

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF REGULAR MEETING

August 4, 2005
7:00 P.M.

Shoreline Conference Center
Board Room

PRESENT

Chair Harris
Vice Chair Piro (arrived at 7:10 p.m.)
Commissioner McClelland
Commissioner Kuboi
Commissioner Phisuthikul
Commissioner Hall
Commissioner Broili
Commissioner MacCully

STAFF PRESENT

Tim Stewart, Director, Planning & Development Services
Andrea Spencer, Senior Planner, Planning & Development Services
Matt Torpey, Planner II, Planning & Development Services
Jessica Simulcik, Planning Commission Clerk

ABSENT

Commissioner Sands

1. CALL TO ORDER

The regular meeting was called to order at 7:04 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, MacCully, McClelland, Phisuthikul and Broili. Vice Chair Piro arrived at 7:10 p.m. and Commissioner Sands was excused.

3. APPROVAL OF AGENDA

The Commission discussed the importance of allowing time for everyone in the audience to address the Commission if they so desire. However, they agreed to delete Item 9 since all public comment could be accommodated as part of Item 6.

COMMISSIONER BROILI MOVED THAT THE AGENDA BE APPROVED AS AMENDED. COMMISSIONER MACCULLY SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.

4. DIRECTOR'S REPORT

Mr. Stewart referred the Commission to a copy of the memorandum he sent to the City Council regarding the Growth Management Act Growth Targets. He explained that the City Council recently discussed this issue, and a number of the Council Member candidates have also asked him for more information. He briefly walked the Commission through the numbers so that they have a clear understanding of where the City stands as far as growth targets, capacities, etc.

Mr. Stewart explained that the Growth Management Act requires the City of Shoreline to help accommodate the growth that is projected to occur in King County. The County has been given a population target, and through an elaborate process by the Growth Management Planning Council, the population was allocated amongst the cities and unincorporated areas. He reviewed that King County is expected to accommodate 151,000 new housing units between 2001 and 2022 and Shoreline's share is 2,651 new units. He noted that the target number was accepted by the Shoreline City Council in July of 2003.

Next, Mr. Stewart explained that the City is required to determine what their zoning capacity is under the current regulations. The Buildable Lands Report the City produced in 2002 stated that the City's capacity was 2,307. He said it is important for the Commission to understand that this report was completed immediately after the City adopted their Development Code and with limited empirical data. He said the bottom line is that the City has a gap of about 200 units between the target and buildable lands available. However, he said he does not have a significant concern about this gap for the following reasons:

- The City assumed that about 350 of the new units would be cottage housing. If the City were to limit or eliminate the opportunity for cottage housing, this number would be cut in half since the land could be developed as regular single family lots.
- The North City Sub Area has a capacity of 955 units, but this assumes the build out of North City and illustrates what the density could be if they really intensify and build urban neighborhoods. There is this same development potential in a number of other areas throughout the City. There are three special study areas identified.
- No additional capacity was assumed for areas of the City which have private covenants that prohibit any density increases. However, a court challenge could overturn the covenants, and additional capacity could be obtained in those areas, as well.
- There was no assumption that new units would be built in commercial zones, even though the development regulations would allow this to occur. It is assumed that over the 20-year period, the City would be able to easily produce more than 500 additional units in the commercial zones, which would easily cover the gap between the target and the City's buildable lands.
- There are currently three sub areas in the City (Paramount, Briarcrest and Ballinger), which have the potential of upzoning if the City goes through a planning process with the neighborhoods. No additional capacity was assumed for these neighborhoods.
- There are areas such as Fircrest, which also have the potential for additional housing units, but nothing has been assumed at this point.

- They did not assume any increase in capacity for affordable housing, even though the development code allows for a 50-percent bonus increase.

Commissioner Kuboi asked if studio apartments and other types of small apartments would be considered as one unit in meeting the growth targets. Mr. Stewart answered that any unit, regardless of size, would count as one unit.

Commissioner McClelland asked if the City knows for sure that Innis Arden and The Highlands developments have been built out. She said she has heard talk that there is vacant land in The Highlands. Mr. Stewart said that when restrictive covenants are placed on land, they are considered privately restricted development rights. The City has zoning that establishes buildable limits that are zoned and publicly controlled under police power. He emphasized that the City does not enforce private covenants since they are considered private matters between the property owners. However, the City does enforce zoning. For example, if a one-acre parcel had a private covenant that said it could not be further subdivided, but the zoning code allows four units, the City would approve a plat with four units. But the plat could be challenged in court because of the private nature of the agreement. When the City completed their projections in 2002, they were realistic and did not assume that any of the areas of the City that have private covenants would be further subdivided and developed.

With regard to housing being developed in commercial zones, Commissioner McClelland pointed out that now that the Central Shoreline Sub Area Plan has been adopted, additional housing could be constructed somewhere along Aurora Avenue. In addition, it appears that new housing would be developed at Echo Lake. Both of these areas are commercial zones. Mr. Stewart agreed and pointed out that the Echo Lake property was zoned as R-48, so there was already some assumed capacity in this location. Mr. Stewart cautioned that when units are lost as a result of new construction they must be deducted from the target number.

Mr. Stewart referred the Commission to the memorandum from Paul Cohen regarding the Cottage Housing deliberations. He asked that the Commissioners review this document and forward their questions and concerns to Mr. Cohen as soon as possible.

5. APPROVAL OF MINUTES

THE JULY 7, 2005 MINUTES WERE APPROVED AS DRAFTED. THE JULY 21, 2005 MINUTES WERE APPROVED AS AMENDED.

6. GENERAL PUBLIC COMMENT

Mike Jacobs, President of Innis Arden Club, spoke regarding the proposed changes to the tree conservation regulations. He recalled that Innis Arden has 52 acres of tree reserves. He reported that the club recently engaged in a survey of each significant tree, with the exception Boeing Reserve. A number of the significant trees have been identified as hazardous by the arborist they hired, and there have been situations in the past where trees have failed. He pointed out one particular situation that occurred in April of 2004 when a tree in the Bear Reserve snapped during a windstorm at 3:30 p.m. and

landed within 20 feet of a child who was walking home from Sunset Elementary School. This was a maple tree, and it ended up taking down the power line, as well. Mr. Jacobs explained that, unlike the City, if the Innis Arden Club is aware of hazardous trees but fails to take action to cure the defect and someone is injured, they would be held liable.

Mr. Jacobs asked that the Commission consider amending Section 20.20.024.H since the definition does not include any language related to trees that pose a danger to individuals. He explained that residents of Innis Arden walk through the trails daily. If they cannot manage the reserves to eliminate hazardous trees along the trails, they risk jeopardizing the safety of the residents.

Next, Mr. Jacobs referred to Section 20.80.030.J and said the Innis Arden Board is firmly behind the Stewardship Plan as recommended by staff. He urged the Commission to recommend its approval. He explained that the Stewardship Plan would enable the Innis Arden Club to work with City staff to formulate a plan to manage the reserves. The plan would be based on ISA standards, best available science, etc. He summarized that enactment of the Stewardship Plan is critical to their community.

Lastly, Mr. Jacobs provided a copy of other changes he would like the Commission to consider (see Exhibit 2). One change in particular was related to Section 20.50.320.D, which talks about removal of significant trees. He pointed out that while this section states that only six significant trees could be removed within a 3-year period, it does not specify a tract size. He said they would like to have this reduced to a 10,000 square foot tract. He noted that some of their reserves in non-critical areas are several acres in dimension. They also want to create views for members, and it is important that they be allowed to do so.

Dan Lyons, said he has lived in Shoreline for about 50 years and in Innis Arden for 35 years. He said he has great concern about the proposed changes and their impact to the Innis Arden reserves, which qualify as critical areas. While he recognizes that some changes must be made, it is important to make sure safeguards are put in place before authorization is given for widespread cutting of trees in the reserves. He said that, in the recent past, there have been objections expressed by some of the Board members that the City had no right to enter the reserves because they were private property. He said he believes this is ridiculous since the City has the responsibility of enforcing the rules. Mr. Lyons said he feels strongly about the provision that would allow six significant trees to be cut without any logical reason. He said this provision has been abused in the recent past, and trees have been cut only for view enhancement and no other purpose. He said they are counting on the City to create and enforce fair rules.

Al Wagar, said he recently retired as a Research Professor at the University of Washington College of Forest Resources, where he taught courses in urban forestry and wildland recreation, both of which emphasize the social as well as biological dimensions of forest management. In addition, he advised that he is a life member of the International Society of Arboriculture.

Mr. Wagar said he also participates on the Innis Arden Board of Directors where, in 1996, he worked with a fellow board member to develop a vegetation management plan for the ravines in Innis Arden. They sought a middle ground between those who felt any tree over six inches in diameter was sacred

and those who felt any tree that blocks a portion of a view was an abomination. He expressed his belief that there is middle ground that would allow them to maintain the ravines as attractive, wooded areas that provide soil stability and wildlife habitat, while still allowing views over or through them.

Mr. Wagar urged the Commission to adopt the proposed changes to Section 20.80.030.J (Item 13 on the Matrix), which is a provision for Critical Areas Stewardship Plans. Doing so would provide reasonable flexibility in the management of critical areas while maintaining oversight by the City of Shoreline. However, because the term “no net loss of functions and values” would be impossible to quantify, he suggested that Item 1 be changed to read, “The Plan will maintain essential functions and values of each critical area.” Mr. Wagar explained that the reserves are dynamic systems that are in constant flux and have multiple functions and values, some of which are in conflict with each other, raising the issue of “net loss for which function.” For example, he pointed out that most niches for wildlife would be maintained by having vegetation of many different heights, creating a multi-layered canopy. But a multi-layered canopy is the most dangerous in terms of fire. Mr. Wagar pointed out that vegetation in many of the ravines is dominated by early-successional hardwoods (alder and big-leaf maple) that are beginning to deteriorate. But if these areas were allowed or encouraged to revert to nearly pure stands of conifers, they would go through a long stage of canopy closure during which their value for wildlife would be greatly diminished.

Regarding soil stability and hydrologic values, Mr. Wagar said the roots of nearly any kind of wood vegetation would hold the soil together, and the hydrologic regimes and erosion problems of the ravines result almost entirely from conditions in watersheds that lie outside of Innis Arden. He said massive planting of trees in these watershed areas could greatly improve the conditions in the ravines. But greatly increasing tree canopies in the last half mile to the Sound would not have any impact.

Finally, Mr. Wagar referred to the proposed changes for Section 20.50.310 (Item 16 on the Matrix), where International Society of Arboriculture methods are mentioned. He urged the Commission to use the words “tree risk assessment” in place of “hazard tree analysis.” He explained that some leading arborists prefer this terminology because it does not designate every tree analyzed as a “hazard tree” with the legal implications of being “on notice” that the tree must be taken down or there would be liability problems.

John Lombard, Executive Committee, Thornton Creek Alliance, Seattle, thanked the Commission for their thoughtful consideration of the issues the Alliance raised a number of months ago. He said the Alliance supports just about all of the actions the Commission took on the proposed amendments at their July 21st meeting, but he also has some concerns. Mr. Lombard said the Alliance appreciates the Commission’s decision to designate Puget Sound as a fish and wildlife habitat conservation area. However, he said it is not clear to him, from the materials he received, whether there would be any sort of buffer requirement attached. Secondly, Mr. Lombard said that if there were a delay in seriously considering the Department of Ecology’s recommendations for wetland ratings and buffers, the Alliance would like to know what the schedule for this would be. He commented that, without dealing with this recommendation, the City would not be following best available science. Therefore, they would be open to appeals to the Growth Management Hearings Board.

Lastly, Mr. Lombard referred to the tree cutting provisions for view preservation. He said the Alliance supports the recommendations made by Commissioner Hall for essentially all of the issues. He challenged the Commission to provide an example of where tree cutting according to the provisions of the proposed ordinance could, in fact, allow for no net loss of the functions and values of critical areas, since this is the standard the Growth Management Hearings Board is looking for. He cautioned that if the City tries to follow through with the proposed language, they could be very open to challenge.

Alan Kohn, said he has lived in his home for the past 33 years. He said that he is also a biologist affiliated with the University of Washington. While he doesn't claim the expertise in as relevant of an area as Mr. Wagar, he has some of the same concerns. He referred to Section 20.80.030.J (Item 13 on the Matrix), and said that while Commissioner Hall's proposed amendment would improve the language, it would still not be adequate. He recommended that this proposed section be deleted because it is contradictory. In addition, it appears to be logically impossible that trimming or cutting large trees would result in no net loss in functions and values of a critical area. The functions and values are not really explicitly stated in the proposed amendments, but it is clear that they refer to the environmental services of living organisms. Trees remove pollutants and carbon dioxide from the atmosphere. He pointed out that a 40-year old Douglas Fir would remove about 35 gallons of pure carbon dioxide from the atmosphere every day. In addition, there are other functions and values of trees listed in the best available science section, such as mitigation of runoff, etc.

Mr. Kohn pointed out that a Stewardship Plan would require a very large investment of time, effort and money on the City's part. However, there is no way that the plan would be able to offset the loss of functions and values that necessarily comes with any trimming and removal of trees. Lastly, Mr. Kohn expressed his belief that any provision in the Critical Areas Ordinance that would provide a way to eliminate the rules of the ordinance would be widely perceived as undermining and subverting the Critical Areas Ordinance.

Michael Rasch, agreed with the comments and recommended changes proposed by Mr. Jacobs, and he asked that the Commission seriously consider adopting them. He recalled that the City proposed the amendment to Section 20.80.030.J (Item 13 of the Matrix) because there had been a lot of friction between Innis Arden residents and the City. The Innis Arden community was established based on views, and over the years before the Critical Areas Ordinance was adopted, people were cutting or coppicing trees in the reserves to maintain their views. Coppicing trees leaves the root ball in place to preserve and prevent erosion. Recently, he said the City allowed more coppicing of trees to occur in one of the reserves. It is clear that the trees are not dead and they are shooting out sprouts. He said that when the Critical Areas Ordinance came into effect, all of the trees that were coppiced shot out sprouts and have now grown up and blocked views. He said it would not hurt to cut the trees back again to allow for views, even though some of the trees are located in critical areas. He expressed his belief that there is a solution for restoring and preserving views and maintaining the reserves so they don't erode and can continue to provide biodiversity. He said he believes the City's intent in proposing the Stewardship Plan as to allow the community to maintain its views and still protect the critical areas. No one wants the reserves to erode, but at the same time, they want to save their property values. There is a lot of money attached to having a view of the Sound. He asked that the Commission recommend

adoption of the Critical Areas Stewardship Plan provision without Commissioner Hall's proposed amendments.

Elaine Phelps, Vice President for Responsible Management of Innis Arden, said she has been appointed to represent the group on environmental matters. She said she is a resident of Innis Arden and served on the Board for four years, so she is familiar with the issues that have been presented by both sides. Ms. Phelps said she supports the efforts of Commissioner Hall to try and find a reasonable resolution to the Critical Areas Ordinance language proposed by staff in Section 20.80.030.J (Item 13 on the Matrix). She summarized that the proposed language is staff's solution to their perceived problem that vegetation management plans were not always upheld by the courts or by hearing examiners. She urged the Commission to pay careful attention to the legacy that will come from the decisions they make now. She said some of the people who spoke about preserving views never had a view to start with. They have created a view by removing trees, and this tempers her ability to give credence to the goal of allowing further cutting in the reserves.

Ms. Phelps stressed that the cumulative effect of cutting in the Innis Arden reserves is radically changing the environment, which is part of Shoreline and provides habitat for all kinds of wildlife. When Innis Arden was formed, one goal was to preserve the forested reserves. While Innis Arden does have some wonderful views, it is important to note that the lots located behind the reserves were less costly. So the people who are behind the reserves should understand that they are for all of Shoreline and not just for them to be able to cut to obtain better views. She agreed that hazardous trees that are located in areas that could have an impact on people should be removed, but when the hazardous trees are in the midst of a forest or grove, then perhaps their danger needs to be assessed more carefully.

Ms. Phelps said she worked with Mr. Wagar on the provisions for the vegetation management plan. While she was not totally satisfied with it, it was far better than no plan at all. Innis Arden doesn't have a plan now, so they cut trees regularly. She said it is important to think of the proposed Stewardship Plan language in the context of the entire City. If the City allows tree cutting in Innis Arden to protect views, they must allow it elsewhere in the City. She pointed out that the Critical Areas Ordinance has nothing to do with increasing the tax base or people's property values. Instead, it has to do with preserving and, if possible, improving critical areas. The Commission should carefully consider how the proposed Stewardship Plan would represent the goals of the Critical Areas Ordinance. Lastly, she thanked Commissioner Hall for his insightful approach to the language in this section. She urged the Commission to consider his recommended changes.

Maggie Taber, said she is a member of the Innis Arden Board and participates as the chair of the Reserves Committee. Ms. Taber strongly urged the Planning Commission to follow the staff's recommendation regarding the Critical Areas Stewardship Plan. The Innis Arden Board desperately needs something to work with. They had a vegetation management program, but it was recently voided by the City. The Innis Arden Board must be able to manage the reserves for both view and safety. She said she took some of the Commissioners on a tour of the reserves, but Commissioner Hall was obviously not impressed with what she was trying to show as some of the hazardous trees. At that time there were some trees down in the paths that had not been cut up yet, and others have fallen since. The Innis Arden Board is trying to manage the situation as best they can.

Ms. Taber urged the Commission to include language in the hazardous tree recommendations regarding recreational areas, trails, children, etc. She pointed out that children use the trails to get to the school and the pool and to play in the woods. She said she would hate to have something happen to a child as a result of a hazardous tree. She pointed out that when trees are removed, they try to replace them. However, this is being done on a small scale because she has personally been providing the plantings. She said that, according to the arborist, there is a lack of diversity in the reserves. But the diversity has actually improved since some of the hazardous trees were removed. In addition, there has been growth of shrubs and berry producing habitat.

Ms. Taber said she moved to Innis Arden in 1998 because of the covenants and because her house had some view. Now her view is basically gone. Because of a few trees cut on private property, she has recovered a view of one mountain peak. She said she would like to see the water again, and this could be done by pruning some trees that have previously been cut to the ground and sprouted back. The arborist said that trimming the tree back 30 percent would not harm it.

Ms. Taber pointed out that the average lot size in Innis Arden is ½ acre. Elsewhere, the City is allowing five or six trees on 4,000 square foot lots to be cut to accommodate cottage housing, and all the water is coming down into the reserve areas. She wished the City could do something to at least slow this water before it gets to Innis Arden.

7. REPORTS OF COMMITTEES AND COMMISSIONERS

There were no reports of committees or Commissioners.

8. STAFF REPORTS

There were no staff reports scheduled on the agenda.

9. UNFINISHED BUSINESS

Continued Critical Areas Ordinance Update Deliberations

Mr. Torpey briefly reviewed the layout of the new matrix. He explained that left hand column identifies staff's proposed language, which is unchanged from the January 2005 edition. The middle column identifies the Planning Commission's recommended changes, and the right hand column identifies the changes that have been voted on by the Commission to date (Items 1-12). He recommended the Commission start their deliberations with Item 13. He noted that three comment letters were included in the Commission's packet. An additional comment letter was provided to the Commission upon their arrival at the meeting.

Amendment 13 (Section 20.80.030.J – Exemptions)

VICE CHAIR PIRO MOVED THAT THE COMMISSION NOT AMEND SECTION 20.80.030 AS PROPOSED BY STAFF TO CREATE A NEW EXEMPTION FOR VIEW ENHANCEMENT WITH A STEWARDSHIP PLAN. COMMISSIONER HALL SECONDED THE MOTION.

Vice Chair Piro thanked the staff for their efforts to try and find some common ground on an issue that has very significant opposing views. However, he said he feels the proposed amendment is flawed on a number of counts, and he urged the rest of the Commissioners to join him in opposing it. He said he agrees with testimony provided by the public that the Growth Management Act makes it quite clear why critical areas are important and should be left as natural as possible. These are areas of environmental significance and it is important to preserve sensitive features, hazardous and steep slopes, soil stability, wildlife habitat, etc.

Vice Chair Piro said the proposed language could allow some undefined notion of view to undermine a key Growth Management Act prerequisite. The Commission should keep in mind that things are different in the community and in the State since the adoption of the Growth Management Act in 1990. It is very much a revolutionary piece of legislation and was not intended to maintain the status quo. In his view, he said he feels the Growth Management Act must trump view desires and things of that nature, and staff's proposed amendment would do just the opposite.

Vice Chair Piro said he is particularly concerned with how loose and undefined a lot of things are in the proposed language. For example, the term "view" is open ended. The Commission should keep in mind that the language would apply citywide and not just in covenant neighborhoods. Therefore, the term could mean anything depending on the location. Even if the Commission feels there should be some type of view exception provision in the ordinance, the proposed language is too ambiguous to be applied in any sort of meaningful way. He commended Commissioner Hall for thoughtfully reviewing the options regarding this issue, but at best, the language needs much more work before the Commission could support a concept of this type. He summarized his belief that the proposed language is a poor proposal and very much out of place to be part of the Critical Areas Ordinance.

Commissioner Broili said he would support Commissioner Hall's proposed amendment, not because he doesn't want to see view preservation in critical areas being addressed but because he would prefer to see a plan that addresses broader margins than just the individual reserves. He said it is his belief that forest or basin plans do not end at property lines. If the Commission wants to consider ways to manage these areas, they must look beyond just the area that is defined as the reserve. The function of a reserve does not end at the property line. The reserves must be reviewed as part of a much broader scope. He said he would support a better proposed approach to a management strategy that looks at the reserves in a more holistic perspective.

Commissioner Broili referred to a comment he made back in January with regard to the cutting of significant trees. He questioned how the City would even approach the issue of determining "net loss."

He cited that it is problematic that there would be a functional loss with each tree removed. The removal of six trees on most suburban lots would be considered significant. Even restored, there would be a net loss between the time of restoration and the functional maturity of the new planting. Even if the Commission were to recommend approval of a Stewardship Plan provision, he would be opposed to the cutting of six significant trees. It should only be done on the basis of a very structured, long-term, holistic strategy.

Commissioner McClelland said she is troubled by the complexity of the whole issue. However, it is important that the Commissioners remember that when the Growth Management Act was passed in 1990, it was not just about preserving, but was intended to balance, as well. Cities were asked to consider what rapid growth was doing to the State, not just to the natural environment, but the highways, etc. They were asked to consider how they could balance the need and desire for growth, which leads to the increase in property values and other benefits enjoyed by citizens of the region, with the need to reserve, conserve and respect the natural environment. She suggested that the Innis Arden Board work to write view preservation and environmental preservation guidelines for their reserves that is consistent with the State regulations that Shoreline is required to comply with. This would force them to really deal with the issue of balance on their own. It is possible that the private party and the public entity would then have documents that compliment each other.

Commissioner McClelland said it appears that people want to use the opportunity to remove a hazardous tree as a way to improve a view, and that is not what should be done. If a view is going to be created or preserved, it should be done in a legitimate way. There should be a provision to allow this without misusing or abusing a City regulation. She said she is leaning more towards the private property perspective than the intent of the Growth Management Act, just so they can get some balance and see if the community can work the issue out. She said she does not believe that tweaking a few policies would satisfy either side of the issue.

Chair Harris said he would vote against the motion because he supports the stewardship program that the staff and Innis Arden Club have worked to create. He said it is quite clear to him that the plan would result in no net loss in the functions and values of each critical area. The proponents of a Stewardship Plan would be required to call upon experts to create a plan, and these experts could judge whether or not a proposed plan is acceptable and follows the criteria outlined in the Critical Areas Ordinance. He summarized that he does not see the proposal as an open ended plan. It is quite explicit about what has to occur before a Stewardship Plan could be approved. He said he would support the staff's proposed language as a good compromise.

Vice Chair Piro commended Commissioner McClelland for the good points she brought forward. He agreed that it is a challenge to balance the goals of the Growth Management Act. However, the design of the law really puts protection of critical areas above the other goals. The way the law is designed, the first thing a community must do is identify the critical areas and put regulations in place to preserve them. Then they are supposed to engage in balancing the remaining goals.

Vice Chair Piro said he would be interested in seeing a proposal that goes beyond the one proposed by staff to address the significant issues. While a Stewardship Plan might still be the best approach, the

proposed language is too arbitrary and subjective. Again, he reminded the Commission that the language would be applied citywide and not just in the Innis Arden community.

Commissioner Hall pointed out that, throughout the hearings, the Innis Arden community has been deeply divided on this issue. However, no one from outside of Innis Arden testified in favor of the Critical Areas Stewardship Plan. When the Commission considers regulations that impact the entire City, he urged them not to just focus on a heated topic that has divided one neighborhood. Instead, they should think about how the proposal would impact the City's ability to regulate all critical areas.

Commissioner Hall said it is important to remember why the City is regulating the critical areas. Many people think this is about just protecting the wildlife and natural environment. But when preparing his proposed language, he was more interested in slope stability, erosion control, water quality, hydrology, etc. He pointed out that steep slopes are regulated under the geologic hazards portion of the Critical Areas Ordinance. The purpose of regulating development on geologically hazardous sites is not primarily to protect the ecosystem. It is primarily because development on steep slopes causes landslides and has an impact on human life and health. As much as it troubles citizens to allow government to regulate private property rights, some of the regulations are in place for the public's own good. When trees are on steep slopes, the City has an obligation to regulate private property to protect the health and safety of people who live in the community.

Commissioner Hall said that while he would support the motion, he would like to revisit the issue in the near future. There has got to be a solution to the problems in Innis Arden. Again, he said the City has the responsibility to regulate activities on steep slopes, and if the Commission tries to split off tree clearing in certain areas from other areas of the city without a very careful look, they could end up in trouble. He said he would rather not include the staff's proposed Stewardship Plan. Instead, they should stick with the current code language for now and then try again in the future.

Vice Chair Piro pointed out that there are very clear and understandable exemptions in the Critical Areas Ordinance for situations such as hazards and emergencies that would take care of trees that could potentially present some harm to the public.

Commissioner Broili said he doesn't want the Commission to be forced into becoming the arbitrator in a community dispute. Whatever decision the Commission makes must be outside of that realm. He said he would vote against the motion if he were confident there was a basin-wide plan that had teeth. He expressed his concern that the issue has not been resolved under the present regime, yet a vegetation plan provision was in place for a number of years prior to the City rescinding it. While he doesn't support the staff's proposed language, he would support a plan that looks at the issue from a holistic point of view that provides discriminately for views. They must first define "view," which has not been done in the proposed language. He said he would support the motion, but with the hope that the Commission would work in the near future to come up with a better approach that addresses the community needs and concerns, and at the same time, protects the reserves and all of Innis Arden.

THE MOTION CARRIED 7-1, WITH CHAIR HARRIS VOTING IN OPPOSITION.

Commissioner Piro commended Commissioner Hall for his work in preparing an alternative proposal for the Commission's consideration. His proposal was extremely well thought out.

Amendment 14 (Section 20.80.030.P – Exemptions)

COMMISSIONER HALL MOVED THAT THE COMMISSION NOT RECOMMEND APPROVAL OF STAFF'S PROPOSED LANGUAGE FOR SECTION 20.80.030.P. VICE CHAIR PIRO SECONDED THE MOTION.

Commissioner Hall expressed his opinion that the language in Section 20.80.030.P was more narrowly written than Section 20.80.030.J. It at least has some built in control to allow for the removal of up to six trees. However, they have heard from citizens that this may or may not seem equitable given different lot sizes. People who have argued in favor of this proposed amendment have spoken about hazards, but he pointed that the ordinance already includes an exemption that allows hazardous trees to be removed. When he visited the reserves, he noticed that this exemption has perhaps been used too liberally to create views. Commissioner Hall reminded the Commission that the language in this section is related to trees in critical areas that are not considered to be hazardous. He said he would prefer not to add a loophole in the ordinance by accepting the staff's proposed amendment.

Vice Chair Piro said a major flaw with the proposed language is that it doesn't provide any definition regarding the size of a buffer, and it is too arbitrary.

THE MOTION CARRIED 7-1, WITH CHAIR HARRIS VOTING IN OPPOSITION.

Amendment 15 (Section 20.80.030.J)

This amendment was addressed as part of Amendment 13 above.

Amendment 16 (Section 20.50.310 – Exemptions From Permit)

Mr. Stewart pointed out that Item A.5 in Section 20.50.310 should be deleted as per the Commission's earlier decision to eliminate the sections in the ordinance related to a Critical Areas Stewardship Plan.

COMMISSIONER HALL MOVED THAT THE COMMISSION RECOMMEND APPROVAL OF THE STAFF'S PROPOSED AMENDMENTS TO SECTION 20.50.310.A, WITH THE EXCEPTION OF ITEM 5. VICE CHAIR PIRO SECONDED THE MOTION. THE MOTION CARRIED 7-1, WITH CHAIR HARRIS VOTING IN OPPOSITION.

Final Commission Action on Critical Areas Ordinance Update

Commissioner Hall emphasized that the regulations for critical areas exist for multiple purposes. He explained that the functions and values the City should protect in a fish and wildlife habitat area are different, in many cases, than the functions and values that should be protected in a wetland. He recalled that the Growth Management Act defines five types of critical areas, and three of them are

concerned solely with protecting human health, life and property (geologic hazard areas, frequently flooded areas, critical aquifer recharge areas). Wetlands provide both a natural ecosystem and a human safety benefit. The fish and wildlife habitat areas regulations are primarily concerned with ecosystem functions and values. He said it is very difficult to regulate development in a way that protects five different things in ten different ways.

Commissioner Hall said he believes Shoreline's existing Critical Areas Ordinance has served the City well and has not been fundamentally flawed. However, there are things that could be emphasized more such as low-impact development approaches, a basin-wide planning approach, etc., to give the ordinance a more holistic look. Before the City updates the ordinance again, this is definitely something the Commission should consider. He summarized, however, that the staff has worked hard to propose amendments to resolve a lot of issues that have come up. The goal of the ordinance is to regulate development under the police power of the City in order to protect values that citizens all hold in common. The amendments proposed by both the staff and Commission will improve the ordinance so it can continue to serve the City well in the future.

Commissioner Hall thanked the citizens who provided comments and suggestions regarding the Critical Areas Ordinance. There were scores of people who testified regarding the ordinance, and appropriate decorum and courtesy were maintained throughout the process. He said he values being part of a community that can have a quality debate of this type.

Chair Harris said that Commissioner Sands indicated to him that, if he were present, he would have voted against the main motion to approve the Critical Areas Ordinance Update as amended by the Commission because he felt it was too far reaching. Chair Harris said that while he supported all of the amendments accepted by the Commission up until tonight's actions, he would vote against the main motion because of the amendments that were just approved. He said he believes the Critical Area Stewardship Plan proposal was adequate and should have been approved as part of the ordinance. He noted that the Stewardship Plan would have required an applicant to prove that the functions and values would be protected through the plans and testimony of an expert. He expressed his belief that the proposal to provide for a Stewardship Plan would have been adequate as proposed by staff.

Commissioner McClelland clarified that the Commission agreed to eliminate the provision related to a Critical Areas Stewardship Plan, not because they didn't think a Stewardship Plan was a good idea, but because they did not think the one proposed would address all of the issues. The Commission reserved the right to reconsider a Stewardship Plan provision in the future.

Commissioner MacCully said that while the Commission would like to be able to preserve views, it is important to remember that views constantly change from the time a property is clear cut and developed. He reminded the Commission that the City's goal should be to improve the environment and not just keep pace. While it would be nice to be able to preserve views, there is also a higher value that must be considered for the City as a whole.

Chair Harris suggested there might be better ways to improve the environment than just maintaining the status quo. Commissioner Broili agreed. He clarified that the City is located within an urban

environment, and there will not be old growth forests in Shoreline. However, if they carefully plan, they can achieve a basin-wide management strategy that looks at how to work within a built environment to mimic the natural models in a way that allows the citizens to live the lives they have become accustomed to, but not at the detriment of the system that supports and sustains them. While they can preserve some of the views, this must be done carefully and discretely from a more holistic approach. This will take careful, thoughtful and slow strategies.

THE MAIN MOTION (PAGE 5 OF THE JULY 21, 2005 MINUTES) TO ADOPT THE CRITICAL AREAS ORDINANCE UPDATED AS AMENDED BY THE COMMISSION WAS APPROVED 7-1, WITH CHAIR HARRIS VOTING IN OPPOSITION.

10. NEW BUSINESS

Commissioner Hall offered his home for the Planning Commission and Planning Department staff to hold a going away event for Mr. Stewart. However, he cautioned that during the event, the Commission should not discuss any future business of the Planning Commission. The Commission agreed to hold a going away party for Mr. Stewart on August 18th at Commissioner Hall's home.

11. AGENDA FOR NEXT MEETING

Because the Commission completed their review of the Critical Areas Ordinance Update, the regular August 18th meeting was cancelled.

12. ADJOURNMENT

The meeting was adjourned at 8:47 p.m.

David Harris
Chair, Planning Commission

Jessica Simulcik Smith
Clerk, Planning Commission