

AGENDA
CITY OF SHORELINE PLANNING COMMISSION
REGULAR MEETING



Thursday, August 6, 2009
 7:00 p.m.

Shoreline Conference Center
 Mt. Rainier Room
 18560 1st Avenue NE

	<u>Estimated Time</u>
1. CALL TO ORDER	7:00 p.m.
2. ROLL CALL	7:01 p.m.
3. APPROVAL OF AGENDA	7:02 p.m.
4. DIRECTOR’S COMMENTS	7:03 p.m.
5. APPROVAL OF MINUTES	7:08 p.m.
a. July 9, 2009	
6. GENERAL PUBLIC COMMENT	7:10 p.m.
<p><i>During the General Public Comment period, the Planning Commission will take public comment on any subject which is not of a quasi-judicial nature or specifically scheduled later on the agenda. Each member of the public may comment for up to two minutes. However, the General Public Comment period will generally be limited to twenty minutes. The Chair has discretion to limit or extend time limitations and the number of people permitted to speak. Speakers are asked to come to the front of the room to have their comments recorded and must clearly state their first and last name, and city of residence.</i></p>	
7. STAFF REPORTS	
a. Study Session: Change to Transportation Level of Service (LOS) Standards	7:25 p.m.
b. Study Session: Permanent Regulations for Regional Business (RB) Zone	8:00 p.m.
8. PUBLIC COMMENT	9:00 p.m.
9. DIRECTOR’S REPORT	9:05 p.m.
10. UNFINISHED BUSINESS	9:10 p.m.
11. NEW BUSINESS	9:15 p.m.
a. Review Planning Commission Bylaws for Public Comment Rules	
12. REPORTS OF COMMITTEES & COMMISSONERS/ANNOUNCEMENTS	9:30 p.m.
13. AGENDA FOR August 20	9:35 p.m.
14. ADJOURNMENT	9:40 p.m.

The Planning Commission meeting is wheelchair accessible. Any person requiring a disability accommodation should contact the City Clerk’s Office at 801-2230 in advance for more information. For TTY telephone service call 546-0457. For up-to-date information on future agendas call 801-2236.

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CITY OF SHORELINE

SHORELINE PLANNING COMMISSION SUMMARY MINUTES OF SPECIAL MEETING

July 9, 2009
7:00 P.M.

Shoreline Conference Center
Mt. Rainier Rooms

Commissioners Present

Chair Hall
Vice Chair Wagner
Commissioner Behrens
Commissioner Broili
Commissioner Kaje
Commissioner Kuboi
Commissioner Perkowski
Commissioner Piro
Commissioner Pyle

Staff Present

Steve Cohn, Senior Planner, Planning & Development Services
Paul Cohen, Senior Planner, Planning & Development Services
Brian Lee, Associate Planner, Planning & Development Services
Jessica Simulcik Smith, Planning Commission Clerk

CALL TO ORDER

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

ROLL CALL

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

APPROVAL OF AGENDA

Chair Hall explained that the Commission typically allows public comment at two points in their regular meetings on items that are not of a quasi-judicial nature or specifically scheduled for discussion later on the agenda. However, because the tree regulations are a legislative matter and the only item scheduled on the agenda, he suggested the public comment period be limited to just one opportunity at the beginning of the agenda. Members of the public would be given one opportunity to comment for up to three minutes.

DIRECTOR'S COMMENTS

Mr. Cohn referred the Commission to the updated agenda planner that was prepared by staff. He emphasized that items scheduled for September, October, and November are tentative at this time. For example, staff is still trying to set a date for the CRISTA public hearing, and the joint Planning Commission/City Council Meeting must be rescheduled. Staff anticipates the Commission will get to each of the items on the agenda generally within the timeframe identified.

Mr. Cohn announced that staff met with the City Council to discuss the set of Development Code Amendments the Commission reviewed in late February. They agreed with all of the Commission's recommendations, with the exception of the North City Parking Code amendment. Some of the City Councilmembers were leaning towards increasing the parking requirements somewhat. The City Council will take action on the proposed amendments on July 13th. Staff intends to provide two alternatives, one with the changes to the North City Parking Code and one without. Interested Commissioners can either attend the meeting or watch it on streaming video the next day.

Mr. Cohn said the City received a master plan application for the Public Health Lab. At some point near the end of 2009 or early 2010, the Commission would be reviewing this master plan proposal.

Chair Hall inquired when the CRISTA Master Plan would be presented to the Commission for review. Mr. Cohn estimated the plan would likely be available for Commission review in October, after the Point Wells issue has been resolved.

APPROVAL OF MINUTES

The minutes of June 18, 2009 were approved as amended.

GENERAL PUBLIC COMMENT

Chair Hall reviewed the rules and procedures for the public comment period. Once again, he clarified that because the tree regulations are legislative in nature and not scheduled as a public hearing, the Commission decided to modify the agenda and only allow one general public comment period for the public to speak on any issue.

Les Nelson, Shoreline, expressed concern that the public needs an opportunity to hear the staff report prior to the public comment period, which is what the advertised agenda indicated. He referred to the Commission's dinner discussion about the Central Shoreline Subarea Plan and the fact that it was never adopted by the City. He emphasized that a representative from the Growth Management Act indicated the plan was adopted as an appendix to the Comprehensive Plan and was intended to provide additional information. He stated his belief that there was never a formal Comprehensive Plan amendment to remove it from the Comprehensive Plan, just a legislative decision to not use it. He noted that many of the elements in Dan Burden's presentation were included as part of the Central Shoreline Subarea Plan. He expressed his belief that the plan was one of the better planning efforts the City has done, and the

public was involved in the process. He suggested the Commission review this document and decide how much of it could still be used.

Mr. Nelson suggested the City invite a representative from Seattle City Light to a future meeting to address some of the difficult questions surrounding underground power lines. They should specifically ask about the cost of undergrounding the power lines in the Town Center Subarea Plan area. He concluded that while it might be more expensive to place the lines underground, it can be done. Since Seattle City Light is proposing to install even more lines, perhaps the City should build a utility corridor and then pay to put the lines underground in exchange for some property.

Commissioner Kaje asked Mr. Nelson to clarify his comment that the Central Shoreline Subarea Plan was adopted by the Growth Management Act (GMA). Mr. Nelson said that a representative from GMA indicated that the plan was adopted as an appendix to the Comprehensive Plan, so it is part of the Comprehensive Plan. Commissioner Piro asked Mr. Nelson to clarify his reference to a GMA representative. Mr. Nelson responded that he spoke with a Community Trade and Economic Development (CTED) Representative about the issue.

Laethan Wene, Shoreline, said he was present on behalf of people with disabilities. He suggested it would be a great idea for the City to sponsor a day camp for people with disabilities. He said he has talked to the Parks Department and attended a day camp in Seattle for people with disabilities.

Nancy Rust, Shoreline, said she read through the staff's current proposal and was happy to see that the exception for the removal of six significant trees was removed. She was also happy with the new proposed definition for "significant tree," and the use of the tree credit method that offers a way to encourage the retention of large trees. She said she was happy to see that replacement trees would be required and that there would be a five-year buy off requirement and a forestry account would be established. She was pleased to see that staff is proposing the City do a survey of the canopy every five years. She said she realizes this is just the beginning of the process, and she hopes to see further proposals that will include non-residential zones and strong enforcement measures. She observed that the current proposal deals primarily with making sure trees are retained when a property owner in a single-family residential zone wants to subdivide. She noted that Lake Forest Park has two levels of permits, one for developed lots only. She suggested the Commission consider this option so that owners of developed properties do not have to go through the same process as someone who is trying to clear a lot to accommodate new development. She encouraged the Commission to continue to work to develop a strong tree code.

Commissioner Behrens asked Ms. Rust to elaborate on Lake Forest Park's program that includes separate requirements for owners of developed properties who want to remove a few trees for various reasons other than redevelopment. He asked her to forward her ideas for potential language so the Commission could consider implementing the concept. Ms. Rust agreed to provide this information.

Boni Biery, Shoreline, agreed with Ms. Rust's comments and said she appreciates the hard work that has already been done by staff and the Commission. She observed there has been a lot of tree cutting in Shoreline because people seem to incorrectly fear that the future tree code would prohibit them from

cutting trees. She asked that the Commission seriously consider establishing a moratorium on cutting until the new tree regulations have been adopted.

Ms. Biery referred to the memorandum that was provided in the Staff Report which talks about a 34% sample survey of tree canopy in single-family zones. She suggested the survey presents a much rosier picture than what actually exists because there are absolutely no constraints on tree removal on any commercial properties. She observed that the City of Seattle has a goal of 30% canopy by 2036. If Shoreline identifies itself as a City among the trees, they should be able to have a goal that's at least something higher than that of Seattle. She noted that the American Forests Association's website recommends that a suburban environment of the City's size should have a canopy of 40%. She provided each Commissioner with a copy of the resources she has collected. She asked that they review the information as they begin their discussions of the tree regulations.

Peter Eglick, Seattle, said he is an attorney representing the Innis Arden Club, which has over 500 homes and families in the City of Shoreline. He agreed with Mr. Nelson that it would have made more sense to accept public comments after the staff report had been presented. He observed that if one looks at the memorandum from Mr. Tovar, a lot is left to the imagination and would be filled in as part of the staff's presentation after the public comment period. This makes it difficult for the public to speak knowledgeably.

Mr. Eglick emphasized that the Innis Arden Club continues to be disappointed. The matter of view covenants and how they interact with the tree regulations must be dealt with. It is very disappointing to see that the proposed purpose statement does not talk about recognizing and accommodating covenant protected private views that existed prior to the proposed regulations. He referred to Page 44 of the Staff Report and said the idea that the single-family regulations would be a test case and perhaps someday implemented in other zones in the City that have no tree regulations at all is both wrong headed and legally infirm. It would be inappropriate for the City to place all of the burden in one place without a better rationale.

Mr. Eglick observed that Ms. Rust is delighted because the regulations, as outlined, would affect a municipalization of trees. He agreed that perhaps some people are cutting trees in anticipation of the municipalization. While you can assume that all of these people are ignorant and not good hearted, they could also think that perhaps a balance is not being struck in the regulations. They are looking towards a staff bureaucracy and system that will be daunting and inappropriate to deal with. Innis Arden is concerned about this issue, as well. He summarized that it is time for some of Innis Arden's issues to be fleshed out and discussed via an informed process.

Mr. Eglick provided the Commissioners with a letter that responds to some of the statements submitted by Ms. Rust. He urged the Commissioners to read the letter, which contains some basic facts that were drawn from the public disclosure document the Innis Arden Club obtained from the City regarding the origin of the proceedings. He said his conclusion thus far is that the proceedings originated in an inappropriate way in terms of open, public participation. He suggested the Commission change the whole direction the process is going.

Michael Oxman, Seattle, congratulated the Commission for taking the first steps towards making it illegal to cut down trees without a good reason. He expressed his belief that a permit process is entirely appropriate because the current system is not working, and the City is losing their canopy too quickly. He suggested it is important to consider tree values, what people like about trees, and how a tree that originates on private property impacts the community at large. First, there is the social beauty and peace of mind that trees provide. Second, trees provide an ecological function by holding soil, preventing erosion and recharging the atmosphere with oxygen. Third, there is a financial aspect that would come into play every five years when the inventory is conducted. He suggested the market place will determine the value of trees, and an appraisal system has been developed by the Council of Tree and Landscape Appraisers that takes into account the diameter of the trunk measured 4½ feet above the ground. Measuring the diameter of the trunk and then adjusting the value based on the type, location and condition of the tree, would give the City some idea about the tree's value. He suggested the fight to save trees must be done on a tree-by-tree basis, and tree appraisal must be part of the tree inventory program.

Nancy Morris, Shoreline, said that while she understands the importance of views in certain situations, it is necessary to also consider the degradation that is going in Puget Sound, where extremely high contamination levels exist. The City must establish a value system that also keeps in mind that trees can help filter toxic waste from water before it reaches the Sound. She suggested that rather than spending money on legal matters between neighbors, the citizens should focus on what type of heart they want the City to have and what they are leaving for their children in the future. In terms of the future tree ordinance, she asked that the Commission consider the spirit of the matter. She also suggested they consider the following two quotes:

- Martin Luther King, Jr. – “Even if I knew that tomorrow the world would go to pieces, I would still plant my apple tree.”
- W.S. Merwin (Winner of two Pulitzer Prizes for poetry) – “On the last day of the world, I would plant a tree.”

STAFF REPORTS

Tree Regulations Discussion

Mr. Cohen referred the Commission to the proposed language that was prepared by staff for the purpose and retention/replacement sections of the tree code. He recalled that on May 21st the Commission directed staff to return with some proposed language, and the purpose section was of particular importance to ensure the Commission's discussions were headed in the right direction. Mr. Cohen further recalled that staff presented the idea of talking about the core of the tree code (retention and replacement) first. Staff believes that if the Commission can resolve this issue, other issues such as hazardous trees, landmark trees, code enforcement, construction standards, etc. would make more sense.

Mr. Cohen observed that the proposed language would not conflict with the landscape, dimensional standards, and critical areas sections of the code. He further observed that, internally, the tree code purpose section is a mixture of clearing and grading language and tree and vegetative cover language,

and these different topics would be separated later in the process under a proposal for clearing and grading requirements. The remaining tree purposes could then be reduced into a few statements that list the attributes of tree and vegetative cover and the need for flexibility to accommodate site design constraints. He reviewed each of the statements in the proposed purpose statement as follows:

1. Preserve and restore trees and vegetative cover to:
 - Promote the City’s treed identity and screening between development.
 - Improve rainwater absorption and erosion control.
 - Provide wind protection and mitigate air pollution.
 - Provide plant diversity and wildlife habitat.
 - Strive for a no-net-loss of tree canopy and vegetative cover citywide.
2. Provide flexibility to allow development, solar access and greater tree protection.

Mr. Cohen noted that “solar access” is a new concept identified in the Environmental Sustainability Strategy, and staff felt it was an important concept to include. He suggested that people may find solar access as important as having trees. He explained that solar access can be interpreted in several ways: passive solar access, active solar access, and view. He noted that staff left out the language related to the value of trees because value varies from one part of the City to the other. Some people feel very strongly that views provide a greater economic value, and others feel that trees have greater economic value. As the Commission gets into their discussion regarding the retention and replacement element of the ordinance, they will see that the proposed language would allow people to determine their own economic value and allow flexibility to accommodate views, solar access and trees.

Mr. Cohen said the goal of the code amendments is to close gaps in tree removal, better understand the status of trees, and build confidence that the City is providing the best protection and enhancement of trees through flexibility and clarity. He advised that, at this time, the proposal would only apply to single-family zoned areas because they represent the majority of city land area and can act as a test case in which to gauge other land uses. He reminded the Commission that there are currently no tree retention requirements for commercially zoned properties.

Mr. Cohen explained that as per the City Council’s recommendation, the proposed language would repeal the exemption for removal of six significant trees every three years, provide accountability for tree removal, and include them in a site assessment for tree protection. If no permit is required for tree removal, the City would not necessary be informed. The proposal for retaining and replacement would allow flexibility for property owners to remove trees, as well as a requirement to replace trees. The proposed language would also reduce the significant tree size from 8 and 12 inches to 4 inches. Four-inch trees are about 20 feet in height and are essential to the growth of a secondary canopy. He pointed out that staff sampled approximately 600 random single-family properties in the City and found that there is a tree canopy coverage of approximately 34% in single-family areas.

Mr. Cohen advised that staff is recommending the use of a tree credit method of retention and replacement. Currently, the City has a 20% retention requirement regardless of tree size. The proposed

tree credit method would base a tree's value on its diameter rather than whether or not it meets the definition of a "significant tree." He reviewed that the three main benefits of this method are:

1. A property's credit requirement could be assigned to a few larger trees, which would help the City promote the retention of larger trees. Citizens have indicated a strong desire to protect the larger trees.
2. It would provide greater equity between sites with a few trees and sites that are heavily forested. Some sites only have two or three significant trees while others are fully wooded. The current regulations are very inequitable as to the number of trees that must be preserved and replaced.
3. It would establish a baseline from which all subsequent site activity is measured. The baseline would always be the same using the system proposed by staff.

Mr. Cohen reported that staff analyzed various scenarios based on a proposal from a citizen's group and Kirkland's code, both of which require maintaining a minimum of 35 credits per acre. They also analyzed the scenarios that would occur based on a standard that would require a minimum of 90 credits per acre and found it would be too onerous on the property owners who want some view and solar access rather than being surrounded by trees. Staff is now recommending a minimum requirement of 60 credits per acre.

Mr. Cohen introduced Associate Planner Brian Lee, who deals mostly with short plat applications. He was invited to participate in the tree regulation project because he deals with tree issues on every single project that comes forward. In addition, a staff member who reviews the development code portions of single-family applications was invited to participate.

Mr. Cohen highlighted the significant features of staff's proposed credit system and the Commission commented as follows:

- ***Require 60 tree credits per acre or 10 credits for a typical 7,200 square foot lot. Ten credits could be met in several ways, ranging from saving 20, 10-inch trees to one, 47-inch tree. Saving larger trees would be to a property owner's benefit.***

Chair Hall questioned how there would be room for a single-family home on a lot that is required to provide 20, 10-inch trees.

- ***Significant trees trunks that are within 10 feet of the building footprint could be retained but not included in the credit requirement because of the likely root damage from construction activity.***

Chair Hall clarified that this section of the proposed language would only apply during the course of development review. Mr. Cohen added that the system would work for people who want to redevelop, develop or remove a tree just because they don't like it.

Commissioner Behrens shared an example in his neighborhood where a significant tree was removed from a development that took place about five years ago. Rather than allowing developers to cut down all trees within 10 feet of a structure without replacement requirements, the code should figure

out a way to save as many of the trees as possible, even if it requires moving the footprint of the building. Mr. Cohen explained that the current language includes provisions to flex setback requirements to a certain degree to allow for tree preservation. While they are not addressing this provision tonight, it would be part of the code language. A tree could be removed as long as a property owner could maintain the required credits, but the trees would have value in terms of replacement.

- **Replacement trees are proposed to have a minimum of 2-inch caliper and the maintenance bond would be increased to 5 years to improve survivability and the likelihood that the tree would become significant by the end of the maintenance period.**

Mr. Cohen said the idea is to close the gap by reducing the definition of a significant tree down to four inches, increase the size of the replanted tree, and increase the length of the maintenance period.

- **If a site has enough trees to meet the minimum 60 credits per acre then no replacement trees would be required. If a site doesn't have enough trees to meet the credits, the property owner must plant enough replacement trees to meet the credits on the site.**
- **Future tree removal is allowed by permit if the site retains 60 tree credits per acre. 60 credits per acre is the baseline at any time. Previous replacement trees would be protected under a 5-year maintenance bond. After 5 years the trees could be cut as a part of the site's tree credit requirement.**
- **Excess replacement trees could either be planted on site or their value placed in a forestry account. This account would be like a fee-in-lieu account where monies can be used for City tree planting programs or forest management programs. The fees are yet to be determined.**

Mr. Cohen explained that the forestry account could be used to fund neighborhood tree planting and forest management programs to improve the citywide tree canopy on a program basis. In some cases, quite a few replacement trees would be required, and there won't be room on the site for all of them. Property owners would always have the option of planting all of the replacement trees on their property rather than contributing to the forestry account.

- **All removed trees would have replacement trees associated with them. Two replacement trees would be required for every tree credit not met by the site.**
- **A City survey of the tree canopy would be conducted every five years to indicate whether no-net-loss is achievable. The City could adjust the code requirements based on the results of the survey.**

Mr. Lee explained that staff reviewed various numbers that other municipalities are currently using and applied them to real case scenarios and lot configurations to identify the proposed 60 credits per acre number. He reviewed three examples to illustrate how the proposed tree credit concept could be applied to single-family properties. He noted that based on the 60-credit per acre requirement, a 7,200 square

foot lot would have a requirement of approximately 10 credits. He referred to the Tree Density Table, which identifies the number of tree credits required to replace various sizes of trees. He noted that each replacement tree would be worth ½ credit. He reviewed the examples as follows:

- **Example 1** – In this example the 7,200 square foot lot would have four trees of various sizes. Removal of a 24-inch tree would require mitigation of 8 new trees (each worth ½ credit) for a total of 4 replacement credits. The property owner would retain the three remaining trees, which would equal a value of 8.5 credits. Because 10 credits is the minimum required for the site, the property owner would be short 1.5 credits, which translates into three additional new trees. Because the property owner already has a credit of 8.5, only three of the 8 required replacement trees would have to be located on site. The property owner would be given the option of either replanting the remaining 5 trees on site or paying into the forestry account.
- **Example 2** – In this example the 7,200 square foot lot would require 10 tree credits. There are numerous trees on the site, and the property owner desires to remove several of them to prepare a building envelope. If the property owner were to remove 8 of the trees for a total of 24.5 credits, 49 replacement trees would be required. The trees around the perimeter of the property would remain for a total credit of more than the minimum 10 required for the site. Because the site already exceeds the minimum 10 credits required, the property owner would have the option of either planting part or all of the 49 trees on site or paying towards the forestry account. In this particular scenario, even though the property may have started with a heavily forested situation, it is very likely that the abutting properties would not have as many trees. Even though they may have gotten used to the park like setting within their neighborhood, it would be overbearing for the City to require the property owner to maintain the situation. By giving them the option of paying into the forestry account, they would be able to maintain somewhat of a canopy yet mitigate for the trees that are removed. The intent of the forestry account would be to use the funds to replant trees somewhere else in the City to promote the overall sustainability of the tree canopy.
- **Example 3** – In this example a larger property (21,600 square feet) would be divided into three 7,200 square foot lots. The minimum tree credit requirement would be 10 for each of the three new lots. If the property owner wants to remove six trees to provide a building envelope for Lots 1 and 2, 43 replacement trees or 21.5 credits would be required. The credit value of the remaining trees on Lot 1 would be 9, which is one credit short of the minimum requirement. The property owner would be required to plant two trees on the site. The credit value of the remaining trees on Lot 2 would be 5, and the property owner would have to mitigate by planting 10 trees. Because the property owner would only retain the one large tree on Lot 3, which has a credit of 4.5, they would have to mitigate for the remaining 5.5 credits by planting 11 replacement trees. The six trees that were removed had a credit value of 21.5 credits or 43 replacement trees, and 23 trees would be required to be planted on site. The property owner would have the option of planting the remaining 20 replacement trees on site or paying into the tree forestry account.

Commissioner Pyle noted that all of the examples presented by Mr. Lee would be triggered by development activity. He asked if there are other provisions that would apply to situations where property owners want to cut down trees on developed lots. Mr. Cohen answered that, as proposed, a

permit would be required to remove a significant tree from any single-family property. If removal is not associated with redevelopment, trees could be cut down as long as the property maintains the minimum 10 tree credits, but they would have some replacement value. Chair Hall suggested staff provide some examples that might be typical of a single-family developed lot. Mr. Lee advised that Example 1 could be an illustration of a site that is fully developed. If the property owner wished to remove one tree for whatever reason, there would be a mitigation requirement of 4 credits or 8 replacement trees. The property owner would be required to plant three on site and the remaining five would be optional (replace on site or contribute to the forestry account). Some form of mitigation would be required for every tree removed.

Commissioner Broili expressed his belief that no-net-loss is a pathetic goal for the City to have. He asked staff to explain why tree codes are necessary. Until this question has been succinctly answered, it would be impossible for the Commission to know whether the proposed language would achieve the desired goal. He expressed his belief that vegetation and tree cover is part of an ecological system that needs to be thought of in a systemic way. The City's traditional way of managing vegetation is piecemeal and an incorrect approach. The issue must be addressed in terms of the whole City. If they are talking about a "City in the Forest" they need to identify a forest management plan or strategy that is much bigger than what is currently being proposed. There are a huge amount of functions that a forest brings, and there is an economic value that goes beyond view. Vegetation has economic value in that it can be sold, and there is ecological value such as the reduction of rainwater, stormwater management, etc. Until they think about a holistic vegetation plan for the entire City, he suggested they would be wasting their time as far as creating any meaningful regulations. The City has a diverse landscape and diverse needs and goals as a functioning City, and they have the ability to achieve many of the functional qualities of an old growth forest by thoughtfully managing the issue as a whole unit. He encouraged the Commission to take a more systemic approach.

Commissioner Kaje asked if the owner of a developed single-family property with only one 24-inch tree would be required to meet the minimum 10 credit requirement if he/she were to remove the tree. He noted that all three examples provided by staff started with more than 10 credits. Mr. Lee said this would have to be discussed between staff, but his initial response would be that if the property started with just one 24-inch tree and no development was involved, the owner should only be required to mitigate for the tree that was removed. If some development was involved, his inclination would be to require the property owner to meet the minimum credit requirement for the lot, which would entail the replacement of more trees. Commissioner Kaje suggested this would be an important issue for staff to consider.

Mr. Cohen suggested that if there is only one tree on a property, perhaps a property owner should not be allowed to cut it down unless he/she can bring the total tree credits to 10. Chair Hall summarized that the policy question is whether or not the removal of trees in the course of development should be regulated the same as the removal of trees that are not associated with development. His sense from previous discussions would be to at least acknowledge there may be differences in the two situations.

Commissioner Behrens questioned how the City would enforce the tree regulations on single-family developed properties. Mr. Cohen agreed that enforcement must be addressed as part of the code.

Enforcement capability currently exist, but might not be adequate. Commissioner Behrens asked who would be responsible for measuring the diameter of each of the trees removed in order to determine the required replacement value. Would the City require that only licensed professionals be allowed to remove trees or would a City staff person be responsible for measuring trees that are to be removed?

Commissioner Kuboi said he understands that any cutting of a significant tree would require a permit. He asked if the proposed language would allow a property owner to remove as many trees from a site as desired to provide better solar access as long as the total tree credits on site remain above the minimum requirement and the owner pays into the forestry account to mitigate for the lost trees. Mr. Cohen agreed that would be possible. Commissioner Kuboi asked if there are other aspects of the code that would prevent this from occurring. Mr. Lee explained that one mechanism for deterring this particular scenario is the dollar value the City places on the replacement trees. An appropriate value would place a heavy financial burden on a property owner who wants to remove numerous significant trees. Commissioner Kuboi said that while he finds the tree credit concept interesting, whether the dollar value is effectively punitive as a discouraging factor would be a major factor in how he views the overall plan.

Commissioner Kuboi asked if the proposed language provides a definition for “replacement tree.” Mr. Cohen said staff is working on language to identify what types of trees would count, what their potential growth must be, and the required size at planting. Commissioner Kuboi said this is another element that would weigh significantly on how he views the proposal.

Commissioner Piro questioned what rules would be associated with the forestry account program and what types of guarantee would there be that the funding would actually be used for tree planting throughout the City. Mr. Cohen said the program would be modeled after the City’s existing fee-in-lieu-of program that is used for frontage requirements. The City Attorney is currently reviewing the concept and would provide feedback at a later date. He noted that Lake Forest Park currently has a similar program, which directs how and where the funds would be used. He noted the intent is to include a time component that would require the funds to be used by a certain date.

Commissioner Piro suggested the Commission consider creating a stand-alone purpose statement for mitigating air pollution and the adverse impacts of greenhouse gases. He agreed with Commissioner Broili that they must consider the issue in terms of a holistic system, and he suggested they consider ecological relationships, as well. For example, climate change is currently a core sustainability issue, and there is a state mandate that requires municipalities to take active steps to reduce greenhouse gases. Regional policies speak to the need to reduce greenhouse gas emissions, as well. Tree retention and restoration of vegetation are proven strategies to address the impacts of climate change. There is also a regional directive that requires the City to use a systems approach in all of their planning efforts related to environmental issues. He observed that while the tree regulations provide a meaningful piece to the effort, the issue needs to be addressed as part of a more holistic sustainability discussion about restoring the forest system.

Commissioner Perkowski observed that the only time the term “significant tree” would come into play with the proposed language is to determine whether or not a permit would be required. The term “species” has no bearing in the proposed language, either. He suggested the language be more specific

related to species. For example, three 15-inch cottonwood trees would not be equivalent to a 150-year-old Douglas Fir.

Commissioner Perkowski referred to Commissioner Kuboi's earlier comment about a property owner having the ability to remove numerous trees from a property as long as he/she can pay the required amount into the forestry account to mitigate for the loss. He suggested a different threshold could be used in these situations, and the different species involved should be a factor, as well. For example, the forestry account should not be an automatic option as long as a property owner retains the required 10 credits. Perhaps a good disincentive would be to raise the threshold to require that more trees be planted on site and that trees be replaced with the same species. While he sees some value to the tree credit concept, he also has some significant concerns.

Commissioner Kaje said he understands and respects the concerns raised by Commissioner Broili about having a holistic approach to addressing environmental sustainability. He said he also agrees with his statement that the City needs to identify some holistic principles and goals. However, he said he would be in favor of moving forward with the tree regulations now to deal with the kinds of actions that are currently taking place (lot-by-lot random actions by property owners to remove trees for various reasons). He agreed with his fellow Commissioners that some significant issues must still be discussed and addressed, but they must remember that the current regulations only require a developer to retain 20% of the existing trees. The proposed language represents a significant improvement, and he would like the Commission to move forward.

Commissioner Kaje recalled that at a previous meeting the Commission discussed the concept of having different requirements, depending on the tree's location. For example, they discussed that different rules or incentives could be established for trees that are located on the perimeter of a lot because they clearly have a more significant impact on surrounding property owners. He asked staff to give further thought about how this concept could be implemented.

Commissioner Wagner suggested that the first bulleted item in the proposed Purpose Statement should be divided to address the City's tree identity and screening as two separate issues. She said that while she likes the ideas put forth by staff and the Commissioners, she expressed concern about making the process too complicated. She observed that many property owners do not even know what the current rules are, and now they are talking about imposing a much more complicated program. She also expressed concern about the costs associated with implementation and enforcement of the new requirements. Rather than a punitive approach, she suggested the City address the issue with a more positive approach.

Commissioner Wagner suggested it would be helpful for staff to provide more scenarios to illustrate how the proposed language would be applied to various situations. She expressed particular concern about properties that have significantly more tree credits than the minimum requirement of 10. For example, if you have a lot that has 15 credits and you take one tree out because it looks rickety and you don't like it, you would be required to replace it with two trees in kind or pay money into the forestry account. She suggested that perhaps it would be appropriate to establish different thresholds via a tiered approach depending on the number of trees that already exist on the site. She cautioned against

automatically requiring a property owner to add even more trees on a lot that already has a high credit count.

Lastly, Commissioner Wagner suggested the Commission consider the option of identifying certain trees that are of particular value to the community.

Chair Hall referred to Commissioner Broili's earlier comment about first identifying the fundamental goal and purpose of regulating trees. He observed that the Commission agrees that tree regulations provide a common good for the City, even if they do not yet know what the correct threshold should be. He further observed that the tree regulations must be enforceable, which generally means they should be simple. While diameter at breast height as the sole criterion might be simple enough to work, it may also be important to recognize that not all 4-inch diameter trees provide the same functions. For example, if the Commission also wants to consider greenhouse gases, they must keep in mind both the number of carbon atoms in a tree (biomass) and the rate of absorption. Fast growing trees absorb more carbon from the atmosphere per year. While fast growing trees that only grow to a height of 10 feet would be a good solution in areas where views are important, they would not help the City reach their goals of reducing greenhouse gases, etc. He suggested staff share some of the other concepts they considered and the advantages and disadvantages of each one. He summarized that while simple regulations are easier to enforce, more complex regulations can often get the City closer to their goal.

Chair Hall expressed concern about the potential of creating a regulation that is onerous for the City to enforce. He suggested the Commission give full consideration to balancing property rights and how onerous the regulations are. If they intrude too far into people's rights, they will find a way around the requirements. He said he is in full support of enforcing regulations that are willfully violated by property owners. However, he is very concerned about charging property owners thousands of dollars for removing a giant tree if they honestly didn't know it was illegal. In addition to considering the purpose and goals associated with the proposed changes, he stressed the importance of fully considering the down side, as well. The more they can help people understand why trees are good for the community, the more likely they will be to participate in tree preservation. Also, they should think about how the proposed regulation would play out over the next two decades.

Chair Hall recalled that the Commission discussed proportionality at their last meeting, and staff indicated that it is considered on a per acre and square foot basis. He questioned how this would address issues like the reserves in Innis Arden, CRISTA, Fircrest, etc. He said he is not sure the proposed language provides enough flexibility to deal with unique situations. He said he is more comfortable imposing a more onerous regulation on a developer who is in the process of making money by developing land. However, he expressed concern about regulating an individual property owner's ability to cut just one tree.

Commissioner Pyle suggested the following:

- Add a statement to read, "Establish prescribed standards that empower property owners to take action to protect imminent danger to life and property while protecting common resources." He expressed his belief that it is important to acknowledge hazardous tree situations.

- At some point, the Commission must consider a tree appraisal technique for the purpose of code compliance. If a dispute comes before the Hearing Examiner, it will be important for the City to know the actual monetary value of the tree.
- The Commission should have a discussion on the value of trees in terms of City operations, such as a line item in the City's Operations and Maintenance Budget for the Public Works Department. Trees play a major role in how the City's stormwater resources are managed on a landscape scale.
- The fish and wildlife habitat conservation section of the Critical Areas Ordinance should be amended to identify habitat blocks (large areas of significant trees) as critical areas.
- The use of pictometry is a great tool, and new software would allow the City to actually look at the different aspects of a site to understand the size of trees, etc. He suggested staff talk to Jay Clark about obtaining a license to use the software.
- One of the ways to obtain credit under the Low-Impact Development Manual that was recently adopted by the City is to use a pin pile foundation. In the case of a subdivision, a developer could actually get a stormwater credit by using a pin pile foundation instead of traditional foundation system.
- They need to incorporate some methodology as to how to establish a drip line. A 10-foot measurement would not necessarily work for all trees. However, the forestry industry offers some methodologies that describe how the root zone establishes for various species based on the size and diameter of the trunk of the tree.
- It is important to know the value of trees in the forestry account.
- The concept of no-net-loss is a good start; but it is important to recognize that even with maintaining status quo, function is declining. Maintaining status quo through preservation, while not considering the cumulative or residual effect on the landscape, will not meet the benchmark of no-net-loss. They must include enhancement or some sort of mitigation to bump it up. The benchmark needs to be further refined.
- They must consider whether it is appropriate to allow property owners to constantly and in perpetuity replace, preserve, cut, replace, and preserve trees. Perhaps this concept could be utilized in view corridors to constantly manage the canopy at a lower height.
- Property owners should be able to obtain the necessary permits online so they are available on weekends, as well. Obtaining a permit should not be a significant burden.
- They must consider who would manage the bonds that have been suggested in the proposed language. Further details about the bond requirement must be considered.
- It is important for the City's Public Works and Parks Department staff to acknowledge that the tree regulations would apply to City-owned properties, as well. The City is one of the largest land owners, and the right-of-way is one of the primary locations where they should first look at managing trees.

Commissioner Behrens pointed out that a 30-foot tall tree with a diameter of 12 inches is a very large tree. The chances of someone cutting down a tree of this size without damaging neighboring properties are pretty slim. It is more likely that a tree removal company would be called in to remove the tree, and the City could make tree removal companies responsible for obtaining the necessary permits. Notices could be sent out to the various companies to clearly explain the new requirements.

Commissioner Piro suggested the Commission consider the notion of pre-replacement. Perhaps replacement trees could be planted in anticipation of the removal of an existing tree.

Commissioner Broili agreed with Commissioner Pyle's observations and suggestions. He said he is encouraged by the depth of the Commission's thinking regarding the issue. He referred to Commissioner Kaje's point about "putting a tourniquet on to stop the flow." From that perspective, he felt amending the tree regulations would be a first step in the right direction. He suggested the Commission discuss Ms. Biery's recommendation that perhaps a moratorium on tree cutting would be appropriate.

Commissioner Kaje suggested that in addition to considering different species and situations, it would also be helpful to consider what types of incentives could be used to compliment the tree regulations. For example, it may be appropriate to offer incentives for certain species or for properties that maintain more tree credits than the minimum required. Another option would be to offer an incentive to encourage property owners to accept replacement trees from other locations. He referred to a question in his email to staff about whether or not the City could require that replacement trees be planted in the same neighborhood, if possible. This could be accomplished by encouraging or providing incentives to property owners who want more trees on their property. Perhaps the trees could be offered at half the cost, with the remaining cost being funded by the forestry account. He suggested the staff and Commission consider creative opportunities to implement this concept. He summarized that there are definitely places in the City where net gain could occur, and the Commission needs to consider options for this type of activity to offset situations where property owners clear as many trees as possible.

Commissioner Kaje referred to the examples provided by staff and noted that the tree diameters were not drawn to scale, thus making it appear impossible to fit houses on the lots. He suggested it would be useful to illustrate the actual tree diameter to scale for future presentations. Chair Hall agreed and said it would also be helpful to show the canopy of the trees, as well as the footprint of a typical house.

Chair Hall referred to Commissioner Broili's earlier remark that even a natural forest is not uniform, and the same would apply to the question of solar access. If 10-credits per lot were uniformly distributed throughout the City, there would not be any sunlight during the winter months. On the other hand, if the trees are clustered they would be less susceptible to blow down and would allow for sunlight in the winter months. He suggested they keep in mind that both natural and managed forests need to have diversity, and the regulations should allow that to be the case. A monoculture would not be the desired outcome. Clustering trees would allow the ability to have more areas with sunlight, to accommodate gardening, etc.

Chair Hall questioned where the City would plant all the replacement trees that are funded via the forestry account, and said he supports Commissioner Kaje's suggestion to establish incentives to encourage people to accept more trees on their property. He reminded the Commission that the public also values open space and active recreation opportunities, and they would probably not be in favor of filling the parks with trees.

Chair Hall pointed out that even if the regulations are perfect, and no further degradation is allowed, the cumulative impact would continue to degrade. While an enhancement component will be necessary, it would generally be better to avoid a regulatory approach. He suggested the City create an urban forest management plan so that enhancement could occur in the right locations.

Commissioner Broili recalled that he recommended a strategy to the Parks Department four years ago, and one of his suggestions was that they need to start with City-owned properties as a model. This would make it easier to ask other property owners to become a part of the much larger system. He said he still believes they need to start by addressing the way the City manages its own lands. Commissioner Pyle pointed out that the City of Portland has been successful in this regard, and numerous studies have been conducted to identify how they achieved their goals. He agreed to locate this study and forward it to each of the Commissioners.

Commissioner Behrens commented that one of the reasons developers are interested in removing as many trees as possible from a site is that they benefit monetarily. The more trees that can be removed, the more profit for the developer when the trees are sold. If the City establishes a value number that does not provide an economic incentive for the developer to remove trees from the site, they would be less likely to take down the maximum number. He suggested that staff seek additional information from tree removal companies.

Chair Hall suggested the Commission start their next discussion by focusing on the goals and purposes of the tree regulations. While Commissioner Kaje agreed it is important to create a clear purpose and goal for the tree regulations, he said he does not want the staff and Commission to stop their work on the method until they have completed their discussions related to the purpose and goals. He said he is not sure the proposed method for measuring trees and the tree credit concept would be the ultimate approaches, but they have enough promise as potential tools that he would like staff to proceed with addressing the Commission's comments and suggestions.

Commissioner Broili agreed that it would be appropriate for the Commission and staff to continue their work on the method. However, he suggested they also expand their research to include more information from the progressive cities that are beginning to look at urban forest management strategies. He said he does not have any innate problems with the approach that has been proposed by staff, but he has concerns about how it would be applied to the bigger picture. Any information that would lead the Commission's thinking in the direction of a vegetative forest management plan would be very valuable.

Mr. Cohen summarized that at the Commission's next discussion regarding the tree regulations, he would be prepared to talk more about the purpose of the proposed approach. He suggested that perhaps the discussion could be tied into the bigger questions of how much they should regulate, what would be considered too punitive, at what point would the regulation become unmanageable, and what requirements would be necessary to reach a no-net-loss goal or better. He said staff has thought a lot about all of these issues and could provide some helpful insight. He expressed his belief that the tree regulations are just one piece of the sustainability strategies.

Vice Chair Wagner observed that the Commission already has enough questions that she would hesitate to encourage staff to provide more detailed information. She agreed with Chair Hall that the Commission should focus their next discussion on the purpose statement and some of the bigger questions. Commissioner Pyle agreed they should not go too much into the details and broader concepts until their current questions and concerns have been addressed. He also agreed with the earlier suggestion that it would be helpful to learn more about the other strategies and techniques staff considered when developing the proposed language. Mr. Cohen agreed to provide more background information about how the staff came up with their current proposal.

Commissioner Behrens said he is glad to know that at some point the staff and Commission would consider the option of applying the tree regulations to other zones in the City other than residential. However, he expressed concern that a lot of trees could be lost while the City is waiting to move the concept forward. He suggested they identify sites that have significant trees in commercial zones and attempt to develop a system that would at least maintain those trees that currently exist.

Chair Hall summarized that the Commission is interested in the staff continuing their work, but they would like to discuss the goals and purpose of the regulations first. He observed that there are several members of the Commission who are very knowledgeable about trees and vegetation. However, it is important to keep in mind that the Commission's role is as policy advisor, and staff's role is to get the language technically correct. When the Commissioners raise policy issues, they should be deferential to staff because they are the ones who will have to implement the policies and regulations on a day-to-day basis.

Chair Hall suggested the Commission must still discuss whether or not they want the City to regulate clearing that is done for the purpose of profit in the course of developing property in the same way they would regulate the removal of a single significant tree that is done for no profit. He said he is concerned that using the same regulatory approach in both situations may not be appropriate. They must also address the question of proportionality.

DIRECTOR'S REPORT

Mr. Cohn announced that the Snohomish County Council held two public hearings regarding their Comprehensive Plan Amendment related to Point Wells on July 8th. He noted that the letter staff forwarded to the City Council regarding the issue is available via the City's website. In addition, the entire discussion from the public hearings would be available on the Snohomish County Council's website.

Mr. Cohn reminded the Commission that their next meeting is scheduled for July 23rd. Mr. Cohen advised that staff has scheduled a walkabout in the Town Center Subarea Plan Area. The purpose is to identify potential limitations and opportunities. They have reserved a bus with 12 seats, with the idea they would stick together as a group as they visited the various point. Another option would be to walk from point to point. He reviewed the pros and cons of each of the options. The Commissioners agreed they would prefer to walk from point to point, unless the weather is too inclement. Mr. Cohn said Commissioners would meet at the City Hall and then begin the tour.

Commissioner Kaje recalled that transition is one of the key issues that comes up when talking about the Aurora Corridor and the RB zones. He suggested it would be important for the tour to include the back side of the corridor where it transitions into adjacent properties, as well. Mr. Cohen agreed that is staff's intent.

UNFINISHED BUSINESS

There were no unfinished business items to discuss.

NEW BUSINESS

Chair Hall expressed appreciation for the public's patience as they tried a different approach for the public comment period. At their next regular meeting, he asked that staff bring forward a draft motion to amend the Commission's order of business in the bylaws to clarify the intent that the general public comment period is for anything that is not of a quasi-judicial nature or specifically scheduled for a hearing later on the agenda. When they conduct study sessions, it is important for the public to understand they are not taking formal testimony on a legislative proposal. He referred to an email exchange between the Commission and the Planning Director regarding their last discussion on the tree regulations. Because he tried to be flexible with the public comment period, they ended up with a bit of debate between citizens and the Commission. He cautioned everyone that they all must work together. While they may have different views and opinions, he does not want to foster an environment where members of the public or Commissioners engage in debates and cross examination. He would rather foster an environment where everyone has an opportunity to provide input throughout the process.

REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS

Chair Hall announced that he attended the open house for the Transportation Master Plan Update where the Bicycle/Pedestrian Plan was the focus of discussion. This work would eventually come to the Commission for a review and recommendation, and it would also intersect with the Town Center Subarea Planning effort. He noted that it would be helpful if the Economic Development Advisory Committee and other groups would also take part in the Town Center Subarea Plan process.

AGENDA FOR NEXT MEETING

No additional announcements were made about the July 23rd Special Meeting agenda.

ADJOURNMENT

The meeting was adjourned at 9:52 P.M.

Will Hall
Chair, Planning Commission

Jessica Simulcik Smith
Clerk, Planning Commission



Memorandum

DATE: August 6, 2009

TO: Shoreline Planning Commission

FROM: Joseph W. Tovar, FAICP, Director, Planning & Development Services
Steven Szafran, AICP, Associate Planner

RE: Study Session on modifying Level of Service, Development Code
Section 20.60.140

Introduction

An amendment to the Development Code is a mechanism by which the City may bring its land use and development regulations into conformity with the Comprehensive Plan or respond to changing conditions or needs of the City. This amendment will change the language of 20.60.140 to be consistent with the Transportation Master Plan that was adopted in June 2005.

Background

The GMA allows each local jurisdiction to choose a Level of Service (LOS) method and standards. Level of Service is a quantitative measure used to denote intersection operating conditions. It generally describes levels of traffic congestion at signalized and unsignalized intersections in an urban area. The level of service standard is one of the cornerstones of Shoreline's Transportation Element. Two of the most important criteria to be applied for selecting a LOS methodology are 1) whether it is easy for the public to understand and for the staff to administer and 2) whether it is technically/legally proven.

Prior to the adoption of the City's 2005 Transportation Master Plan, the City used an "areawide intersection averaging" method to determine the Level of Service. When the Master Plan was adopted, the City determined that a different standard was appropriate, concluding that the problem with the previous LOS approach of the area-wide intersection averaging method was that the public as well as the policy makers did not gain a clear understanding of the implications of averaged LOS findings. As the result, it would be difficult to establish effective policies to address the issue of transportation concurrency in the city. In the Plan, the City

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adopted LOS E to best balance levels of congestion, the cost of added capacity and the need to minimize diversion of traffic onto neighborhood streets. Transportation Policy T13 states the LOS method and standard:

Adopt LOS E at the signalized intersections on the arterials within the City as the level of service standards for evaluating planning level concurrency and reviewing traffic impacts of developments, excluding the Highways of Statewide Significance (Aurora Avenue N and Ballinger Way NE). The level of service shall be calculated with the delay method described in the Transportation Research Board's Highway Capacity Manual 2000 or its updated versions.

When the City Council adopted the 2005 Comprehensive Plan update, the City failed to update Development Code Section 20.60.140 which refers to the volume to capacity ratio as the preferred methodology for calculating level of service. The Development Code change below will correct this oversight and make our Code consistent with the more recently adopted 2005 TMP update.

Proposal

This action will change Development Code Section 20.60.140. This section refers to the zonal averaging system which is inconsistent with the 2005 update of the Transportation Master Plan. Please see attachment 1 for revised language.

Next Steps

At your August 6 meeting, the Commission will discuss the proposal and decide whether the Commissioners are comfortable in bringing it to a hearing. If the Commission directs, staff will schedule the hearing on September 3, 2009. The Commission will then make a recommendation on the amendment and forward the recommendation to the City Council for action.

If you have questions about the proposed amendment or the schedule, please contact Steve Szafran at 206-801-2512 or sszafran@shorelinewa.gov

Attachment

1. Changes to 20.60.140 in legislative format

20.60.140 Adequate streets.

The intent of this subchapter is to ensure that public streets maintain an adequate Level of Service (LOS) as new development occurs. The level of service standard that the City has selected is a LOS E standard at signalized intersections on Arterial Streets zonal average system, which is the basis for measuring concurrency. The City has been divided into five geographical areas, and LOS Standards are adopted for each zone. The zones are described in the following Table:

LOS Zone	Zone Name	Adopted LOS Standard
1	West of Aurora Corridor	D
2	Aurora Corridor to I-5	D
3	I-5 to East City Limits	D
4	Aurora Avenue Corridor	E
5	Annexation Area A	E

~~Note: A map of the LOS Zones is located in the Transportation Element of the Shoreline Comprehensive Plan.~~

A. Development Proposal Requirements. All new proposals for development that would generate 20 or more trips during the p.m. peak hour must submit a traffic study at the time of application. The estimate of the number of trips a development shall be consistent with the most recent edition of the Trip Generation Manual, published by the Institute of Traffic Engineers. The traffic study shall include at a minimum:

1. An analysis of origin/destination trip distribution proposed;
2. The identification of any intersection that would receive the addition of 20 or more trips during the p.m. peak hour; and
3. An analysis demonstrating how impacted intersections could accommodate the additional trips and maintain the ~~zonal~~ LOS standard.

B. Development Approval Conditions. A development proposal that will have a direct traffic impact on a roadway or intersection that exceeds the adopted LOS standard ~~for the zone~~ shall not be approved unless:

1. The applicant agrees to fund improvements needed to attain the LOS standard;
2. The applicant achieves the LOS Standard by phasing the project or using transportation demand management (TDM) techniques to reduce the number of peak hour trips generated by the project;
3. The roadway or intersection has already been improved to its ultimate roadway section and the applicant agrees to use TDM incentives and/or phase the development proposal as determined by the City of Shoreline. (Ord. 238 Ch. VI § 4(A), 2000).

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Memorandum

DATE: July 27, 2009

TO: Shoreline Planning Commission

FROM: Steven M. Cohn, Senior Planner PDS
Steven Szafran, AICP, Associate Planner

RE: Proposal for Permanent Regional Business (RB) Regulations

At your June 18 meeting staff and the Commission discussed the scope of the permanent RB regulations. At your next meeting, staff will present a proposal to replace the current interim regulations with permanent regulations. If the Commission develops direction about a proposal that can be taken to a public hearing, staff will schedule the hearing for September 20.

BACKGROUND

The Regional Business district, generally located along Aurora but permitted in several other commercial areas, is the most intensive commercial/mixed use district in Shoreline. The maximum height in the district is 65 feet, but if a RB zone is adjacent to an R-4 or R-6 zone, additional transition standards apply that would limit building height close to single-family zoned sites.

Generally, most retail and commercial uses, including offices, as well as residential uses, are permitted in RB zones. The RB regulations were modified following the adoption of the City's initial Comprehensive Plan. The revised regulations did not control the number of housing units and the maximum square footage of retail or office space with explicit maxima. Instead, these were limited by parking requirements and height and bulk regulations.

In May, 2008, the City Council adopted Ordinance 505 which created interim rules and limited the maximum housing density on RB sites to no more than 110 dwelling units per acre. The interim rules have been extended twice in order to provide the community time to work on modifying the City's Vision and Framework Goals. That work was completed earlier this year.

The Vision and Framework Goals offers direction that has applicability when discussing permanent regulations for the RB zone. (See attachment 1)

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In addition, the City Council recently adopted Ordinances 546 and 549 which relax the interim density standards in the Midvale Demonstration Area and allow 150 dwellings/acre if additional conditions are met. (See attachment 2 for Ordinance 549 which includes modifications to Ordinance 546.)

Staff discussed the RB scope at your meeting in mid-June (meeting minutes excerpt attached as Attachment 3). Staff concluded that the Commissioners identified four items at the meeting that you wanted staff to address when developing a permanent proposal for RB. The proposal should include:

1. An incentive system that trades off density for public amenities
2. More stringent rules for transition between commercial and residential uses.
3. A stipulation that would eliminate or reduce the amount of commercial traffic entering or exiting a site from non-arterial streets.
4. Adoption of a new name for the Regional Business zone to eliminate confusion with the Comprehensive Plan designation and to be more descriptive of the “vision” for future development in the zoning district.

Staff’s Initial Proposal

The following three standards would apply to all development in RB zones.

1. Developments larger than a defined threshold (perhaps those subject to SEPA review) will be subject to administrative design review
2. Limit the maximum building height within 100 feet of the property line between RB and R-4 to R-12 zoned properties to 45’, and limit the maximum building height between 100-200 feet of the property line to 55’
3. All buildings and required parking shall be located on the RB-zoned property and not off-site.

Additional standards:

4. The base permitted housing density is 70 du/acre and building height limited to 4 stories. Maximum Floor Area Ratio (FAR-- the ratio of development size to lot size) is 2.0.

Staff comment: Discussion with developers and the city’s experience suggest that densities of 48 du/acre or less are likely to result in townhouse development. If the city wants to encourage housing diversity, we would want to see development of “flats” (i.e., apartments or condominiums). In the recent economic boom, apartments penciled out at 60-70 du/acre. An FAR of 2.0 may be a little too high for a residential building of 70 du/acre; probably 1.7 is a closer estimate, but it is prudent to build in a little leeway in these types of estimates.

5. Housing density could be increased to 110 du/acre and maximum height to 5 stories and maximum FAR of 3.2 if the following conditions are met:

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- a. Mixed use building with at least 3,000 sq ft retail or personal service
- b. Some underbuilding/underground parking or shared parking facility
- c. Windows that passerby can see inside 50% of 1st floor
- d. Overhang/awning
- e. Demonstrate compliance with design standards of SMC 20.91.050 with the following modification, unless a design departure approval is obtained under SMC 20.91.040. The modification is: development will provide contiguous commercial space covering at least 2/3 of street frontage (not including openings into buildings)

Staff comment: The Ridgecrest proposal (110 du/acre plus commercial space) was estimated at a 3.2 FAR. Most of the conditions are duplicates of those in the Midvale Demonstration Area.

6. Housing density can be increased to 150 du/acre, maximum height of 6 stories and FAR to 3.6 if the following conditions are met
 - a. All of the above, plus
 - b. Infrastructure for electric vehicle recharging;
 - c. 15% is public space (i.e., plaza or other open space, indoor meeting area, etc.):
 - d. 15% of the units are affordable to households in the 75% median income category for a specified number of years:
 - e. Green Building Techniques. At a minimum, meet “3-star” construction standards plus independent verification under King County Built Green standards as amended, or equivalent standard approved by the director; and
 - f. Make a provision for the developer holding a neighborhood meeting with city staff in attendance to identify traffic impacts coming from building occupants and discuss appropriate mitigation measures. Meetings will be advertised by mailings to property owners and occupants within 500 feet of the property.

Staff comment: The proposed FAR is mid-range for a Seattle equivalent zone entitled MR (mid-rise) with an allowable FAR of 3.2-4.0.

Staff also recommends changing the name of the zoning district. Our initial inclination is to rename it “Mixed Use Commercial” or “Business/Residential”.

An Alternative Proposal to Consider

Mr. Les Nelson proposed a Comprehensive Plan Amendment earlier this year that would clarify whether residential densities greater than 48 du/acre are appropriate in RB zones. When the Commission and Council discussed the potential amendment, staff noted that the discussion about the amendment would be part of the discussion of the permanent RB regulations.

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Therefore staff requests that when the Commission develops its recommendation for a hearing on permanent RB regulations, it also take testimony on whether the density in RB should be limited to 48 du/acre.

In developing its record for the Council, it would be helpful for the Commission to hear testimony on this option so that the Commission's deliberation on the RB permanent regulations can have the benefit of this information.

Next Steps

At your next meeting, staff will discuss its proposal with you in more detail, respond to your questions and work with you to develop a proposal that can be scheduled for a public hearing in September.

Although the regulations are labeled "permanent", the City will be looking at future refinements in the coming year—1) defining design standards and process for Administrative Design Review and 2) Refining zoning and transition standards that will be applicable in the Town Center Subarea.

Staff believes that this review of the RB zone will be an important step in the process, but not the final step. There will be more to come.

If you have questions prior to the meeting, please contact Steve Cohn at 801-2511 or email him at scohn@shorelinewa.gov.

Attachments

1. Vision and Framework Goals
2. Ordinance 549 – Interim regulations for Midvale Demonstration Area
3. Staff report for June 18, 2009 RB discussion
4. Excerpt from June 18, 2009 Planning Commission minutes

Relationship to the Countywide Planning Policies and Vision 2020

As part of the comprehensive planning process, King County and its cities have developed a Growth Management Plan known as the Countywide Planning Policies. These policies were designed to help the 34 cities and the county to address growth management in a coordinated manner. The policies were adopted by the King County Council and subsequently ratified by cities, including the City of Shoreline.

Taken together, the Countywide Planning Policies try to balance issues related to growth, economics, land use and the environment. Specific objectives of the Countywide Planning Policies include:

- Implementation of Urban Growth Areas
- Promotion of contiguous and orderly development
- Siting of public capital facilities
- Establishing transportation facilities and strategies
- Creating affordable housing plans and criteria
- Ensuring favorable employment and economic conditions in the County

In addition, Shoreline's Plan must be guided by the regional growth policies of Vision 2020, the regional plan developed by the Puget Sound Regional Council. Vision 2020 calls for directing future growth into existing urban centers and serving those centers with a regional transit system.

2029 Vision Statement

Imagine for a moment that it is the year 2029 and you are in the City of Shoreline. This vision statement describes what you will see.

Shoreline in 2029 is a thriving, friendly city where people of all ages, cultures, and economic backgrounds love to live, work, play and, most of all, call home. Whether you are a first-time visitor or long-term resident, you enjoy spending time here.

There always seems to be plenty to do in Shoreline -- going to a concert in a park, exploring a Puget Sound beach or dense forest, walking or biking miles of trails and sidewalks throughout the city, shopping at local businesses or the farmer's market, meeting friends for a movie and meal, attending a street festival, or simply enjoying time with your family in one of the city's many unique neighborhoods.

People are first drawn here by the city's beautiful natural setting and abundant trees; affordable, diverse and attractive housing; award-winning schools; safe, walkable neighborhoods; plentiful parks and recreation opportunities; the value placed on arts, culture, and history; convenient shopping, as well as proximity to Seattle and all that the Puget Sound region has to offer.

The city's real strengths lie in the diversity, talents and character of its people. Shoreline is culturally and economically diverse, and draws on that variety as a source of social and

Introduction

economic strength. The city works hard to ensure that there are opportunities to live, work and play in Shoreline for people from all backgrounds.

Shoreline is a regional and national leader for living sustainably. Everywhere you look there are examples of sustainable, low impact, climate-friendly practices come to life – cutting edge energy-efficient homes and businesses, vegetated roofs, rain gardens, bioswales along neighborhood streets, green buildings, solar-powered utilities, rainwater harvesting systems, and local food production to name only a few. Shoreline is also deeply committed to caring for its seashore, protecting and restoring its streams to bring back the salmon, and to making sure its children can enjoy the wonder of nature in their own neighborhoods.

A City of Neighborhoods

Shoreline is a city of neighborhoods, each with its own character and sense of place. Residents take pride in their neighborhoods, working together to retain and improve their distinct identities while embracing connections to the city as a whole. Shoreline's neighborhoods are attractive, friendly, safe places to live where residents of all ages, cultural backgrounds and incomes can enjoy a high quality of life and sense of community. The city offers a wide diversity of housing types and choices, meeting the needs of everyone from newcomers to long-term residents.

Newer development has accommodated changing times and both blends well with established neighborhood character and sets new standards for sustainable building, energy efficiency and environmental sensitivity. Residents can leave their car at home and walk or ride a bicycle safely and easily around their neighborhood or around the whole city on an extensive network of sidewalks and trails.

No matter where you live in Shoreline there's no shortage of convenient destinations and cultural activities. Schools, parks, libraries, restaurants, local shops and services, transit stops, and indoor and outdoor community gathering places are all easily accessible, attractive and well maintained. Getting around Shoreline and living in one of the city's many unique, thriving neighborhoods is easy, interesting and satisfying on all levels.

Neighborhood Centers

The city has several vibrant neighborhood "main streets" that feature a diverse array of shops, restaurants and services. Many of the neighborhood businesses have their roots in Shoreline, established with the help of a local business incubator, a long-term collaboration between the Shoreline Community College, the Shoreline Chamber of Commerce and the city.

Many different housing choices are seamlessly integrated within and around these commercial districts, providing a strong local customer base. Gathering places – like parks, plazas, cafes and wine bars - provide opportunities for neighbors to meet, mingle and swap the latest news of the day.

Neighborhood main streets also serve as transportation hubs, whether you are a cyclist, pedestrian or bus rider. Since many residents still work outside Shoreline, public transportation provides a quick connection to downtown, the University of Washington, light rail and other regional destinations. You'll also find safe, well-maintained bicycle routes that connect all of the main streets to each other and to the Aurora core area, as well as

convenient and reliable local bus service throughout the day and throughout the city. If you live nearby, sidewalks connect these hubs of activity to the surrounding neighborhood, bringing a car-free lifestyle within reach for many.

The Signature Boulevard

Aurora Avenue is Shoreline's grand boulevard. It is a thriving corridor, with a variety of shops, businesses, eateries and entertainment, and includes clusters of some mid-rise buildings, well-designed and planned to transition to adjacent residential neighborhoods gracefully. Shoreline is recognized as a business-friendly city. Most services are available within the city, and there are many small businesses along Aurora, as well as larger employers that attract workers from throughout the region. Here and elsewhere, many Shoreline residents are able to find family-wage jobs within the City.

Housing in many of the mixed-use buildings along the boulevard is occupied by singles, couples, families, and seniors. Structures have been designed in ways that transition both visually and physically to reinforce the character of adjacent residential neighborhoods.

The improvements put in place in the early decades of the 21st century have made Aurora an attractive and energetic district that serves both local residents and people from nearby Seattle, as well as other communities in King and Snohomish counties. As a major transportation corridor, there is frequent regional rapid transit throughout the day and evening. Sidewalks provide easy access for walking to transit stops, businesses, and connections to adjacent neighborhoods.

Aurora has become a green boulevard, with mature trees and landscaping, public plazas, and green spaces. These spaces serve as gathering places for neighborhood and citywide events throughout the year. It has state-of-the-art stormwater treatment and other sustainable features along its entire length.

As you walk down Aurora you experience a colorful mix of bustling hubs – with well-designed buildings, shops and offices – big and small – inviting restaurants, and people enjoying their balconies and patios. The boulevard is anchored by the vibrant Town Center, which is focused between 175th and 185th Street. This district is characterized by compact, mixed-use, pedestrian-friendly development highlighted by the Shoreline City Hall, the Shoreline Historical Museum, Shorewood High School, and other civic facilities. The interurban park provides open space, recreational opportunities, and serves as the city's living room for major festivals and celebrations.

A Healthy Community

Shoreline residents, city government and leaders care deeply about a healthy community. The city's commitment to community health and welfare is reflected in the rich network of programs and organizations that provide human services throughout the city to address the needs of all its residents.

Shoreline is a safe and progressive place to live. It is known region wide for the effectiveness of its police force and for programs that encourage troubled people to pursue positive activities and provide alternative treatment for non-violent and nonhabitual offenders.

Introduction

In Shoreline it is believed that the best decisions are informed by the perspectives and talents of its residents. Community involvement in planning and opportunities for input are vital to shaping the future, particularly at the neighborhood scale, and its decision making processes reflect that belief. At the same time, elected leaders and city staff strive for efficiency, transparency and consistency to ensure an effective and responsive city government.

Shoreline continues to be known for its outstanding schools, parks and youth services. While children are the bridge to the future, the city also values the many seniors who are a bridge to its shared history, and redevelopment has been designed to preserve our historic sites and character. As the population ages and changes over time, the City continues to expand and improve senior services, housing choices, community gardens, and other amenities that make Shoreline such a desirable place to live.

Whether for a 5-year-old learning from volunteer naturalists about tides and sea stars at Richmond Beach or a 75-year-old learning yoga at the popular Senior Center, Shoreline is a place where people of all ages feel the city is somehow made for them. And, maybe most importantly, the people of Shoreline are committed to making the city even better for the next generation.

Framework Goals

The original framework goals for the city were developed through a series of more than 300 activities held in 1996-1998. They were updated through another series of community visioning meetings and open houses in 2008-2009. These Framework Goals provide the overall policy foundation for the Comprehensive Plan and support the City Council's vision. When implemented, the Framework Goals are intended to preserve the best qualities of Shoreline's neighborhoods today and protect the City's future. To achieve balance in the City's development the Framework Goals must be viewed as a whole and not one pursued to the exclusion of others.

Shoreline is committed to being a sustainable city in all respects.

FG 1: Continue to support exceptional schools and opportunities for lifelong learning.

FG 2: Provide high quality public services, utilities, and infrastructure that accommodate anticipated levels of growth, protect public health and safety, and enhance the quality of life.

FG 3: Support the provision of human services to meet community needs.

FG 4: Provide a variety of gathering places, parks, and recreational opportunities for all ages and expand them to be consistent with population changes.

FG 5: Encourage an emphasis on arts, culture and history throughout the community.

FG 6: Make decisions that value Shoreline's social, economic, and cultural diversity.

FG 7: Conserve and protect our environment and natural resources, and encourage restoration, environmental education and stewardship.

FG 8: Apply innovative and environmentally sensitive development practices.

FG 9: Promote quality building, functionality, and walkability through good design and development that is compatible with the surrounding area.

FG 10: Respect neighborhood character and engage the community in decisions that affect them.

FG 11: Make timely and transparent decisions that respect community input.

FG 12: Support diverse and affordable housing choices that provide for Shoreline's population growth, including options accessible for the aging and/or developmentally disabled.

FG 13: Encourage a variety of transportation options that provide better connectivity within Shoreline and throughout the region.

Introduction

- FG 14: Designate specific areas for high density development, especially along major transportation corridors.
- FG 15: Create a business friendly environment that supports small and local businesses, attracts large businesses to serve the community and expand our jobs and tax base, and encourages innovation and creative partnerships.
- FG 16: Encourage local neighborhood retail and services distributed throughout the city.
- FG 17: Strengthen partnerships with schools, non-governmental organizations, volunteers, public agencies and the business community.
- FG 18: Encourage Master Planning at Fircrest School that protects residents and encourages energy and design innovation for sustainable future development.

ORDINANCE NO. 549

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, MODIFYING INTERIM REGULATIONS ON THE FILING OR ACCEPTANCE OF CERTAIN APPLICATIONS FOR RESIDENTIAL DEVELOPMENT OF LAND WITHIN THE REGIONAL BUSINESS LAND USE DISTRICT

WHEREAS, under the provisions of the Growth Management Act the City has adopted development regulations implementing the City of Shoreline Comprehensive Plan; and

WHEREAS, the Regional Business (RB) land use district allows residential development, but does not place an absolute limit on the permitted number of dwelling units per acre; and

WHEREAS, the Shoreline City Council found that, pursuant to Ordinance 505, the continued acceptance of development applications proposing new residential development utilizing existing Regional Business (RB) zone density provisions may allow development that is incompatible with nearby existing land uses and circulation systems, leading to problematic traffic conditions and an erosion of community character and harmony established a moratorium and interim regulation for development in the RB zoning district; and

WHEREAS, the City Council held public hearings on October 13, 2008 and April 6, and extended the moratorium until until November 12, 2009 by Ordinance 535; and

WHEREAS, the public hearing on April 6 also took testimony for an amendment of the RB interim regulation for a target area along Midvale Ave. N between N. 175th and N. 185th and the Council deferred action on the amended interim regulation for further study and the amended interim regulation for the Midvale target area are resubmitted with this ordinance; and

WHEREAS, there is a need to adopt a technical amendment to Ordinance 546 adopted May 11, 2009, now therefore

THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings of Fact. The recitals set forth above are hereby adopted as findings of the City Council.


Section 2. Interim Regulation Amended. The interim regulation for the Regional Business Zone (RB) and Section 2 of Ordinance No. 505 are amended to read as follows:

Moratorium and Interim Regulation Adopted.

- A. Except for properties included under subsection B, A moratorium is adopted upon the filing of any application for residential development within the Regional Business (RB) zoning district of the City, which exceeds 110 dwelling units per acre, unless a neighborhood plan, subarea plan or special district overlay plan authorizing a higher density has been approved.
- B. For property zoned Regional Business (RB) that abuts Midvale Ave.N. between N 175th and N. 185th Streets, a moratorium is adopted upon the filing of any application for residential development which does not:
1. Limit the maximum building height within 100 feet of the property line between RB and R-8 and R-12 zoned properties to 45', and limit the maximum building height between 100-200 feet of the property line to 55' ~~Limit building height at least 200 feet from property lines to 45', abutting all residential districts except R-48;~~ and
 2. At a minimum, meet "3-star" construction standards plus independent verification under King County Built Green standards as amended, or equivalent standard approved by the director; and
 3. Include electric vehicle plug-in facilities in parking areas; and
 4. Make a provision for the developer holding a neighborhood meeting with city staff in attendance to identify traffic impacts coming from building occupants and discuss appropriate mitigation measures. Meetings will be advertised by mailings to property owners and occupants within 500 feet of the property; and
 5. Demonstrate compliance with design standards of SMC 20.91.050 with the following modification, unless a design departure approval is obtained under SMC 20.91.040. The modification is: development will provide contiguous commercial space covering at least 2/3 of street frontage (not including openings into buildings) or an equivalent contiguous space on the 1st floor with an entrance onto Midvale; and
 6. Limit housing unit density to a maximum 150 du/acre.
 7. All buildings and required parking shall be located on the RB-zoned property and not off-site.
- C. No land use development proposal or application may be filed or accepted which proposes a development that does not comply with this section.

Section 3. Publication, Effective Date. This ordinance shall take effect five days after publication of a summary consisting of the title in the official newspaper of the City.

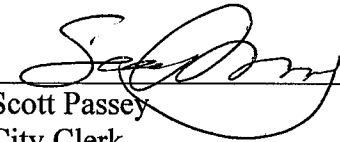
PASSED BY THE CITY COUNCIL ON MAY 26, 2009.



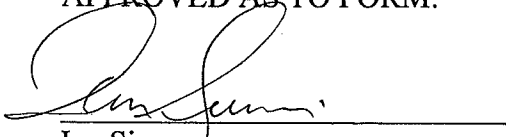
Mayor Cindy Ryu

ATTEST:

APPROVED AS TO FORM:



Scott Passey
City Clerk



Ian Sievers
City Attorney

Date of Publication: May 29, 2009
Effective Date: June 3, 2009

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Memorandum

DATE: June 11, 2009

TO: Shoreline Planning Commission

FROM: Joseph W. Tovar, FAICP, Director P&DS
Steven M. Cohn, Senior Planner

SUBJECT: Scoping of Regional Business Zone Permanent Regulations

On May 12, 2008, the City Council adopted Ordinance 505, which placed interim regulations on residential development in Regional Business zones throughout Shoreline and limited residential density to a maximum of 110 dwellings/acre. The interim regulations have been extended twice pending completion and adoption of the Vision Statement and Framework Goals. The most recent extension was adopted April 6, 2009. It will expire on November 12, 2009.

Prior to staff bringing the Commission its proposal for permanent regulations for the Regional Business zoning, we want to present some of our current thinking on this matter. We look forward to a dialogue with the Commissioners to hear your perspective on our thoughts and the ideas you think should be considered as part of the RB discussion.

The purpose of tonight's discussion is to

1. Discuss the context for the RB discussion and staff's initial thoughts on the scope/approach to refining the RB zone.
2. Define additional questions/comments/ concepts that the Commission would like to study.

Context of the RB Discussion

1. There is a citywide RB moratorium which limits residential density to 110 du/acre except in the Midvale Demonstration Area which can go to 150 du/acre as a tradeoff for providing specific amenities. The moratorium will expire in mid-November. The Council directed the Planning Commission to develop permanent RB regulations for their consideration to adopt before the moratorium expires.
2. The moratorium doesn't impact height or control development potential for retail or office uses. The current height limit is 65 feet.

3. Design transition standards apply to all RB and CB zones. These standards provide more stringent rules regarding setbacks and stepbacks as compared to the previous regulations about setbacks.
4. There is a proposed CPA on the docket that would limit residential development in RB zones to 48 du/acre
5. There has been a lot of confusion created by the fact that the term “Regional Business” and its abbreviation “RB” is used both as a Comprehensive Plan designation and as a zone on the map and text of the development code. In addition, the term “regional” implies that uses are limited to those with a regional market (which is incorrect) while the term “business” implies that the exclusive use in this district is commercial as opposed to residential (also incorrect).

What are staff’s preliminary thoughts on the scope?

Staff has identified six concepts to keep in mind while considering the scope of the RB zoning code amendment:

1. The Council has already twice extended the interim regulations.
2. Regional Business zoning is not limited to the Aurora Corridor.
3. The council has provided some direction to the process
4. Permanent regulations, though intended to provide a degree of certainty to Shoreline’s residents and potential developers, are not written in stone.
5. To eliminate the confusion between identical terms in the plan and code, it may be wise to simply re-name the zoning designation to something else.
6. Discussion of the regulations should include a conversation about whether a density limit of 48 dus/acre is appropriate in an RB zone, either as a base density or as a maximum. This option is one that the Council placed on the Comprehensive Plan Amendment docket and deserves consideration along with other options.

Elaborating on the five concepts

The Council has already twice extended the interim regulations.

It is unlikely that they will want to do so again. To allow the Council enough time to consider and adopt new permanent regulations by mid-November, staff suggests that the Commission to develop a recommendation by early October.

Staff recommends that the Commission strive to develop permanent regulations that are straightforward to understand and apply, and aim to develop regulations built around existing code language rather than developing a brand new code (such as the Ridgecrest Planned Area code.)

Regional Business zoning is not limited to the Aurora Corridor.

Though the bulk of it is located on or near the Aurora, there are existing pockets of RB zoning in Ballinger and near Lake City Way. The Comprehensive Plan would permit RB zoning on sites that are currently designated CB or RB

Staff cautions the Commission not to focus on specific sites or proposals when developing the regulations. They need to be applicable citywide.

The council has provided some direction to the process in adopting the Vision and Framework Goals and the Midvale Demonstration Area. (Attachments 1 and 2)

The Vision and Framework Goals (excerpted in Attachment 1) call for a mixture of higher and lower intensity uses. They also call for vibrant mixed use residential areas. The Midvale Demonstration Area (Ord. 546 and 549) is an exception to the interim regulations that would allow additional density, but requires design review and public amenities.

Staff concludes that the Council direction provides flexibility to the Commission to consider that some areas of RB could allow more intensity or density than other RB areas.

Permanent regulations, though intended to provide a degree of certainty to Shoreline's residents and potential developers, are not written in stone. We foresee that the Town Center Subarea Plan will modify the RB regulations in some form (The initial discussion with the Planning Commission on Town Center will occur at your July 9 meeting.) It is possible that different regulations might also be considered for other areas, such as the Sears site.

This conclusion, together with the relatively short time frame, leads staff to reiterate its objective to keep this set of regulation relatively simple. Future subarea or Planned Area processes will provide time to develop more geographically specific regulations, taking into account specific topography etc.

Discussion of the regulations should include a conversation about whether a density limit of 48 dus/acre is appropriate in an RB zone, either as a base density or as a maximum. This option is one that the Council placed on the Comprehensive Plan Amendment docket and deserves consideration along with other options.

Because the Council has directed that an RB limit of 48 du/acre to be studied as part of the 2009 CPA docket, the Commission should add this as an option.

Current direction of staff recommendation.

Staff continues to believe that a form-based code is a valid objective and that the RB zone in the Aurora Corridor is a reasonable place for that to occur. Currently,

staff is considering development of a proposal that would reduce the allowable density/intensity on smaller or narrower sites and allowing more density/intensity on larger sites. This would be accomplished by limiting building height on smaller sites and allowing greater height on larger sites.

Staff would expect that the effect of this proposal is to concentrate larger development onto a few geographic areas on Aurora—probably portions of the Town Center, Sears and Aurora Village sites. Other parts of Aurora would have development, but it would be on a smaller scale.

For sites with access to Aurora, staff is mulling over whether to place a limit on allowable density, allowing the height limit and parcel size to control it. For sites that don't have direct access to Aurora (including sites on Ballinger and other parts of the City), staff would definitely consider a density limit.

In addition, staff is mulling over the question of developing a new zoning category that doesn't permit retail uses. This zone might be appropriate on sites that are located between an intense RB zone and a single-family zone.

Next Steps

Staff will discuss these ideas with you in greater detail at the June 18 meeting. We are looking for your reactions as well as your ideas about other concepts to consider.

If you have questions or comments prior to the meeting, please discuss them with Steve Cohn at 206-801-2511 or email him at scohn@shorelinewa.gov.

Attachments

1. Excerpts from the Vision Statement/Framework Goals
2. Excerpts from Ord. 549 (Midvale Demonstration Project)

These Minutes Approved
July 9th, 2009

CITY OF SHORELINE

**SHORELINE PLANNING COMMISSION
SUMMARY MINUTES OF REGULAR MEETING**

June 18, 2009
7:00 P.M.

Shoreline Conference Center
Mt. Rainier Room

Commissioners Present

- Chair Hall
- Vice Chair Wagner
- Commissioner Behrens
- Commissioner Broili
- Commissioner Kaje
- Commissioner Kuboi
- Commissioner Perkowski
- Commissioner Piro
- Commissioner Pyle

Staff Present

- Joe Tovar, Director, Planning & Development Services
- Steve Cohn, Senior Planner, Planning & Development Services
- Steve Szafran, Associate Planner, Planning & Development Services

Commissioner Broili inquired if the City would be guaranteed a source of water from SPU if they were to establish their own water district. Mr. Tovar clarified that the City is looking into the possibility of purchasing SPU's assets, which would then be managed by the City's new water department. He summarized that numerous organizational details must be put in place before the acquisition could occur. The people who currently depend upon water from SPU have some legal rights to have water provided to them by the City of Seattle, which owns the franchise. A grey area exists as to whether the City of Seattle has a duty under the Growth Management Act or any other law to have their water system support Shoreline's land use plan. If they were a special district, they would clearly have to be consistent and support the City's land use plan.

Commissioner Behrens asked if staff is comfortable that the City Council would eventually adopt a Goals document that is very similar to the draft that is currently before the Commission. Mr. Tovar expressed his belief that the City Council would likely adopt the document prior to the Commission's next discussion regarding the Comprehensive Plan Update.

Commissioner Pyle referred to Goal 8, which is to develop a Fircrest Master Plan, and questioned why the City should target Fircrest when there are other campuses in the City where the master plan concept could be applied. Chair Hall reminded the Commission that the purpose of tonight's discussion is to talk about their process for updating the Comprehensive Plan. Attachment B is a working document of the City Council and was provided to the Commission simply for information. He suggested the Commission allow the City Council to finish their exercise and adopt a final document before they request additional information from staff.

Project Scope of Permanent Regulations for Regional Business Zone

Mr. Cohn referred to the Staff Report, which outlines some of staff's preliminary thoughts for refining the code language for the Regional Business (RB) zone. In addition, staff would like feedback from the Commission about additional questions and concepts they would like to study. He suggested that as the Commission reviews the current language to identify problems and opportunities, they should keep in mind that the City Council has extended the interim regulations twice. He recommended the Commission complete their work by mid October so the City Council can adopt permanent regulations before the November 12th deadline. He referred to Commissioner Behren's email which could provide a good starting point for the Commission's discussion.

Commissioner Kaje recalled that when the Commission reviewed a request for RB zoning a few weeks ago, they discussed the concept of transition. They specifically discussed physical transition and how to soften a proposed development by limiting the allowed building envelope, setting the building back a greater distance from adjoining properties, etc. However, given that RB is the City's most intensive zoning designation, the Commission must also consider transition from a land use and zoning perspective. He referred to Vice Chair Wagner's earlier comment about the need for additional zoning designations that are less intense than RB. In addition, the Commission needs to have a discussion about what types of zones the RB designation can be located next to. For example, the City could consider R-24 to be an appropriate transitional zone between lower densities and RB so RB would not be allowed next to R-12 zones. While R-12 is often considered to be a higher-density, he said he does

not think that is what citizens would consider a appropriate transitional zoning for the RB zone. He recognized there may be unique circumstances where the City must rely on more of a physical transition because they have already zoned poorly. However, he suggested the City would continue to fight the same concerns over and over again unless they come up with some guidance as to what uses will be allowed in medium buffer zones. That is one reason why he expressed opposition to the previous proposal that would allow RB zoning in close proximity to R-6 and R-12 zones.

Commissioner Pyle agreed with Commissioner Kaje that the Commission must figure out what types of zoning RB should be surrounded by. However, in order to know what and how large the buffer should be, the Commission must have a clear understanding of what the RB zone would allow. He observed that one of the problems with the current RB language is that people have some fear of density and where and how it is located. The Commission should first discuss what the appropriate RB density should be, coupled with a discussion on how the density should be transitioned into the neighborhoods. The two issues go hand in hand. He said his interpretation of the Comprehensive Plan and the current RB regulations is that there is no density limit. However, just because it doesn't say there is a limit, does not mean it is not contemplated. It is merely a matter of dimensional standards, or how many units you can fit in a box given the parking, transportation, and other requirements. Whatever is allowed in RB zones has an impact on the surrounding neighborhoods. The Commission has a responsibility to protect the neighborhoods, but also to allow the City some flexibility and diversity as to what can be developed on an RB site.

Vice Chair Wagner said she was intrigued by the idea of coming up with multiple RB zones because the current RB zoning designation does not seem to fit all situations. She noted they have already drawn a line around the Town Center Subarea Plan, and perhaps they could do the same for the RB zones that are located to the north and south of Town Center. She questioned if the current Comprehensive Plan language would allow the Commission to go that direction.

Mr. Tovar agreed it would make sense from a long-term perspective to create different types of RB zoning designations. However, he questioned if this would be legally possible without some kind of policy basis. He summarized that a Framework Policy was provided in the Comprehensive Plan to draw a line around the Town Center (between 175th and 195th). However, there is no policy basis for determining that RB zoned sites located to the north and south of Town Center should be zoned at a different height or density. He recalled that a few years ago, staff proposed the concept of breaking Aurora Avenue North down into logical subsets, and perhaps this concept could be revisited as part of the Comprehensive Plan Update. While he cautioned against getting too detailed in the Comprehensive Plan, he suggested it would be appropriate to propose some framework policies for each of the subsets of Aurora Avenue North. He agreed to seek additional direction from the City Attorney.

Commissioner Behrens observed that there is a huge block of land that lies along Aurora Avenue, but some of the parcels are totally unusable for intensive development for a number of different reasons. He suggested a better approach would be to identify a baseline density, and then write Development Code language that allows additional density if certain important elements can be provided (i.e. located on a major corridor, adjacent to a bus line, adequate water supply, sidewalks, transition areas, green elements, underground parking, trees retention, parks and open spaces, etc. This would allow greater

density on properties that are large enough to be developed in a way that benefits the City. He suggested it is unrealistic to tell a developer he has a piece of RB land with unlimited density when in reality the parcel is not useable at the density the zoning code allows.

Commissioner Behrens pointed out that the initial concept of RB was for business and commercial development only, and residential uses were not allowed. He suggested that if RB is going to be used as a residential zone, the language should be located in the residential section of the Development Code. Once this change has been made, the Development Code could determine how much density would be allowed based on the list of elements he previously identified. Instead of coming up with one-size-fits-all language, they should provide incentives that encourage good development and growth.

Mr. Tovar agreed with much of what Commissioner Behrens suggested. However, the Commission should keep in mind that they have less than 2½ months to forward a recommendation for permanent regulations to the City Council for final adoption. Even if the City Council adopts permanent RB regulations, nothing would prevent the Commission from dealing with the regulations again as part of their Comprehensive Plan Update, and providing greater differentiation. However, this will take more time since policies would have to be adopted into the Comprehensive Plan to provide a basis for making distinctions in the RB zone.

Chair Hall agreed with Mr. Tovar that the Commission is somewhat limited in what they can address as part of their current effort. He agreed there are no two parcels in which a minutely detailed regulation could address all of the issues, and that is the purpose of allowing some flexibility.

Chair Hall reminded the Commission of their earlier discussion about using the Framework Goals and Vision Statement to guide their decisions. He observed that the Vision Statement calls out Shoreline being a sustainable city in all respects within the City boundaries, as well as the City's role in the region. He suggested the Commission should consider the relationship between sustainability goals and the RB business regulations. He pointed out that traditional exclusionary zoning ends up driving residents to use their cars for transportation because where you live is not where you work, shop or play. He suggested the Commission take this opportunity to recognize that because of location, RB zones create an opportunity for mixed use at a variety of densities. The question is how best to control and regulate the mixed uses, which becomes an issue of compatibility. He referred to Commissioner Kaje's earlier comments about transition and noted that when an RB zone is located next to an R-6 zone, effective transition could include up zoning the R-6 residential neighborhood to R-24, down zoning part of the RB zoned area, or requiring some kind of transition. While any of these tools would work, he said he is neither a proponent of up zoning which has a negative impact on neighborhoods nor down zoning that takes away private property rights. He cautioned the Commission that these two options must be done very carefully.

Chair Hall said he would prefer that the Commission's discussion focus on impacts to the neighborhood and compatibility instead of the number of units allowed. He reminded the Commission of previous discussions where they learned that because of demographic shifts, 2,600 square foot homes in single-family neighborhoods often have more cars per acre than smaller cottage homes that are generally occupied by one or two people. He summarized that the City's demographics are shifting, and in order

to create a balance, the City needs a larger number of smaller units. This can be accomplished by regulating traffic, parking and compatibility rather than the number of units. The design standards can address building envelope issues such as solar access and visual compatibility. He observed that parking and traffic have a greater impact on neighborhoods than the actual number of people living in a development. He concluded by saying he likes the concept of allowing a mixture of uses in the RB zone and allowing developments to be regulated based on their impacts and not the number of units.

Commissioner Piro said he would like to further discuss a point raised at their last meeting by Vice Chair Wagner about whether or not there is a gap between what is allowed in the R-48 and RB zones that may cause them to consider additional zoning designations that do not currently exist.

Commissioner Broili observed that the greater the intensity of the zoning, the more levels of scale and treatment will be necessary. For example, RB zoning may require three to five levels of zoning that have different treatments, and mixed use should be part of the scenario. He suggested that once the Commission has addressed the RB regulations, applying the same concept to other zoning levels would provide effective tools to fit future development into the landscape of the neighborhoods.

Commissioner Behrens observed that the RB zoned properties have been a topic of discussion since the City was incorporated, and he thanked staff for proposing the current moratorium, which has given the staff, City Council, Commission and citizens an opportunity to realistically review the regulations. However, he cautioned against being in a big hurry to resolve the issues. He noted that most of the City Councilmembers and citizens recognize this issue is tremendously important and will define what the City will look like in the future. If necessary, he suggested they extend the moratorium, particularly recognizing there is not a great demand for development at this time. This would give the Commission an opportunity to adequately address the issues and resolve them appropriately. Chair Hall reminded the Commission that the City has already limited the property rights of everyone who owns property in RB zones for 18 months, and these people are becoming frustrated. Mr. Tovar explained that the City Council has asked the Commission to recommend language for permanent regulations by November 12th. While they do have the option of continuing the moratorium, they have indicated they would rather not. However, he reminded the Commission that they would still have the ability to recommend changes in the future.

Mr. Tovar suggested the Commission consider renaming the zone from RB to something else such as Business Residential (BR), which would allow opportunities for business or residential. They could further refine the zone to allow varying levels of density. He recommended the Commission move their discussion away from the term Regional Business since it implies that it is intended for only regional business uses, which is not the case. He suggested the Commission make a recommendation to the City Council by November 12. At that time, they could also recommend the City Council allow them to further refine the zone to differentiate the varying levels of density, building height, uses, etc. However, he cautioned that it would be better to regulate based on groups of parcels rather than parcel-by-parcel.

Chair Hall summarized that the Commissioners were in support of changing the name of the current RB zone and recognizing the potential for mixed uses (residential and commercial). In addition, addressing

issues related to compatibility and transition should be a priority. Commissioner Pyle said it also appears the Commission has agreed to move away from using a unit cap approach that is intended to fit all of the sites because of the variable conditions that exist. He suggested the Commission focus on the qualitative issues related to access, parking, etc.

Commissioner Behrens expressed concern that not identifying a maximum unit count could mislead developers who purchase property thinking they can develop to a certain level, only to discover later there is not adequate infrastructure, such as water pressure, to build anything close to the number they had projected based on the code. Chair Hall pointed out there are areas in the City where there are not adequate water lines available to meet the fire flow standards for multi-family development. However, even if a unit count were identified as part of the zoning language, there may still be places where developers would be unable to obtain sufficient fire flow to develop a site to its fullest potential allowed by the code. Commissioner Behrens suggested the unit count be set at a level where the City can ensure there is adequate infrastructure. Commissioner Pyle suggested rather than a unit count, the code language could put in place mechanisms that adapt to site conditions. He said he works in development review, and the fact is people purchase properties without doing due diligence, but that is their issue to resolve.

Chair Hall summarized that the Commission generally agrees they don't want to have an arbitrarily set unit count that is intended to fit all RB zones. Instead, design requirements, site conditions, etc. would constrain development to an appropriate level. The Commission agreed it is important to make the constraints clear in the code language.

Commissioner Broili asked if density or unit count could be controlled by code regulations as well as function. Mr. Tovar answered there are ways to address intensity (density) such as a floor area ratio, standards for lot coverage, building envelope, etc. He recalled that the theory behind the form-based code concept is to regulate things the City cares the most about, which could include varying levels of floor area ratio. It would be up to the developer to do due diligence to find out exactly what the market, current infrastructure, etc. would support. Commissioner Broili summarized that the City would have the ability to implement form-based zoning without setting a unit count or density requirement and issues could be adequately addressed by the Development Code regulations. Mr. Tovar agreed that a unit count would not be necessary to regulate density. Commissioner Broili cautioned that because they are considering opportunities for mixed use, it is important to discriminate between the terms "density" and "unit count." The Commission should keep in mind that more intense uses with low unit counts can have just as much impact as less intense uses with higher unit counts. He summarized that both intensity and unit count could both be controlled through good code and regulations. Chair Hall recognized this could be a controversial issue, but the Commission has generally concluded they do not want to identify a maximum density count. He emphasized that as discussed by the Commission, density could be limited by other regulations related to parking, traffic, building size, etc.

Commissioner Kaje suggested the Commission not only consider the 300 acres that are currently zoned RB, but also those that are identified in the Comprehensive Plan as a Community Business (CB) land use category. He reminded the Commission that the Comprehensive Plan states that RB is an acceptable zone for properties identified on the land use map as CB. Throughout their discussion, the Commission

must remain cognizant of where the new rules might apply as they consider issues such as floor area ratios, heights, etc. They should keep in mind all of the locations that have the potential of being rezoned to RB.

Chair Hall agreed this would become even more important as the Commission considers future planning in the area of the future transit stations. It is likely they will conclude that the higher intensity development should be located near transit stops. However, they must also keep in mind that the neighborhoods are currently zoned as single-family residential. While it would not be appropriate to recommend rezoning single-family neighborhoods to RB in the near future, they may very well want to adopt a Comprehensive Plan designation that says as things redevelop they expect the area to become as intense as RB. This transition would then occur over many years. He summarized that it is not uncommon to have zoning designations that are below the maximum density allowed by the Comprehensive Plan in order to protect existing property owners. However, as the properties in this vicinity redevelop, it is likely the Commission would be asked to consider rezoning the properties.

Commissioner Behrens suggested it is somewhat unfair to allow property owners to rezone to RB and compete with people who own property that is already zoned RB. He suggested the City should encourage development of the existing RB zoned properties rather than encourage people to seek rezones for property that might not fit completely into the RB concept and then attempt to transition it. They have a tremendous amount of unused RB zoned property in the City, and the City should encourage these property owners to move forward.

Commissioner Wagner expressed concern about requiring developers of RB zoned properties to provide additional step backs or setbacks in order to reduce the impacts if it is likely that adjacent properties would be redeveloped into a more intense use in the near future. She suggested the Commission carefully consider if they want to require step backs and setbacks if they expect the properties they are intended to buffer to be developed with a higher density in the next five to ten years. She observed that this might not be the highest and best use of the land in the long-term.

Commissioner Wagner also expressed concern that the current RB zoning language allows for unlimited types of uses. She suggested it might be appropriate to prohibit certain uses, particularly in conjunction with residential uses. Mr. Tovar agreed that the City could not expect residential neighborhoods to thrive in mixed use areas if incompatible commercial uses are allowed to occur. He suggested it may be appropriate to impose specific regulations in certain RB zones where they hope to have residential areas grow.

Chair Hall summarized that the next step would be for staff to prepare some proposals to present to the Commission for further discussion. The Commission would have an opportunity to review the proposals at least one more time before a public hearing is scheduled in the fall. Again, he emphasized the importance of linking their discussion regarding RB regulations to the newly adopted Vision Statement and Framework Goals. He particularly called out Framework Goal 10, which says "respect neighborhood character and engage the community in decisions that affect them." He observed that respecting neighborhood character will be an important factor to consider when addressing the issue of

transition. Development in RB zones should not be allowed to severely impact adjacent residential neighborhoods.

Chair Hall recalled Commissioner Behrens suggestion that they start with base regulations and then provide greater incentives for environmentally friendly development, underground parking, affordable housing, etc. He noted that Framework Goals 7 and 8 speak to the City's natural resources and environmentally sensitive development practices. If they move towards a regulation that is based on floor area ratio, then creating regulations similar to those used for the Ridgecrest Neighborhood might be an option. He recalled that the Ridgecrest Neighborhood indicated favorable support for incentives to encourage public gathering spaces, and Framework Goals 4, 5 and 6 speak to gathering spaces, parks, recreational opportunities, plazas, arts, culture and history, etc. He summarized that some good things were done with the Ridgecrest Neighborhood as far as building envelope and transition zoning to address neighborhood compatibility. Using this approach, along with adding some incentives as discussed earlier, would go a long way towards having an acceptable, fairly high-intensity, mixed-use zone.

Commissioner Wagner recalled that when the Commission worked on their recommendation for the Ridgecrest Neighborhood, they expressed disappointment that it was not possible to add residential units on top of Gateway Plaza because there was not sufficient infrastructure in place at the base. She suggested the Commission consider the feasibility of including a requirement that developers consider potential future up building so that the necessary infrastructure is in place to support the addition of residential units on upper stories at some point in the future. Chair Hall agreed the Commission should be concerned about preserving more open space by using land more efficiently, and this relates back to being sustainable and environmentally friendly. When large sites are developed as 1-story buildings, the City loses a tremendous opportunity to have a more sustainable development that can house more people.

PUBLIC COMMENTS

Les Nelson, Shoreline, recalled that the original RB zoning designation did not allow any housing density. By the time the zoning was adopted by the City of Shoreline, the RB and CB zones allowed R-24 and R-36. He encouraged the Commission to review the Council's research related to Ordinances 238 and 276, which were adopted in 2000. He noted the process never really addressed whether or not the public was informed of anything above R-48. He recalled that the City Council previously directed that R-48 was to be the standard density limitation.

Mr. Nelson said that he likes the idea of applying a floor area ratio concept to allow development to go higher. However, he is against allowing a mid-rise height for residential units everywhere. He noted that discussions related to the RB zone were initially focused on those properties located along Aurora Avenue North, but now it seems the more intense housing density would be located along Interstate 5 and 185th and 145th near the proposed new transit stations. If that is the case, they should not place all of the housing on Aurora Avenue, since this would remove all of the business opportunities. He said he lives 1 block from Aurora Avenue, and he would like to see a mixture of uses. He said that if the City were to stick with a maximum density of R-48 then placing a 220-unit building on one acre would

require a developer to designate three other acres for parks or businesses. This would require a developer to come up with a better plan to make it work.

Mr. Nelson disagreed with Chair Hall's comment related to down zoning and the concern that property rights would be taken away. He said he does not believe a property owner would prevail in a claim against the City if the City were to set a maximum density of 48 units per acre and then establish incentives that allow greater density and height. He referred to all the development that is taking place on Martin Luther King Way related to the Sound Transit Project. He encouraged the Commission to visit this area to see what they did to accommodate the major transit facility. He suggested that CB and RB land uses should govern the Commission's decision about how a particular property should be used in the future because RB zoning has always been whatever anybody wants it to be.

Commissioner Kaje clarified that Mr. Nelson is opposed to mid-rise developments that are residential only. Mr. Nelson is asking the Commission to think of ways to specifically encourage multiple uses in the RB areas as opposed to strictly residential uses. Mr. Nelson observed that it is difficult to force developers to include retail space as part of a residential building. However, this same effect would result if the City were to create a situation where in order to get the height and the density they want, developers have to give up another property or portion of a property for business. He said he does not want the City to give up a substantial portion of their business district to accommodate residential units.

DIRECTOR'S REPORT

Mr. Cohn advised that the Commission's packet included sample multi-family regulations from the City of Seattle. They have been working on the document for several years, and it is very readable and has some interesting ideas. He suggested the Commission review the information and keep it in mind as they consider multifamily regulations in the future. He advised that the packet also included updated sections of the Comprehensive Plan, which incorporates all of the amendments that have been adopted over the past few years. Updated materials were provided for the Development Code, as well.

Mr. Cohn reminded the Commission that they agreed to cancel their July 2nd meeting and meet on July 9th instead. Staff is suggesting the Commission reschedule their second meeting in July from the 16th to the 23rd. He advised that staff anticipates scheduling a driving or walking tour of town center. The Commission agreed to reschedule the July 16th meeting to July 23rd, and staff indicated they would be willing to schedule an additional tour for Commissioners who are unavailable on July 23rd.

Mr. Cohn announced that the City would receive a new population estimate at the end of July, and his informed guess is that the population would be more than the currently identified 53,000.

UNFINISHED BUSINESS

No unfinished business was scheduled on the agenda.

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Memorandum

DATE: July 27, 2009

TO: Shoreline Planning Commission

FROM: Joseph W. Tovar, Director
Steven M. Cohn, Senior Planner
Jessica Simulcik Smith, Planning Commission Clerk

RE: Review Planning Commission Bylaws for Public Comment Rules

In a recent email, the Director raised a concern that the distinction has been blurred between public testimony and public comment at Planning Commission meetings, due in part to the way that study meeting and regular meeting agendas have been structured. Several Planning Commissioners asked to revisit the Planning Commission bylaws in order to discuss how to better deal with public comment and testimony.

Study sessions on legislative items are intended to be the time when staff introduces a topic and the Commission asks questions and has an *informal* dialogue and deliberation among its members. In most cities, the study meeting is held around a large table, typically in a smaller room, rather than up on a dais in the large Council Chamber. Protocols are more informal in a study meeting, with Commissioners addressing one another less formally, e.g., by first name rather than by title and last name. No motions are made or votes taken at a study meeting. Study meetings are public meetings, so citizens are welcome to attend and listen, but the study meeting is not the time to solicit citizen input or a dialogue with the public.

By contrast, Public hearings at business meetings are a time when the Commission *formally* solicits comment from the broad public. In fact, legal notice of the opportunity to speak is one of the key differences between a study meeting and a public hearing at a business meeting. The published hearing notice puts all members of the public on the same level playing field; they all have an equal opportunity to be alerted to the issues up for public testimony at the hearing and an equal opportunity to give such testimony, both in writing and orally. The public hearing is a more formal proceeding, up at the dais, typically in a Council

Chamber, and the formal terms of address are the norm, e.g., “The Chair recognizes Commissioner Jones.” Finally, after taking testimony and deliberating the merits, the Commission then votes to take some formal action.

Even though the Planning Commission does not take “testimony” at its study sessions, the Commission Bylaws allow opportunities on the agenda for the public to comment – a practice which has caused confusion on how the Commission should handle those comments. Chair Hall has asked that the Commission spend time at its August 6 meeting discussing the intent of the public comment periods (as they appear under “Order of Business” in the Bylaws) and, if necessary, craft guidelines for the nature of testimony that will be allowed outside of a public hearing.

Staff Proposal

Study sessions are intended to provide a time for the Planning Commission to hear from staff, to learn about and understand issues, and to develop a proposal to be brought to the public for a public hearing. Staff is concerned that portions of the public are taking advantage of the “public comment” part of the agenda during study sessions and turning them into mini-public hearings. For the Commission to hear a significant amount of public comment on an issue prior to a public hearing is unfair to other members of the public who are not in attendance and may not have an opportunity to respond.

It is more fair and transparent to hold off on taking oral testimony until the public hearing. The public hearing will generally have a full-formed proposal for the public to comment on. Following the hearing, the Commission can consider the public’s comments in an open session and determine whether they as a group want to respond to concerns.

This chronic issue has been brought to the forefront by recent study sessions on Tree Regulations and RB regulations. Because no legal notice was given of an opportunity for public testimony on those items, a broad and diverse public was not in attendance. Only a relatively small number of interested citizens with a narrow range of perspectives attended. Because the study session agendas now list two “public comment” opportunities (three if you also allow public comment after each agenda item), this subset of the public has typically availed itself of several “bites at the apple.” The comments sometimes prompt Commission questions and devolve into a to-and-fro that goes well beyond the allotted two minutes.

To remedy this situation, and to make Shoreline’s bylaws more in line with other cities, the staff has several suggestions. The first is to not accept public comment on an item at a study session when the item is being discussed. It is not the intention of staff to eliminate public comment; but it is important to have

time on the Commission's schedule for study sessions where the Commission and staff can focus on issues.

If the Commission chooses to accept public comment on study session items, it is staff's suggestion that the comment period be very near the end of the meeting. Staff believes that this would provide the public a time to comment on what has been discussed that night, but would not affect the flow of the meeting. If a member of the public offers comment at the end of the meeting, their remarks will be reflected in the Commission's minutes so Commissioner's can refer to it (if they choose to do so) in subsequent discussions.

Staff suggests that the Commission consider the following options:

1. Whether to retain "public comment" in study sessions.
2. If the "public comment" period is retained, whether to reduce it to one time and move it to later in the agenda.

If the Commission decides to modify the public comment section, the change would need to be made to the Commission's bylaws, Article 4, Section 3 (Order of Business). If the Commission chooses to remove the public comment sections, you would remove item #6 and #8 from the agenda. If you decide to retain a time for public comment, it is staff's suggestion to move it from items #6 and #8 on the regular meeting agenda (prior to Staff Reports) to item #12, following "New Business" and before Reports from Committees and Commissioners".

Attachments

1. Excerpt from Planning Commission Bylaws

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Should the Chair be vacated prior to the completion of the Term, the Vice-Chair shall assume the duties and responsibilities of the Chair for the remainder of the said Term. The Chair shall then conduct elections for a new Vice-Chair.

Should the Vice-Chair be vacated prior to the completion of the Term, the Chair shall conduct elections for a new Vice-Chair to serve out the remainder of the Term.

Time spent fulfilling a vacated Term shall not count towards the two consecutive Term limit for Chair and for Vice-Chair.

ARTICLE IV – MEETINGS

SECTION 1: SCHEDULE

The Planning Commission shall hold regular meetings according to the following schedule:

First and Third Thursday of each month. The meetings shall begin at 7:00 p.m. and end at 9:30 p.m. unless modified. Should a regular meeting day be a legal holiday, the scheduled meeting shall be postponed to the succeeding Thursday, unless a majority of the Commission votes to select another day or to cancel the meeting.

A special meeting may be called by the Chair of the Commission, the City Council or Mayor, City Manager or designee, or by the written request of any three (3) Commissioners, providing a 7 day public notice period.

SECTION 2: PURPOSE OF SPECIAL MEETINGS

Special meetings called in accordance with Section 1 of this article shall be called for a specific purpose or purposes, and the announcement for such special meeting shall clearly state such purpose(s). In addition, a specific agenda shall be attached to the announcement of a special meeting delineating the order of business addressing the meeting purpose. The agenda for a special meeting need not conform to that specified in Section 3 of this Article.

SECTION 3: ORDER OF BUSINESS

The order of business for each **regular** meeting of the Commission shall be as follows:

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. DIRECTOR’S COMMENTS
5. APPROVAL OF MINUTES
6. GENERAL PUBLIC COMMENT
7. STAFF REPORTS
8. PUBLIC COMMENT
9. DIRECTOR’S REPORT
10. UNFINISHED BUSINESS

11. NEW BUSINESS
12. REPORTS OF COMMITTEES & COMMISSIONERS/ANNOUNCEMENTS
13. AGENDA FOR NEXT MEETING
14. ADJOURNMENT

The order of business for each meeting that includes a **Public Hearing** shall be as follows:

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. DIRECTOR'S COMMENTS
5. APPROVAL OF MINUTES
6. GENERAL PUBLIC COMMENT
7. PUBLIC HEARING
8. DIRECTOR'S REPORT
9. UNFINISHED BUSINESS
10. NEW BUSINESS
11. REPORTS OF COMMITTEES & COMMISSIONERS/ANNOUNCEMENTS
12. AGENDA FOR NEXT MEETING
13. ADJOURNMENT

SECTION 4: PUBLIC COMMENT

Planning Commission meetings allow the public to express its views. In all cases, speakers are asked to come to the front of the room to have their comments recorded. Each speaker must begin by clearly stating their first and last name, and city of residence. The Chair has discretion to limit or extend time limitations and the number of people permitted to speak.

During the General Public Comment period, the Planning Commission will take public comment on any subject which is not of a quasi-judicial nature or specifically scheduled later on the agenda. Each member of the public may comment for up to two minutes. However, Item 6 (the General Public Comment period) will generally be limited to twenty minutes. Each member of the public may also comment for up to two minutes on action items after each staff report has been presented.

During Public Hearings, the public testimony or comment follows the Staff Report. The rules for procedure for Public Hearings before the Planning Commission are further defined in Resolution No. 182.

ARTICLE V - RULES OF MEETINGS

SECTION 1: ABSENCES

Unexcused absence from more than three (3) consecutive meetings shall be cause for removal. Members shall communicate with the Chair of the Commission or the Vice Chair or the Planning & Development Services Director prior to the meeting with requests for excused absences.