

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION MINUTES OF REGULAR MEETING

August 3, 2017
7:00 P.M.

Shoreline City Hall
Council Chamber

Commissioners Present

Chair Craft
Vice Chair Montero
Commissioner Chang
Commissioner Malek
Commissioner Mork

Staff Present

Rachael Markle, Director, Planning and Community Development
Steve Szafran, Senior Planner, Planning and Community Development
Julie Ainsworth-Taylor, Assistant City Attorney
Carla Hoekzema, Planning Commission Clerk

Commissioners Absent

Commissioner Maul
Commissioner Thomas

CALL TO ORDER

Chair Craft called the regular meeting of the Shoreline Planning Commission to order at 7:00 p.m.

ROLL CALL

Upon roll call by Ms. Hoekzema the following Commissioners were present: Chair Craft, Vice Chair Montero, and Commissioners Chang, Malek and Mork. Commissioners Maul and Thomas were absent.

APPROVAL OF AGENDA

The agenda was accepted as presented.

GENERAL PUBLIC COMMENT

Mia Norden, Shoreline, said she lives in the Innis Arden Neighborhood and was present to discuss an ongoing issue. When she first looked into buying her home over 10 years ago, she was warned that Innis Arden is an area where people continually fight over view. Unfortunately, this un-neighborly reputation has only grown. The issue not only negatively impacts the home values in the neighborhood, but the City of Shoreline's tax base, as well. For example, because of complaints of view obstruction from her two neighbors, she has been ordered by the Innis Arden Board to bring the trees into compliance with neighborhood covenants. However, the property is considered to be in a critical area because of potential landslide risks, and the process of obtaining the required permit to cut the trees is understandably time

consuming. Her permit is presently being reviewed by the City, and she has informed her neighbors and the board of her wish to comply with the neighborhood's tree covenant, as well as City code. She understands that the City wants to protect homeowners from potential soil disturbance that could cause a landslide, and requiring a geotechnical report to confirm the stability of the soil, and if necessary a mitigation plan, is understandably crucial. Although she has filed for a permit, the attorney representing the Innis Arden Board continues to exert pressure on her and City employees for a quicker permit issuance. She believes that this pressure on City employees is completely out of line, and she respects the hardworking staff who have helped them through the permit process.

Ms. Norden provided copies of the attorney's letter to her and the City. She advised that the pushiness has been going on for years, and some residents have succumbed to the pressure by illegally removing trees. She asked the Commission to advise her of the right City person to contact to help restore civility to the process in her neighborhood. The pressure on residents of the neighborhood is unacceptable, and she would appreciate the Commission's help guiding her in representing the residents to make Innis Arden a better place to live and a better neighbor to the surrounding neighborhoods in Shoreline. None of the Innis Arden residents want more negative media coverage on the issue because it impacts their home values. She provided her contact information, and asked for information on how to proceed.

PUBLIC HEARING: WIRELESS TELECOMMUNICATION FACILITIES (WTF) DEVELOPMENT CODE AMENDMENT

Chair Craft reviewed the rules and procedures of the public hearing and then opened the hearing.

Staff Presentation

Assistant City Attorney Ainsworth-Taylor explained that the Federal Government has essentially preempted the regulation of WTFs by local governments via legislation adopted in 1996 limiting how cities could apply zoning for WTFs. Later legislation in 2012 (Spectrum Act) placed further limitations on cities' ability to regulate WTFs. The Federal Communications Commission (FCC) is charged with creating regulations to implement 6409 of the Spectrum Act, which say that the cities cannot deny and shall approve any Eligible Facilities Modifications (EFM) to an eligible support structure that does not substantially change the physical dimensions. Basically, EFMs are for any wireless tower (built solely and specifically for the purpose of wireless facilities) or base structure (any structure with an antenna facility on it). A "substantial change" is one that modifies the physical dimensions, and the starting facility is used as the baseline. If multiple EFMs are attached to a structure, the original base structure will set the standard. Once an EFM goes beyond the substantial change parameter, the City's regular process for WTF permitting will be utilized.

Assistant City Attorney Ainsworth-Taylor emphasized that the proposed amendments outlined in Proposed Ordinance 782 are only applicable to eligible existing support structures, and not those that are built in the future. The City can request certain information from an applicant, but it cannot require any document to illustrate that the facilities are needed.

Assistant City Attorney Ainsworth-Taylor said one big piece of the Spectrum Act and the FCC's implementing regulations is the "shot clock," which establishes a very tight timeline for the City to take

action on an application. The City is allowed 60 days from the time the application is filed. This is different than how the City treats other applications, where the timeline starts when a file is determined complete. However, the City can toll the clock within certain time parameters, but then it rolls on. If the City does not make a decision in 60 days, the application is automatically deemed approved.

Assistant City Attorney Ainsworth-Taylor advised that the proposed amendment to Shoreline Municipal Code (SMC) 20.40 will create a new section (SMC 20.40.605), expressly addressing all of the Eligible Facilities Modifications under the Spectrum Act and the FCC's implementing rules. It includes all of the FCC's definitions for EFMs and establishes an application process with the 60-day shot clock and tolling. It also denotes that applicants would still be subject to the City's building and safety regulations. If an application does not meet the EFM criteria, it would be processed under the City's WTF regulations. The amendment also includes a baseline modification provision to make it clear that the measurement would be based on the original structure.

Assistant City Attorney Ainsworth-Taylor said SMC 20.40.600, the City's current WTF regulations, would also be amended to denote that the provisions would not apply to EFMs. If there are any issues, appeals would go to Superior Court under a Land Use Policy Act (LUPA) provision.

Assistant City Attorney Ainsworth-Taylor explained that, following the public hearing and the Commission's deliberation, they will be asked to make a recommendation to the City Council. The City Council will hold a study session regarding the proposed amendments on September 11th, with final adoption slated for September 26th.

Commissioner Chang recognized that the proposed amendments are consistent with the Federal requirements, but she voiced concern that some of the language could be misinterpreted and permit something that is unintended. Assistant City Attorney Ainsworth-Taylor answered that the language follows the FCC regulations tightly, changing just a few things to conform more with the City's aspect and the FCCs implementing regulations that the City was allowed to adopt based on its own practices. All of the definitions are distinct to the EFM application rather than relying on regular development code definitions. The amendment also includes a separate provision for how to measure when EFMs are built on existing EFMs.

Chair Craft asked if the City has a map of the existing and eligible support structures within the City. Director Markle answered no. She advised that the information tends to be proprietary. Assistant City Attorney Ainsworth-Taylor added that the City knows where the monopoles are located, but how WTFs are aligned on private structures is more difficult to locate because they can be camouflaged and not visible. Chair Craft asked if WTFs are required to obtain a permit, and Director Markle answered affirmatively. The City has a record of the WTFs that have been permitted since its incorporation.

Chair Craft said it is anticipated that the next generation of WTFs will be much smaller and more spread out. Assistant City Attorney Ainsworth-Taylor advised that the newer technology would be permitted under separate small-cell regulations, which will come before the Commission at a later time.

Vice Chair Montero asked if the EFM process would require a permit from both the City and the Federal Government. Assistant City Attorney Ainsworth-Taylor answered that only one permit would be required

at the City level. The applicant would be required to submit licensing information to the Federal Government, but it would not involve the City.

Vice Chair Montero asked if an applicant must identify any potential health hazards when applying for a permit. Assistant City Attorney Ainsworth-Taylor clarified that, as long as the application meets the FCC regulations for radio frequency, the City can no longer request health studies.

Public Testimony

Nancy Morris, Shoreline, pointed out that the WTF amendment is intended to expedite 5G technology throughout communities without allowing any recourse to stop its deployment. She encouraged people to speak out against 5G deployment on the basis that it threatens the safety of not only humans, but wildlife and pollinators. No one has any idea of the impacts of 5G, as no long-term study has ever been done and there are no plans to have a study done. The FCC is using outdated, excessively-permissive microwave safety information that is over 30 years old and has been criticized by various agencies such as the Department of the Interior and the National Institutes of Health. The Department of the Interior accused the Federal Government of employing outdated radiation standards set by the FCC, a federal agency with no expertise in health. The standards are no longer applicable because they control only for overheating and do not protect organisms from the adverse effects of exposure to the low-intensity radiation produced by cell phones and cell towers. She noted that there is compelling research available now that warns of the continued increasing exposure to humans by microwave frequencies. Continuing to increase the microwave background exposure without thinking in terms of the “Precautionary Principle” puts everyone at risk.

Ms. Morris advised that the primary motivation for 5G by wireless companies is to ultimately connect “everything” to the internet, which can only be for the purposes of consumer control and company profits. The wireless industries usually tout imaginary and irrational benefits with no discussion of the risks to us as a society (babies, children, elderly, and those with chronic illnesses) that include cyber-security threats, hacking vulnerability and microwave exposures reaching a tipping point to harm the health of humans, wildlife and trees. The 5G deployment is relying on the 1996 Telecommunications Act to continue to deny state and local governments and municipalities the right to bar the installation of wireless technology on environmental/health grounds. This is perhaps the greatest offense to local rule of all time, according to physicist, Dr. Ronald M. Powell, a nationally recognized expert on impact of electromagnetic fields on human health.

Ms. Morris emphasized that the FCC has still not considered the tremendous potential of wired technologies, especially fiber optics) to provide higher data rates, greater cyber security, and greater safety for human health. These technologies should not be excluded due to any cost comparison with wireless technologies. She expressed her belief that the 1996 Wireless Telecommunications Act should be thrown out.

Sonia Hoglander, Representative for the Advocacy Group, Safe Utility Meters Alliance Northwest, which represents many citizens in Shoreline, as well as people around the Puget Sound area. She said she is an electrical engineer and a building biologist and is opposed to deployment of anymore microwave radiation technology. They are already over-exposed and collectively suffering the consequences. She

referred to an analysis titled, *“Wireless Communications Technologies: New Study Findings confirm Risks of Nonionizing Radiation”* by Peter Hensinger and Isabel Wilke. The analysis was published in March of 2016 and sums up the health impact as follows: *“Digital mobile devices emit nonionizing radiation. The risks of electromagnetic fields (EMF) to human health have been known from medical and military research since the 1950s. This article documents the latest study findings regarding the endpoints of genotoxicity, fertility, blood-brain barrier, cardiac functions, cognition and behavior. A verified mechanism of damage is oxidative cell stress. Users are only insufficiently informed about the risk of wireless communication technologies; prevention policies are not introduced. The uncertainties regarding the risk among the public are not due to unclear research findings, but to the industry’s controlling influence over politics and the media.”*

Ms. Hoglander advised that on May 19, 2017, the Division of Environmental and Occupational Disease Control and the California Department of Public Health finally released by court order the *Cell Phones and Health Fact Sheet*, which was written in 2009 and revised in 2014, but then suppressed. It states, *“Cell phones, like other electronic devices, emit a kind of energy called radiofrequency EMFs. Health officials are concerned about possible health effects from cell phone EMFs because some recent studies suggest that long-term cell phone use may increase the risk of brain cancer and other health problems.”*

In addition, Ms. Hoglander pointed out that a heated debate on California Senate Bill 649 to fast track “small cell” transmitters includes an exemption to fire houses based on health. This exemption request was based on a 2004 pilot study by Susan D. Foster of California firefighters who worked up to 90 hours per week in fire stations with cell towers in close proximity to the two stations where firefighters work, eat and sleep. The men were experiencing profound neurological symptoms following activation of the towers in 1999. The symptoms experienced by the firefighters, all of whom had passed rigorous physical and cognitive exams prior to being hired, included but were not limited to the following: headaches, extreme fatigue, sleep disruption, anesthesia-like sleep where the men woke up for 911 calls “as if they were drugged,” inability to sleep, depression, anxiety, unexplained anger, getting lost on 911 calls in town they grew up in, a 20-year medic forgetting basic CPR in the midst of resuscitating a coronary victim, immune suppression, manifest in frequent colds and flu-like symptoms.

Ms. Hoglander referred to a letter from the Law Offices of Harry V. Lehmann, PC, dated July 19, 2017, which warns the California Assembly Appropriations Committee of the risk of transferring liability of harm caused by radiation from the cell antennas from the Telecom to the State. He writes: *“It is a matter of well-established public record that the international re-insurance industry has long refused to insure any aspect of the telecom industry for injuries caused by cellular devices or installations. There is no net. The only avenue left to the cellular industry, other than just honestly facing up to the mess and helping solve it, is to shift the legal responsibility to the government.”* The re-insurance company Swiss Re, stated this in their emergency risk report in June of 2013, in Impact on Insurance Industry “casualty” category titled, *Unforeseen Consequences of Electromagnetic Fields*. It states, *“If a direct link between EFM and human health problems were established, it would open doors for new claims and could ultimately lead to large losses under product liability covers.”*

Ms. Hoglander submitted references for the information she presented.

Planning Commission Deliberation and Recommendation

VICE CHAIR MONTERO MOVED THAT THE COMMISSION FORWARD PROPOSED ORDINANCE 782 (AMENDMENTS TO THE WIRELESS TELECOMMUNICATION FACILITIES DEVELOPMENT CODE) TO THE CITY COUNCIL WITH A RECOMMENDATION OF APPROVAL. COMMISSIONER MORK SECONDED THE MOTION.

Chair Craft said it is unfortunate that the Commission has no opportunity or ability to change any of the proposed amendments, as they have been set forth by the FCC's regulations. However, based on the testimony provided, he felt there was a need for further investigation at some point in the future.

Commissioner Mork asked Assistant City Attorney Ainsworth-Taylor to explain the consequences if the City does not adopt the proposed amendments. Assistant City Attorney Ainsworth-Taylor said the amendments are intended to provide guidance to staff as they process permits for EFM's. If the amendments are not adopted, the FCC's regulations would be the superseding rules because Federal regulations pre-empt the City's regulations. Chair Craft summarized that the rules would apply regardless, and adding it to the City's code would provide clear direction to staff.

Commissioner Malek commented that the amendments are confined to a set of guidelines for staff that are consistent with those of the FCC so there is no deviation. Adopting the amendments does not mean that people cannot challenge the regulations in a court of law or some other venue. He voiced appreciation for the in-depth information that was provided during the public hearing.

THE MOTION CARRIED UNANIMOUSLY.

DIRECTOR'S REPORT

Director Markle did not have any items to report.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

There was no new business.

REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS

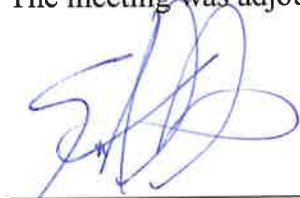
There were no reports from committees or Commissioners.

AGENDA FOR NEXT MEETING

Chair Craft reminded the Commissioners that the August 17 meeting was cancelled. Mr. Szafran advised that the next Commission meeting will be September 7, and the agenda will include a study session on the 2017 Development Code amendments and a discussion of the Fire Department's Capital Facilities Plan, which is part of the Comprehensive Plan Docket.

ADJOURNMENT

The meeting was adjourned at 7:30 p.m.



Easton Craft
Chair, Planning Commission



Carla Hoekzema
Clerk, Planning Commission