the City's current efforts to construct a pedestrian network. The Commission has an opportunity to ask staff to look into certain alternatives, since they do have the ability to introduce code amendments that would change the City's current policy for pedestrian walkways.

Chair Harris cautioned that it would be absurd for the Commission to think that developers should construct all of the sidewalks in the City. The sidewalks have been needed for many years, and the City must develop a logical plan that could be funded through bonds, etc.

Commissioner McClelland said that in her experience as a professional planner, there have never been enough sidewalks. She suggested the public be invited to play a role in the City's discussion about sidewalks. She further suggested the City conduct a needs assessment that allows the public to express their desires and expectations regarding pedestrian access.

Commissioner Broili agreed with Commissioner Kuboi that they need further guidance from the staff on how to bring all of the City entities together to work on the issue in a holistic and realistic fashion. Secondly, Commissioner Broili agreed with Chair Harris that the City shouldn't wait for developers to pay for all of the City's sidewalks. Because the City is basically built out, it could take more than 50 years before the City obtains a satisfactory pedestrian network that satisfies the needs of the community. Third, he pointed out that the Commission already has a mandate as a result of the survey conducted by the bond advisory committee. One of the highest priorities identified by the community was the need

for more walking trails, bicycle paths, and better community links. He suggested that it is time for the Commission to seek direction from the staff on how to move forward.

Commissioner Hall added that throughout the Commission's recent Comprehensive Plan hearings, they received numerous comments from the public urging them to provide more pedestrian connectivity in the City. Based on the Commission's discussion, he suggested they direct staff to create some alternatives that could improve the City's pedestrian network. Staff could consider options of altering the streetscape from one standard to a variety of different types of pedestrian connections. Staff could also consider possible funding options.

Chair Harris pointed out that the final decision would be made by the City Council and would likely come down to funding. Therefore, it is important for the City Council to understand the Commission's desire to come up with a better plan. Commissioner Broili agreed and suggested that they request the City Council to provide staff funding to support the Commission's efforts to bring a recommendation to the City Council. Chair Harris agreed that in order for them to move forward, the City Council must make a commitment to provide financial support to implement a sidewalk program.

Ms. Markle advised that the bond advisory report is scheduled to come out next week, and staff could provide a report on what the bond advisory committee identifies for sidewalks. In addition, the City Engineer's report could identify the types of alternatives that are available for street improvements other than curb, gutter and sidewalk. She agreed that talking with the City Engineer would be the next step for the Commission to find out the process for changing the sidewalk standards. In addition, she pointed out that the Public Works Department is working towards some possible development code amendments related to sidewalks that would come before the Commission for review.

Commissioner Phisuthikul agreed it would be appropriate to schedule a meeting with the City Engineer to discuss the City's goals and objectives for sidewalks. They could brainstorm possible ideas with her, and then discuss how they could move the issue forward. It is important that the Commission have a clear understanding of what the problems are now and what strategies could be used to address the problems.

The Commission agreed that the City's current policy has resulted in piecemeal sidewalk construction, which is not appropriate. It was pointed out that, often, the piecemeal sidewalks have to be torn out when a more comprehensive sidewalk project is done because they do not match the new specifications.

Commissioner Broili suggested that, at some point in the future, the Commission should consider the option of forming a subcommittee in order to put more time and energy, aside from the regular meetings, into the subject of sidewalks. He said he would be eager to participate on the subcommittee.

Commissioner McClelland said she would like the Commission to solicit input from children and disabled persons in a focus group setting. These groups could provide unique perspectives for the Commission to consider.

9. PUBLIC COMMENT

Barbara Buxton, Ashworth Avenue North, said she lives next door to the Ashworth Cottages, which provides a “sidewalk to nowhere” that doesn’t join with any other pedestrian access. As a result of the new sidewalk, she has experience drainage problems in her driveway. She said she assumes the City will remedy her problem in some fashion, but they must keep issues related to stormwater runoff in mind. She distributed pictures to illustrate the problem on her property, which was identified as Exhibit 1. Mr. Cohen asked that the photographs be given to staff so they could determine the best way to resolve the problem.

10. UNFINISHED BUSINESS

a. Confirm Cottage Housing Findings and Determination

Mr. Cohen recalled that at the September 15th meeting, the Planning Commission reviewed the proposed code amendments to the Cottage Housing Ordinance. They also reviewed a proposed process for design review. In addition, they discussed the City Council’s plans for a community forum on Cottage Housing. The City Council is still trying to put together a meeting of representatives from the Planning Commission and the City Council to discuss a date and process for the community forum. No date has been scheduled for the forum.

Mr. Cohen advised that on September 15th, the Commission made several changes to the proposed code amendments and then agreed to make recommendations to the City Council regarding Cottage Housing. He specifically noted that the Commission accepted Commissioner Sands’ proposed change to the first bulleted item in Section A (Page 55 of the Staff Report) to read, “Place the burden on the developer for the highest quality development rather than the minimum standards and for the City to deny proposals that do not meet this intent.” Also, he recalled that the motion to use a design review process for Cottage Housing applications failed.

Mr. Cohen pointed out that all of the changes the Commission made to the proposed amendments are identified in the staff report using an underline/strikeout format. He asked the Commission to review the Findings and Determination document to make sure it addresses all of the Commission’s concerns. He said his understanding is that, once accepted by the Commission, the document would be forwarded to the City Council as a recommendation. The proposed amendment would be the basis for future discussion at the Cottage Housing public forum.

Commissioner McClelland referred to Item C on Page 60 of the Staff Report. She questioned if the Commission had all the information they needed to make a statement that the recommended code amendments would “not reduce or slow the growth of surrounding, assessed property values.” She suggested that this phrase be removed from the Findings and Determination document. Mr. Cohen reminded the Commission that the Findings and Determination Document is in draft form. He pointed out that Items A, B and C identify criteria that must be met before a code amendment could be approved.

Commissioner Kuboi said he spoke with staff about the procedural mechanism for revising the Commission's recent action regarding the Cottage Housing Ordinance. He specifically noted the vote from the June 2nd meeting in which the Commission agreed to take of the table any discussion regarding the elimination of the entire Cottage Housing Ordinance. Mr. Cohen said he spoke with the City Attorney regarding whether or not Roberts Rules of Order provide some mechanism for the Commission to reconsider a previous motion that was voted on. The City Attorney has advised that special committees such as the Planning Commission can reconsider a previously voted decision, and there is no time limit for when this reconsideration could occur. In addition, a motion to reconsider a previous vote must be made by someone from the prevailing side of the vote, someone who did not vote, or someone who was absent from the vote. Lastly, he pointed out that adoption of the motion to reconsider requires a two-thirds vote of the Commission. Mr. Cohen summarized that if a two-thirds of the Commissioners were to support a motion for reconsideration, the Commission would not be able to immediately reconsider a new motion. Any new action would have to be postponed to a later date in order to prevent a temporary majority from taking advantage of unrepresentative attendance at the meeting by voting on an action that is opposed by a majority of the membership.

Commissioner Kuboi said that if the Commission wants to reconsider the vote taken on June 2nd, they would also have to reconsider the vote that was taken on September 15th regarding the proposed code amendments to the Cottage Housing Ordinance. Voting to reconsider either of these two motions would put a stay on any progress until the Commission could meet again to discuss and take action on the reconsideration. Mr. Cohen said that, with a two-thirds vote of the Commission, they also have the option of making a point of order to temporarily suspend the reconsideration rules in this one case.

Commissioner Hall said he would not support a Commission decision to suspend the rules for reconsideration. He also felt it would be disingenuous for the Commission to vote to suspend the rules without allowing the participation of all of the Commissioners who were involved in the previous two decisions. The Commission continued to discuss their options for proceeding with a possible motion to reconsider previous motions.

COMMISSIONER KUBOI MOVED THAT THE COMMISSION RECONSIDER THE FAILING VOTE TAKEN ON JUNE 2, 2005 TO A MOTION THAT THE COMMISSION MAKE A RECOMMENDATION TO THE CITY COUNCIL THAT THE ENTIRE COTTAGE HOUSING ORDINANCE BE ELIMINATED. COMMISSIONER MCCLELLAND SECONDED THE MOTION. *(It was pointed out that Commissioner Kuboi was eligible to make the motion to reconsider, since he voted on the prevailing side of the motion.)*

Commissioner Kuboi recalled that there was considerable amount of public comment and Commission debate about whether the Cottage Housing Ordinance was a fundamentally flawed idea or an acceptable idea but flawed in its execution. He said his opinion lies somewhere in the middle, but probably closer to the perspective that there are flaws in its execution. He said he also feels strongly that Cottage Housing must be approached within the context of a more holistic housing strategy. He said he doesn't understand why Cottage Housing should receive special treatment as far as density bonuses. There are other forms of housing that could achieve many, if not all, of the objectives that are fulfilled by the intent of Cottage Housing. However, none of these other mechanisms are being encouraged through

development incentives such as density bonuses, etc. Rather than try to fix something that is not working well, he would rather take the ordinance off the books and approach it again from a more holistic perspective as part of a larger infill housing strategy. Commissioner Kuboi summarized that, while he is not necessarily against the concept of Cottage Housing, he has reservations about the execution of the current ordinance.

Commissioner Hall recalled that he was not present at the June 2nd meeting and was not happy about the Commission's vote to strike the option of eliminating the Cottage Housing Ordinance at the first meeting following the public hearing. He did not know that he could have made a motion to reconsider that action. Now he is torn about the motion to reconsider because they have already spent so long on the issue and, ultimately, the City Council will have a very difficult decision to make no matter what the Commission recommends.

Commissioner Broili said he supports the concept of Cottage Housing and feels there is a place for it in the community. He said he is not convinced there is a groundswell of opposition to the concept, but a vocal minority that has driven the issue. However, he expressed his belief that the City has more important issues to consider, and the Cottage Housing Ordinance has already taken up a significant amount of the Commission's time.

Commissioner Phisuthikul said he believes Cottage Housing could help fulfill a need in the City. He reminded the Commission that their recommendation is a work in progress. He said the Commission has spent a lot of time discussing the issue. They have made some progress and they should keep the issue moving forward to come up with a new ordinance that would address the concerns. He said he would vote against the motion to reconsider.

Commissioner McClelland recalled that at the September 15th meeting, the Commission agreed to get a recommendation to the City Council for consideration. However, she is concerned about the lack of preparation that has taken place for the public forum on Cottage Housing. She said she wished the Commission had had the opportunity at their September 15th meeting to just quit their work on the Cottage Housing Ordinance and vote against the concept. She pointed out that the Commission has never felt satisfied that the proposed changes adequately respond to the concerns expressed by the community. She said she would vote to support the motion to reconsider.

Chair Harris said he would also vote in support of the motion to reconsider. If approved, the Commission could discuss the issue again at their next meeting and decide how they want to move forward.

THE MOTION WAS APPROVED 5-1, WITH COMMISSIONER PHISUTHIKUL VOTING IN OPPOSITION AND CHAIR HARRIS AND COMMISSIONERS KUBOI, BROILI, MCCLELLAND AND HALL VOTING IN FAVOR.

The Commission discussed how they would proceed with their discussion at the next meeting. Commissioner Broili summarized that approval of the motion to reconsider the Commission's June 2nd decision would place the option of eliminating the entire Cottage Housing Ordinance back on the table.

Since the Commission already approved a motion to recommend approval of the proposed amendments to the City Council, they must take this action off the table, as well. Commissioner Hall suggested that the only two options the Commission should consider at their next meeting is to either repeal the Cottage Housing Ordinance or recommend approval of the proposed amendments. He expressed his opposition to the Commission reviewing each of the proposed amendments again.

Commissioner Kuboi said that if the Commission does not vote to reconsider the motion they approved on September 15th and they decide to repeal the Cottage Housing Ordinance at their next meeting, they could end up with two motions that have carried that are fundamentally inconsistent with each other.

COMMISSIONER KUBOI MOVED THAT THE COMMISSION RECONSIDER THE 7-1 VOTE TAKEN ON SEPTEMBER 15, 2005 ON A MOTION TO MOVE FORWARD WITH STAFF'S PROPOSED AMENDMENTS TO THE COTTAGE HOUSING ORDINANCE AS AMENDED. COMMISSIONER MCCLELLAND SECONDED THE MOTION. *(It was pointed out that Commissioner Kuboi was eligible to make the motion to reconsider, since he voted on the prevailing side of the motion.)*

Mr. Cohen pointed out that the Commission's first motion to reconsider the June 2nd action refers to the existing Cottage Housing Ordinance. In the meantime, the Commission has been working on amendments that are quite a bit different than the existing ordinance. While he understands the Commission's intent, it could appear as though the Commission is eliminating the old but approving the new. Therefore, he recommended the Commission reconsider both the June 2nd and September 15th actions.

Commissioner Phisuthikul asked if it is the majority of the Commission's intent to repeal the Cottage Housing Ordinance and not work on it any more. Chair Harris said that is the direction the Commission appears to be headed.

Commissioner Hall said he recognizes the value of reconsidering the motion of September 15th, but he fears that if they repeal this decision without repealing the Cottage Housing Ordinance as a whole, the Commission could end up going through all of the amendments again. He said he does not feel there would be any value to the Commission or the community in doing this. Chair Harris said that if the Commission decides not to repeal the Cottage Housing Ordinance, they could reconsider the motion to recommend approval of the proposed amendments without having a lengthy discussion of each one again. Mr. Cohen pointed out that if the Commission does decide to repeal the Cottage Housing Ordinance, they must still deal with their motion to recommend approval of the amendments. He emphasized that the two motions are mutually exclusive; one is related to the existing ordinance and the other is related to the proposed amendments. He suggested that the Commission first make a decision on the option of repealing the ordinance. In order to be cautious, he recommended the Commission reconsider both actions at their next meeting. The majority of the Commission agreed that they didn't want to revisit each of the proposed amendments one by one at a future meeting.

Ms. Markle suggested the Commission vote to reconsider the September 15th motion, pending legal counsel from the City Attorney. If the City Attorney confirms that both motions must be reconsidered, they would be able to do so at the next meeting.

COMMISSIONER KUBOI MOVED THAT THE MOTION BE AMENDED TO ADD THE PHRASE “IF LEGAL COUNSEL FROM THE CITY ATTORNEY INDICATES IT IS NECESSARY.” COMMISSIONER MCCLELLAND AGREED TO THE PROPOSED AMENDMENT.

THE MOTION FAILED 3-3, WITH COMMISSIONERS PHISUTHIKUL, BROILI AND HALL VOTING IN OPPOSITION, AND CHAIR HARRIS AND COMMISSIONERS MCCLELLAND AND KUBOI VOTING IN FAVOR.

11. NEW BUSINESS

Commissioner Hall thanked the staff for placing the sidewalk issue on the Commission’s agenda. He said he appreciated the opportunity to discuss ideas for improving the community.

12. AGENDA FOR NEXT MEETING

Ms. Markle said staff would soon provide the Commissioners with a notebook containing information regarding the Annual Development Code Amendments, which are scheduled for discussion on October 20th. In addition, she noted that the Commission would also reconsider the motion to repeal the Cottage Housing Ordinance on October 20th.

13. ADJOURNMENT

The meeting was adjourned at 9:17 p.m.

David Harris
Chair, Planning Commission

Jessica Simulcik Smith
Clerk, Planning Commission