

**City of Sumner**

**PLANNING COMMISSION**

**Study Session**

**June 20, 2002**

Members Present: Livingston, Myers, Nalder, Richardson, Walker

Members Absent: Lovgren Smith

Also Present: John Doan, Director Nancy Eklund, Berryman & Henigar, Inc., Consultant

**CALL TO ORDER**

LIVINGSTON called the meeting to order at 7:00 p.m.

**NEW BUSINESS**

1) Shoreline Master Program and Critical Areas Update

DOAN introduced Nancy Eklund, Consultant.

**a. Presentation to Commissioners**

EKLUND presented for the Commission the June 14, 2002 Draft of the City of Sumner's Shoreline Master Program. The draft was presented chapter by chapter. The Commissioners and Public directed their comments/questions during the presentation on each chapter.

Chapter 1

EKLUND asked for comments with regard to the underlined portions of chapter 1. This chapter is an introduction. Added was a small amount of language relating to current issues as they relate to the Shoreline Management Act. We are at this time only operating under the Shoreline Management Act which was adopted in 1991. This chapter addresses the City's review of its shoreline management tool. It further addresses the specific information used as a basis for the inventory. It addresses how the Shoreline Management Master Program is used, and when a permit is required.

MYERS noted that on page 7, under Shoreline Permits, it refers to a "Hearing Examiner". In chapter 4 it refers to the "Planning Commission". Which is it, a Hearing Examiner or the Planning Commission?

EKLUND stated that that was an oversight. Both should refer to a Hearing Examiner.

DOAN had a question with regard to the definition of Substantial Development. Has it changed? He recalled that the legislature recently changed it to \$5,000.00 as opposed to \$2,500.00 as noted at the bottom of page 6.

EKLUND indicated that she would look into that.

Informal Public Comment was addressed at this time as reflected at the end of these Minutes under 1) b. Public Comment.

### Chapter 3

EKLUND stated that this chapter clarifies the designation of shorelines of statewide significance. There is some additional language referencing the importance of native plants. This is also repeated in the Riparian Management Zone section.

MYERS asked if a list of native plants would be added to this chapter, or will it be added to chapter 2?

EKLUND stated that it is not addressed in either chapter. The County list is referenced in chapter 7. The State also has a list.

### Chapter 4

EKLUND stated that this chapter goes through environment designations. Page 3, No. 5 recognizes specific areas of opportunity as identified in the inventory. These areas become areas of priority to the City. This will also be reflected in the Comprehensive Plan.

MYERS asked whether State law offers any trade off or benefit for a person who goes above and beyond and creates a backwater for example.

EKLUND responded that local jurisdictions will often offer some flexibility to encourage good behavior in terms of protection of fish habitat. It may be an administrative decision.

NALDER had a question relating to set backs. What property is this referring to? Will it take affect when this is adopted?

EKLUND responded that there is usually a 5 to 10 day waiting period after final adoption.

NALDER asked for all these properties, what is the setback?

EKLUND stated that it would be 200 feet for urban conservancy, 100 feet for shoreline residential.

NALDER asked whether this was going to change for everybody, or are they going to be under the old rule because that is the way it was set up at that point in time.

EKLUND stated that it would change. This process is taking us through re-evaluating those designations. They are based on the natural characteristics of the shoreline. That is the purpose of the extensive inventory. In most cases this will apply to the shoreline residential designation. Conservancy is more appropriate for areas that have less development.

MYERS noted that in 1992 they sent a draft of the Shoreline Master Plan to the State and never got it back.

EKLUND stated that she expects the Department of Ecology will be supportive of this draft. This is a far superior effort than in 1973.

NALDER asked if they are setting up two environments, why is everything listed in the tables on pages 4 and 7 "urban"? He notes no "residential".

EKLUND noted that page 7 may need to be changed to be consistent with what is being recommended.

NALDER asked with regard to page 6, why the residential setback is at 100 feet?

EKLUND noted that all columns referencing the shoreline should be residential.

MYERS also noted that on page 8 the setback is at 100 feet.

EKLUND thought that they may possibly have the wrong table in that section.

NALDER asked, where is it designated residential and where is it designated urban conservancy?

EKLUND responded that shoreline residential is segment "A" and segment "C". Potentially one of the other segments will also be considered. She expected to work through this section with the Commissioners. At this time she will leave it as is, and will work through it more with Ryan Windish.

EKLUND directed the Commission to page 8. This table corresponds with the specific regulations listed in chapter 7. The last section in this chapter is the WAC.

#### Chapter 5

EKLUND noted that this chapter is only 3 pages long. The only changes to this chapter are brief corrections.

#### Chapter 6

EKLUND noted that chapters 6 and 7 are a bit more involved. They are still being evaluated for "best available science."

WALKER stated that chapter 6 is hard to follow as it is full of acronyms.

EKLUND noted that they could spell it out. These changes were done by Adolfsen, which is a firm that does biology.

LIVINGSTON suggested incorporating a glossary.

WALKER thought it would be awkward to flip back and forth.

RICHARDSON suggested adding a key section on page 1.

DOAN further suggested incorporating the acronyms to the definition section on page 1, for example, AKART – All Known, Available, and Reasonable methods of prevention, control, and Treatment – and then the definition.

RICHARDSON suggested a "key" that could be taken out and used while reading.

EKLUND stated that she would add a key and would in each new section use the term first, and then the acronym. That would be easy to fix the next time they go through it.

EKLUND asked for further comments on the content of this chapter. This chapter largely focuses on regulations affecting the health of the shoreline in relation to what to do and what not to do. It is basically best management practices.

There were no additional comments as to the content of this chapter.

## Chapter 7

EKLUND noted that this chapter is also being reviewed for “best available science.”

NALDER had a comment with regard to No. 3 under Agriculture and Regulations. He expressed concern with the proximity of a manure lagoon being within 100 feet of the River. If a manure lagoon can be within 100 feet, why not a septic system?

EKLUND state that she also questioned this section. Randy Davis advised her that the legislature has established a “no touch rule” on agricultural practices. Unless there is a compelling reason that it be 100 feet, the preference is 200 feet. She thinks that it can be changed locally.

RICHARDSON noted that a lot of people in the City who would like to define some of their practices as “agricultural practices”. What is the definition of “agricultural practices?” Has the State provided a minimum, either employee size or income limit, that would qualify the hands off rule for agricultural practices?

EKLUND read the definition of agricultural practices to be land primarily devoted to the commercial production of horticultural, etc. She asked if it was the preference of the Commission to go back to 200 feet?

NALDER stated that that regulation is not a good protection of fish.

LIVINGSTON recommended that it be put back to 200 feet.

EKLUND noted that under this chapter boating facilities and new commercial and industrial facilities are discouraged in the City. This is a matter of policy. You can have them if you meet certain criteria.

WALKER stated that it was odd that we would state that we are trying to encourage water dependant uses, yet we are saying no boats, no ramps, no docks. What water dependant uses are we encouraging?

EKLUND responded that we are discouraging certain activities, however allowing it where it is appropriate. These are salmon rivers and we want to ensure that the salmon population is not affected by that use. Launch ramps are permitted and boating is allowed, however, you have to meet certain criteria.

NALDER asked with regard to page 5, No. 7, what are the Pierce County Health Department regulations with regard to restroom facilities?

EKLUND stated that she would look into that.

RICHARDSON asked if the water falls below the high water mark, and a dredging type activity occurs below that mark, although it is not covered by water, would it be permitted.

EKLUND responded that dredging could not occur below the “ordinary high water mark.”

NALDER noted that that question is addressed on page 13, No. 5.

RICHARDSON suggested adding a “Key Terms” section to the beginning of each chapter, with approximately 10 key terms used in that chapter, to help they layman understand it.

EKLUND responded that the definition section could be moved to the front. They could also make the print in chapter 1 larger, more of an outline - introduction and key terms.

NALDER had a comment on page 20, No. 2. Placing parenthetically after the floodway might help clarify it if it is done earlier.

EKLUND noted that there were not many changes to Residential Development. Page 25, No. 6. States that no accessory structure, except swimming pools, shall cover more than 150 sq. ft.

NALDER asked why that was there. Can people then have 200 foot wide swimming pools?

DOAN noted that there is an existing provision that discourages people from having accessory structures. He does not think No. 6 is necessary.

EKLUND stated that she would take it out.

DOAN noted that on page 36 under Utilities, there should be two different definitions of utilities, major and minor utilities. Major utilities refer to facilities such as sewer treatment plants and power generation facilities, and minor utilities refer to sewer lines, etc.

## Chapter 8

EKLUND noted that chapter 8 is still being worked on. The chapter 8 provided is the September draft.

EKLUND stated that the last section of the Shoreline Master Program is the definition section. It will be reviewed for inapplicable definitions. At the Planning Commission's next review of this material, she will have incorporated the changes from this meeting, along with the "best available science" comments.

LIVINGSTON asked that at the next presentation the trails be explained, as to address any concerns about the trail being implemented and the loss of 200 feet of property.

DOAN suggested that a handout be drafted addressing the trail and buffer issues.

### **b. Public Comment**

A Gentleman from the audience asked for clarification. He is concerned about the property owners on the Stuck River. He feels that when the 200-foot buffer is enforced, that the City will essentially be taking 200 feet of his property. He has paid, and has to pay, taxes on that property, yet he will no longer have control over it. He fought the trail being put in behind his house. Now the City is putting the trail behind his house and is not paying him for the ground it is on. It is not right for them to take his property.

DOAN first addressed the trail issue. There is a Trail Master Plan that has a long-range vision for trail. The Trail Plan cannot be implemented without the people either donating their land, selling their land, or as a requirement of the Shoreline Program providing the trail. The trail will not be put through without 1 of those 3 things happening.

RICHARDSON pointed out that the 3rd conditions would allow that to happen.

DOAN further went on to explain the 3rd condition. The 3rd condition is under State law – the Shoreline Management Act which was voted for by the voters and is in place to protect the shoreline. One provision of that Act is the preservation of the shoreline for public use. The fundamental premise is that the "public" has, under what is called the Public Trust Doctrine, some element of right to the shorelines of the State of

Washington. Under the Public Trust Doctrine, there is some element of public access that comes with being next to the water. The way it is implemented is if you develop your land. The way Sumner has dealt with this requirement is to implement the trail system. It will only happen if you develop your property.

The Gentleman from the audience had another concern. His neighbor's house is within 100 feet of the River. How does that affect him with the 200-foot buffer? He cannot sell it.

EKLUND responded that his neighbor is grandfathered in, and with regard to selling it, the house can continue its existing use if sold.

RICHARDSON asked, if a person has a pre-existing house within the 100 feet that is grandfathered in, can he sell the property or add on to the existing structure?

DOAN responded that in a regular zoning code there are some provisions to allow you to expand.

DOAN further went on to explain Sumner's buffers. In Sumner's development of its shoreline the challenge has been trying to figure out what the buffers should be. Science dictates that they should be more than 200 feet. We are also trying to figure out what kind of things can be allowed in those buffers. Storm water ponds for example are allowed within the 200 feet. If you place your storm water pond in that area, it will leave more room to develop some other part of your property. In 1991 we thought that 200 foot buffers were huge. We are now being told they should be a lot larger.

The gentleman was further concerned about having to pay full property taxes on the unused portion of his property.

DOAN explained that that would be an issue with the Assessor. Some people have dealt with that by reporting an easement over the portion of the property that is the set back in an attempt to lower their taxes.

MYERS further explained that all the Planning Commission has control over is the use of the land and the setting of regulations. We try to do what the state and federal governments require us to do with the least impact on the people, and yet still accomplish what the law states we are suppose to do.

The gentleman thanked them for their input in answering his question. He appreciated the clarification.

A second individual from the audience had concerns regarding public access. Does everybody on the River have to allow for public access, or can there be certain places where the public can and cannot access the trail and/or the river?

DOAN responded that all of the shorelines of significance have to be protected for public access, meaning the public is able to walk along the trail and see the river. It can also mean having a marina there. That would be another way to preserve the public access.

The second individual asked if the public could cut across her property to get to the River. She is concerned that people will picnic in her orchard. Will they be implementing a fence along the trail separating the public from the properties?

EKLUND responded that one of the considerations is ensuring that there be sufficient buffer.

MYERS further stated that this public access does not mean that that the public has access to every foot of your property, however, there has to be reasonable places for a path.

Next Regular Meeting is Scheduled for July 11, 2002 at 7:00 p.m.

**ADJOURNMENT**

**Study Session was adjourned at 9:05 p.m.**

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Ryan Windish, Senior Planner