

**City of Poulsbo
PLANNING COMMISSION**

Tuesday, August 23, 2011

MINUTES

MEMBERS PRESENT: Jim Coleman, Gordon Hanson, Bob Nordnes, Ray Stevens, James Thayer, Stephanie Wells

MEMBERS ABSENT: Kate Nunes

STAFF PRESENT: Keri Weaver, Edie Berghoff

GUESTS PRESENT: Abby Burlingame, Mike Regis

1. CALL TO ORDER

Chairman Stevens called the meeting to order at 6:00 pm

2. FLAG SALUTE

3. MODIFICATIONS TO AGENDA – none

4. APPROVAL OF MINUTES OF – August 9, 2011

MOTION: Coleman/Thayer: Move the minutes be approved of Tuesday, August 9, 2011. 5 yes, 2 absent

6. COMMENTS FROM CITIZENS – none

7. SHORELINE MASTER PROGRAM UPDATE (Continued from August 9, 2011)

Commissioners began with discussion of a public comment letter received from a family member of one of the Commissioners. Review of the SMP update is a legislative action and Commissioners are free to discuss the item with the public. If Commissioners believes there is a need to recuse themselves from voting on specific points then it is possible for an action to be taken in multiple motions. The commissioner reviewed her knowledge of the letter. Associate Planner Keri Weaver indicated that she received the letter just before the meeting, and made copies for the commissioners, as staff does of all public comment. Ms. Weaver indicated that, as with all public comment, she will respond to the letter with necessary information, and will provide a copy to the Commissioners.

Four public comments received to date: Lewis, Wells and 2 anonymous from the public open house.

The chairman received concurrence for the review to continue on page 9 with discussion of the Natural environment category and let the ~~strikeout/underline~~ document accumulate for review after the documents have been reviewed.

Discussion began with (1) public use of private property is not the intent of the Natural use; (2) WAC 173.26.11 (5)(c) reviews single family use of shoreline properties and consistency with the designation; (3) there is not a connection between the requirement to remain undeveloped within the 100 feet buffer and takings relative to neighbors being built closer to the water; (4) no regulation is being changed on properties, it will remain as it exists now; (5) intent is to retain the 125 feet identified in the CAO now and trying to accurately reflect what is there and hope to continue; (6) portion of existing parcels intended to be preserved and restored as feasible; (7) the SMP document provides some possible flexibility, however CAO already has 125 buffer and DOE will not permit reduction of current standards without scientific evidence that current buffer is too stringent; (8) preservation not required for non native vegetation; (9) if property owner wants to make improvements, or have use of buffer area, restoration may be a condition of approval; and (10) preservation is of existing native habitat.

Commissioner Nordnes arrived at 6:18.

Discussion continued with (10) how NE2.21 affects existing roads. Regulations for public facilities, such as roads and public utilities in the Natural environment may be repaired; (11) guidance in the Shoreline Guidelines regarding the use of should and shall; (12) dredging for protection of property, such as bank stabilization and seawall rebuilding or navigation is allowed; (13) public recreation on state lands; (14) DNR licenses, regulates and permits uses on state lands; (15) public recreation should not be reduced; (16) DNR could give rights to shellfish, and 2.28 indicates that public should not lose the use of the general aquatic lands which the city. In this example as city shoreline permit is required in addition to the state permit; (17) mooring buoys are exempt from city regulations if they go through the DNR permit process; (18) jurisdiction of shoreline is shown on map "Shoreline Master Program Official Shoreline Map" which is from Ordinary High Water Mark (OHWM) extending 200 feet landward and all aquatic areas within the city's jurisdiction which is to the middle of the bay; (19) the city's regulatory authority extends over aquatic lands; (20) competing uses; (21) provision of protection greater than or equal to the protection provided in the CAO; (22) the Goals and Policies section will replace the shoreline regulations in the 2007 adopted CAO; (23) goals NE 3.4 and 3.6 are for critical saltwater habitat areas only which require a Conditional Use Permit (CUP); (24) changes to policies and regulations are up for review, however staff does not have the expertise to make changes to the scientific analysis; (25) "appropriate evidence" is likely reviewed by biologist or storm water specialist to analyze and confirm the design is adequate to protect; (26) the Planning Director does not make science determinations; process is for applicant to provide a study, and a peer review by specialist representing the city; (27) Shoreline

Permit process generally requires SEPA review which is also provided to other agencies for comment (state and tribe for example); (28) policies require regulations to back them up; (29) PMC 16.08.090 Interpretations addresses “appropriate evidence”; (30) NE-3.3 refers to the federal use of the term “avoidance of take”; and (31) no new hard shoreline stabilization in geohazard areas unless there is no other alternative allowing reasonable use of the land.

Discussion continued with discussion specific to the public comment letter from Lewis: (32) a reasonable use permit will be required for development of a house in the buffer; (33) if land available outside the buffer for development, then only building permit is necessary; (34) if encroaching into the buffer area then may require restoration in the area designated natural; (35) intent of natural designation is to preserve any native habitat there what is there and over time to restore native habitat; (36) the preserve and restore requirement already exists in the CAO; (37) the whole shoreline is protected the buffer, regardless of designation; (38) Natural environment shown on the map that are not public parks, are the bottom of the cliff that are not developable, or are undeveloped vacant parcels; (39) lawns and other maintained areas in the buffer may continue to be maintained; (40) undeveloped parcels will be controlling in future what happens there, and may be going through the reasonable use process; (41) the Commission can change the designation on properties, but it will not change development restrictions on properties; (42) does Natural designation help indicate the possible limitations for vacant properties. (43) only the portion of the property in the buffer and setback is designated Natural; and (44) refer to WAC 173.26.211 under designation criteria 3. Commissioners concurred to revisit the Natural designation of vacant shoreline property, following the regulations review.

Further discussion included (45) potential for the Port be able to restore the “ways”; (46) potential for a new public ramp; (47) the SMP currently in place reviews the development of water dependent uses and public/private use; (48) no net loss is referenced in the document, policy 4.5 indicates a preference for gain; (49) mitigation will provide for no net loss; (50) no development in the channel migration zone (floodway), is taken from the flood hazard mgmt plan; and (51) treatment of storm water going into the bay.

Discussion continued with (52) city and marinas not formally coordinating for control boats from dumping; (53) goal for reference city shall attempt to work with the port and marina; (54) city is not required to coordinate with any entity; (55) Port is subject to the shoreline regulations; (56) Port must get a city Shoreline Permit for new or redevelopment within the Port; (57) public or private marina is possible, single residential dock is not; (58) city and Port are protected for development of some uses on water; and (59) individual private uses are much more restricted.

Further consideration included (60) the current SMP and CAO do not have teeth to enforce lighting issues at marinas or on shore; (61) code enforcement is done when a

complaint is registered with the city; (62) offsite mitigation plan will be developed with assistance of specialist; (63) intent is to broaden the location where mitigation may be done; (64) regulations must be written for this; and (65) potential for financial contribution in addition to work being done on the ground.

Discussion continued with (66) intent of 7.7 is to state single family residential is priority preferred use and should be protected; (67) potential for multiple shoreline lots to be aggregated; (68) development of properties on the shoreline requires public access to the water; (69) access is to water not necessarily to tidelands; (70) water is public; (71) policy 7.8 is based on wording in WAC 179-26-22-1 (4)(d)(3); (72) the improvement may be on a different property; (73) there is not a public access plan in the SMP; (74) "should" is defined in the WAC and is stronger than is typically used in the city guidelines; and (75) amendment of the SMP in the future if the city has a downtown waterfront plan which is under discussion.

Consideration was then given to (76) what would likely be found if something of archeological importance is on the shoreline; (77) 19th century non-native artifacts are not considered archeological; and (78) if city had historic preservation plan in place or historic homes designated would be addressed in goal 8.

The Chairman then requested review of the amendments to the Land Use Comprehensive Plan section. Commissioners indicated no questions or concerns.

MOTION: Hanson/Thayer: MOVE to stop at this time and continue at the next meeting with the regulations section. 6 yes, 1 absent

8. **COMMENTS FROM CITIZENS** – none

9. **COMMISSIONER COMMENTS** – none

A whale was observed in Liberty Bay a few evenings ago.

The meeting was adjourned at 8.26 pm

Ray Stevens
Chair, Poulsbo Planning Commission