

City of Sumner

PLANNING COMMISSION

March 7, 2002

Members Present: Livingston, Myers, Nalder Richardson and Smith

Members Absent: Lovgren (Notified) Walker (Notified)

Also Present: Ryan Windish, Senior Planner Nancy Ecklund, Consultant

CALL TO ORDER

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

APPROVAL OF MINUTES

MYERS noted changes to be made in the Public Comment section of the February 7, 2002 Minutes, a spelling correction on page four - "DaJene" should be "DeJean"; and a spelling correction on pages five and six - "Highland" should be "Hyland." MYERS motioned to approve the Minutes for February 7, 2002 and February 21, 2002, as corrected. RICHARDSON seconded the motion. The motion passed unanimously.

PUBLIC COMMENT

There was no public comment.

MYERS motioned to address Agenda item (6) New Business - Sumner Shoreline Master Program and Critical Areas Update, prior to Agenda item (5) Unfinished Business - East Main Street Design Strategy. SMITH seconded the motion. The motion passed unanimously.

NEW BUSINESS

1. Public Hearing on Sumner Shoreline Master Program and Critical Areas Update

WINDISH gave a brief history of the update of the Shoreline Master Program. The update was started about a year ago. They have been analyzing the Shoreline Management Act, which governs the regulations along the main rivers. It has jurisdiction within 200 feet of those waters. It is giving authority to the Shoreline Master Program. The program needs to be updated to more modern environmental issues such as salmon endangerment and wetlands issues. In the summer and fall they were working on different renditions of the draft Shoreline Master Program, and given other priorities and development projects, the program was put on hold for a little while. At this meeting we will address Chapter 7 of the Specific Shoreline Development Policies and Regulations. There will be discussion with regard to changes since the last Commission meeting on the topic back in August. Two minutes per person will be allotted for public comment on this specific chapter.

LIVINGSTON requested a proposed timeframe as to when WINDISH anticipate having a Public Hearing and when it would be likely that this would be before City Counsel.

WINDISH expected to have the draft in a more final form over the next 4 to 6 weeks. He expected that they would have one more meeting with the Planning Commission, and then the following meeting would be Public Hearing, which he estimated would be sometime in late early to mid-May.

WINDISH continued his history of the development of the program. When the process was started the Department of Ecology had just adopted the Shoreline Guidelines, which was an administrative rule that addresses how the Shoreline Management Act should be implemented and be a guide to development of Shoreline Master Programs. The guidelines were adopted under quite a bit of controversy and were appealed to Shorelines Hearings Board. The Board found them invalid. They had started their process under those guidelines and are still pursuing to meet the intent of those guidelines to some degree in terms of its relation to salmon and the Endangered Species Act. They are not bound by those guidelines, but are still trying to capture the essence of them.

ECKLUND reasoned that the Shoreline Guidelines were found invalid largely because of the way they were structured. They were broken down by path "A" and path "B". Path "A" was less rigorous, whereas Path "B" was more deliberate and more specific and, in theory, offered a jurisdiction such as Sumner full protection under the Endangered Species Act, in that if a City has adopted these regulations and applied to path "B", that the National Marine Fisheries Service would be able to say, "you are doing what you can - you get a pass, and will not be found responsible." As such, this is the route that many jurisdictions want to go. They want to be very specific about the regulations so that it appears that they are very conscientiously applying what is called "best available science" to protect the fish in the various municipal services such as storm water, water treatment, etc. The regulations were found invalid because the State cannot offer protection under a Federal law. What officially is in place is the Shoreline Management Act. The Department of Ecology is trying to do a better job and offer guidelines that are protective of fish. We are aiming for the same thing.

WINDISH continued that the Shoreline Management Act included more than the protection of fish. The shoreline is a natural resource in our State. Some of the underlying goals of the act are environmental protection, public access and ensuring that water oriented and dependant uses, such as marinas, can be located on the shoreline and that it is not filled with just residential development. They need to be balanced. The Shoreline Master Program intends to balance those entities. WINDISH then turned the meeting over to Consultant Nancy Ecklund.

Proposed Changes to Chapter 7 - Specific Shoreline Development Policies and Regulations:

ECKLUND presented proposed changes to Chapter 7 and welcomed comment along the way. She stated that primarily changes were made toward the end of Chapter 7. Previously discussed was how many shoreline environments are appropriate for Sumner. In her discussions with RANDY DAVIS, representative from the Department of Ecology, he advised as to what was appropriate for a jurisdiction of this size. Accordingly changes have been made to specific regulations to reflect in specific areas the needed regulation as to "green water structures". One thing going on now is the development of the Model Critical Areas Ordinance. This is being conducted by the State Department of Community Development. In that process there is a lot of refining of "best available science" and how it applies to critical areas. They are working with environmental consultants, one of which is ADOLFSON. They are identifying the specific citations for "best available science." ECKLUND will be taking that information and checking it against what is being proposed here. ECKLUND invited questions with regard to changes.

MYERS had a question with regard to page 3 of the handout, Agriculture Regulations, regarding the buffer zone for the spreading of fertilizer in agricultural areas. He wanted to know if that was State regulated. The State put the dairies out of business and that it must be a firm buffer.

ECKLUND stated that that was something she would look into. Certainly it is advisable that the further you get away the better, especially if you are going to apply means for preventing it from going into the river.

MYERS stated that Sumner shouldn't set its buffer at 25 to 75 feet if the State and/or Department of Ecology sets it at 150 to 200 feet. Sumner does not want theirs to be any less, however, it should not be any more. He believed that that should apply to everything in the chapter relating to buffers along the water. So much of it is already State and Federally regulated.

ECKLUND believed that that had been changed with in recent years. This was based on a proposal done back in the early 1990's, and that 25 feet may have been proposed in that, however, it is extremely close. She stated that she would look into it and get back to them with that information.

MYERS stated that the Agriculture Regulations are repetitious, in that item No. 5 addresses the spreading of manure, and item No. 7 (2) addresses the application of agricultural fertilizers, including animal waste. He further noted that item No. 5 requires that spreading of manure shall not occur closer than 25 to 75 feet, wherein item No. 7 (2) requires that application not be any closer than 100 feet.

ECKLUND stated that she would look into consolidating those items, however, item No. 7 specifically addressed prohibited activities.

MYERS commented that the chapter was long enough and complicated enough without being repetitious.

ECKLUND directed the Commission to page 2 of the handout. It was requested the first time they went through this that "Excluded are agricultural processing industries" was clarified. ECKLUND asked the Commission if the additional underlined language clarified that statement to their satisfaction.

There was no comment from the Commission.

ECKLUND directed the Commission to page 4 - Agriculture Environment Specific Regulations - Urban Conservancy. Those regulations were offered in the event that they varied from beyond what was stated in the regulations above.

Page 2 - Boating Facilities - ECKLUND commented that the shoreline was not suited for a Marina, and that the language was added that boating facilities should be prohibited in the shoreline.

Page 7 - Clearing and Grading - this section is new. It is intended to protect the vegetation along, and within, the shoreline buffers to maintain the integrity of the shoreline and provide habitat. This section offers up regulations that enable the City to regulate what should and should not be happening in that area, i.e., topping of trees, clearing the landscape, etc. ECKLUND asked for comments on that section.

WINDISH asked if there was a threshold/minimum square footage amount of clearing and grading that would be allowed. A grading permit is required within the City if you clear more than 50 cubic yards of material

ECKLUND did not believe that that section addressed a minimum amount. She indicated that she would look into again to see if there is an appropriate place where it should be in there.

CATHY DAVIS (public comment), 1325 Pacific Avenue, appeared. She has a lower field on the Stuck River that is 80 feet and is not much river front property. She wants to plant some grass in the lower field. She wanted to know if she did not remove any trees on the shoreline of the property, could she plant grass there? Her house is less than 200 feet from the river. Is she grandfathered in.

WINDISH responded that her house is grandfathered in, however, any activity associated with the shoreline would not be.

DAVIS stated that there is field grass down there at this time. Can she replace the field grass with nice grass?

ECKLUND commented that this section had to do with clearing and grading, and that maybe other areas speak to vegetation.

RICHARDSON stated that clearing and grading is exactly what DAVIS is proposing, in that she would have to remove the old grass, which would clearing. RICHARDSON asked if there are any parts or sections in Chapter 7 that deal with the use of fertilizers to sustain the new growth that would follow clearing and grading. Is there an exact distance in which you can and cannot use fertilizers to replenish that area?

WINDISH directed them to Recreational Facilities Regulations on page 24, which addresses chemical applications. The developer shall also be required to leave a chemical-free swath at least one hundred (100) feet in width next to water bodies and wetlands.

MYERS suggested that DAVIS could get around clearing and grading regulations by tilling up the grass, cultivating it, smoothing it down and then planting new grass, which would not be clearing and grading.

RICHARDSON commented that a rototiller would be clearing and grading

WINDISH indicated that rototilling would be exempt, as it would be considered cultivation.

DAVIS asked if she could clear the wild blackberries that grow there.

RICHARDSON stated that clearing blackberry bushes would be clearing and grading, and that you could not apply poison within that area.

WINDISH stated that they would normally encourage the removal of weeds, however, they would then need to be replaced with something that was better, such as a Willow tree; something that would enhance that buffer area. The idea of the vegetative buffer is to allow for wildlife to be in there and to allow the trees to grow to an extent they can provide shade on the water and keep it cool for the fish habitat. There is a lot of ecological benefit to that buffer and the Master Programs looks at that as being needed according to science. If DAVIS has a field now, that is obviously not a natural vegetation. It would be ideal to replace it with something natural, or to leave it the way it is.

RICHARDSON asked if small equipment could be used up to the waterfront.

ECKLUND referred to page 9, section d) Clearing for landscape purposes can be permitted upon approval of detailed landscape plan. There were no other questions on that particular section.

ECKLUND directed the Commission to page 11. A comment that came out of the last meeting was Commercial development in the shoreline jurisdiction should include landscaping to enhance the shoreline area. There was concern regarding design standards on the waterfront side. ECKLUND commented that they may want to encourage use of alternative vegetation.

ECKLUND next directed them to page 12, No. 5. The section regarding Dredging is new. ECKLUND asked if there were any questions associated with that section.

MYERS stated that dredging was no longer allowed. Neither the State, nor the Indians allow you to dredge any of the rivers.

WINDISH commented that if you built a bridge, you would need to go in and remove material, which would involve dredging.

MYERS stated that that would be covered in the later section involving utilities, dikes and levees. You cannot do it.

WINDISH further commented that in the event that you had to lay cable, or build a bridge, that some dredging involved. If the specific dredging fell within the appropriate categories, they would then go down to make sure that the policies and regulations were being followed.

ECKLUND stated that "if" there was a need for dredging - this section would give the perimeters for that. They would then be working with the State as well.

ECKLUND next directed the Commission to page 15, No. 6 - Industrial Development. These are the regulations for that section, urban and conservancy.

Page 17, No. 7 - Instream Structures. This section is new. ECKLUND stated that this started out as one of those very unlikely sorts of categories, however, there may be an occasion where it would apply.

WINDISH asked if the Water River Power Plant would fall under this jurisdiction, as it is in the Sumner City limits.

MYERS commented that the generating plant is not close to the river.

ECKLUND asked if there was some sort of instream structure to reduce the impact of this river, in order to dissipate that force.

MYERS commented that if they shut it off, sell the water and not put it down through that pipeline, they would not have that. That is what they are talking about doing.

ECKLUND directed the Commission to Page 19, No. 8. The Landfill section is also new.

WINDISH asked that when the wetland area is addressed here, it is referring to the definition of "wetland", not the shoreline.

ECKLUND indicated that that was correct.

Page 21, No. 9 - Mining. There were some additional comments from that section pertaining to mitigation. The question was whether mining was acceptable and whether it was really a fish friendly type of activity. ECKLUND indicated that the City would not authorize anything without all permits in place, and that that would be unlikely to happen.

Page 22, No. 10 - Parking. Parking has been augmented with a statement in No. 4 in the policies to native vegetation. The definition of "native vegetation" was added to the definition section. ECKLUND has yet to confirm these regulations are consistent with the City's regulations. She will get back to the Commission on that.

Page 23, No. 11. ECKLUND voiced concern about security and potential impact to adjacent properties of potential recreational facilities. As such ECKLUND added No. 6 - security and fire protection, and specific shoreline policies to the Recreational Facilities section.

WINDISH asked a question that addressed page 24. In discussing the 100 foot swath being chemical free, do we have the best available science?

ECKLUND indicated that she would check on that.

MYERS asked WINDISH if he had looked at the golf course to see how they met the 100 foot chemical free swath requirement.

WINDISH indicated that he had not, however, Lee Anderson is involved with the Community Development Parks Department, and is the supervisor over the golf course. WINDISH has e-mailed this draft to ANDERSON in order to talk with him about the golf course. WINDISH directed ANDERSON to review the Recreational Facilities Regulations, as they would apply to the golf course.

MYERS commented that they have a good buffer, a bunch of trees at the water line and a road alongside before you get to the grass.

RICHARDSON stated that they are getting fertilizer easily within 100 feet.

WINDISH indicated that he has talked with ANDERSON about the application of fertilizers and herbicides, and that he knows that there is a lot of science behind putting these things on around water. He will keep in contact with ANDERSON with regard to the language in this section.

ECKLUND directed them to the Shoreline Modification Section, page 26, No. 13. In this section, if it is not underlined it is new.

RICHARDSON commented with regard to Recreational Facilities Regulations that it might be advantageous to contact various golf courses that have major waterways running through them, such as River Bend and Maple Wood, to inquire as to how they are operating.

WINDISH indicated that he has checked with Kent, and that they have strict regulations.

LIVINGSTON stated that Willows Run in Redmond was docked for taking too much water out of the river to irrigate their course.

ECKLUND asked if there were any comments on the Shoreline Modification.

MYERS indicated that the document was fairly long, and wondered if all of it was necessary. With regard to the modification on page 31, what is the significance of September 8, 1975.

RICHARDSON stated that the Environmental Protection Act was upheld in Supreme Court in 1975.

ECKLUND noted that the sections that are underlined are new.

MYERS asked if the section under flood control prohibits the use of sandbags and the dumping of gravel along the river.

ECKLUND stated that that would be an emergency measure. She did not feel that it would be considered a structure.

MYERS stated that during the last flood a lot of gravel was dumped along the road and river and plastic was placed over it. They built a dam and/or dike along the river and kept the flood from coming into the town. This section appears to not allow this.

WINDISH thought it would be permitted as an emergency measure, however, noted that there did not appear to be an emergency provision for fighting floods.

MYERS indicated that the building of dikes is no longer allowed. He further indicated that most of the sandbags from the flood were not removed.

ECKLUND stated that she would look into that.

RICHARDSON suggested that a small section be added on natural disasters and emergency provisions addressing what the City is able to do.

WINDISH stated that if the Governor declares a state of emergency in the event of a flood, a permit would not be required for that.

ECKLUND indicated that she would try to clarify that.

RICHARDSON stated that if the flood prevention stayed in place, and upset the natural balance environmentally, that State and Federal department could potentially say that measures were taken that did not need to be taken.

WINDISH stated that in the event that it is requested that emergency construction be left permanently in place, then a permit would be required so that it may be properly reviewed. At that point, the structure may need to be changed if it is causing environmental degradation.

MYERS asked if a dike develops a hole, can it be repaired. The way he reads it, it would not be allowed under this.

WINDISH suggested that something be added under emergency measures regarding obtaining a permit for that.

ECKLUND directed the Commission to the Sign section on page 33 of the handout. All underlined portions in this section are new. It basically states that you cannot put a whole lot of signs in the shoreline area.

WINDISH had a question with regard to page 8 - Electric Facilities. Is that referring to Puget Power? Is it proposing maybe underground?

MYERS stated that there is no reason for cell phone towers to be near the water. To get the power across the river, they would have to go under it. This would be difficult.

LIVINGSTON opened the meeting for Public Comment on Chapter 7. He requested that the comments be limited to 2 minutes.

Public Comment

GREG CLINKINGBEARD, 1615 West Main appeared. He had a general question with regard to shoreline access. He is concerned about his house on West Main. Is there anything in regulations about older houses, built in the 1940's, being exempt. There are a bunch of trees on the riverbed that need to be cleared off, and it is grassy down there. He wants to know if he is still going to be able to maintain the riverbank, the lawn and his house. When do these regulations apply. It looks to him that they apply to new development. He does not see anything that states that old development is exempt.

ECKLUND responded that in this particular section, she does not believe that it addresses that. She stated that he is exempt, but that in the spirit of the Shoreline Master Program it would be nice if he were to develop or to enhance his shoreline so that it is more fish friendly, i.e., planting willows rather than grass.

CLINKINGBEARD stated that there are a lot of tall Cottonwoods there now. He was also wonder if the cement that runs down there can be repaired. It has some cracks in it. Is repairing of those cracks allowed?

ECKLUND asked if there were dikes under the district in that area. Are they privately owned by the people along the river?

MYERS stated that they were not. They were built by the WPA in the late 1930's/early 1940's.

WINDISH stated that he did not think there was an active dike district to maintain this.

MYERS stated that there are all kinds of them along the Puyallup and Stuck Rivers. You can see it as you drive down River Road to Tacoma along the Puyallup River. That was done for flood control after the 1935 flood. He believes that work was done by the WPA, which was Federal, however, they are not maintained by anybody.

ECKLUND asked CLINKINGBEARD if there was an easement on his property.

CLINKINGBEARD responded that there is no easement on the property. He just wants to be able to maintain his house, and not to need a permit to put on a new roof because he is in the Shoreline Management area

MYERS stated that more importantly, what if his house burns down. Will he have any problems rebuilding it? MYERS asked CLINKINGBEARD how far the river is from his house.

CLINKINGBEARD stated that it was approximately 30 feet to 40 feet, and then straight down.

WINDISH stated that there are other parts of the regulations that address buffers from streams. A single family home would be grandfathered in for things like maintenance or even some alterations and expansions, as long as they did not expand closer to the stream. The limit on how much you can expand is 25%. There are some exemptions that are in that part of the code that deal with smaller streams and wetlands. He believes the Shoreline Masters Program would have some kind of grandfathered in exemptions for single family homes, maintenance, alterations, etc.

MYERS reiterated his concerns about what can be done if the house is destroyed by a fire.

ECKLUND stated that there is a section on non-conforming development in the full draft. It states that a non-conforming development can be restored if it is damaged to an extent not exceeding 75% replacement cost of the original structure.

RICHARDSON pointed out that under MYERS' scenario the destruction would exceed 75%.

ECKLUND indicated that it states that it can be restored if the damage exceeds 75% of the replacement cost of the original structure, so long as restoration is completed within a year of damage; with the exception that non-conforming development may be 100% replaced if restoration is completed within 3 years of the date of damage.

WINDISH stated that if it were burned to the ground, you would then have 3 years to replace it.

CLINKINGBEARD is also concerned about the bank. It has always been cleared off. He is concerned that he now has to let the blackberry bushes grown back.

RICHARDSON stated that this was addressed earlier. Within 100 feet, he believes it would have to be tilled by hand, and that no fertilizer would be allowed.

CLINKINGBEARD asked if he can still use a power mower.

MYERS stated that he does not believe that anything that grows on or around the cement boarder can be touched.

COMMENT FROM AUDIENCE: Does the library go all the way down to the river?

MYERS stated that the library was built before the Shoreline Management Act.

ECKLUND commented that the issue is also the application of fertilizers.

CLINKINGBEARD stated that he never fertilizes down there. It is not a lawn. It is just native grasses that are growing. He uses a weed eater.

MYERS added that he does not believe they can stop CLINKINGBEARD from using a weed eater.

SMITH asked if the existing lawn is within the grandfathered property, what is the issue with fertilizer in general management of that?

ECKLUND believes that it is probably exempt. It is just one of the secondary programs the City could get into is an effort to be more ecologically mindful. Maybe an educational program to remind people not to fertilizing right up to the lake front because it goes into the roots and then into the lake and is not good for the fish or any of the vegetation in there.

CLINKINGBEARD commented that some chemicals state on the package that it is not to be used within "x" feet of a river.

SMITH stated that one educational program to be considered would be alternative landscaping.

MARGARET DENNS, 14017 16th St. East appeared. Her question was with regard to page 11, paragraph 3 under Commercial Regulations, wherein it states: pedestrian easement that provides area sufficient to ensure usable access to and along the river? If you want to sell your land to a commercial developer, you have to advise them that they are required to put in a 25 foot long public access drive way from the street to the river?

ECKLUND responded that what it says is that where onsite public access is appropriate, commercial development shall dedicate. The city references it in the park and trail plans.

DENNS wanted to know if it has always been 25 feet wide?

ECKLUND stated that 25 feet is ideal according to the City's trail and park plans, and that there is a minimum 8 foot class 1 corridor along the river. The City's plan includes a minimum 8 foot wide path, possibly 12 feet depending on where it is. There will then also be a 2 foot shoulder which is part of a 5 foot tier zone, and then 10 feet above. She stated that she would look into that for DENNS.

DENNS asked if that is still in effect as far as anybody that sells land.

ECKLUND stated that most commercial developers anticipate having to provide some public service. They know that in most urbanized areas they will be required to have a sidewalk. There is an existing plan for park facilities, and they have to figure out where their property fits into the larger scheme of things. She believes they would expect that.

RICHARDSON asked if a future developer in the area DENNS is talking about, is it more likely that the developer would have to put in that kind of an access someplace other than her property. She is talking about a spot that is not developed as it is existing currently. Can the City say that we need to do it here, and therefore giving notice before development comes in?

WINDISH commented that we have an existing trail plan that shows the trails along both sides of the river.

DENNS stated that they have already said they can say no, however, she is worried about her neighbors. They are elderly and may want to sell there placed some day.

RICHARDSON asked if we are talking about access roads.

WINDISH clarified that the trail is considered public access.

RICHARDSON asked how many public accesses would be considered appropriate along the waterfront. Is there a rough number?

WINDISH stated that the trail would start at some point and follow the river, so there would be trailheads along the river. The trail is part of the network that would connect to the surface streets and sidewalks and would have bike lanes.

RICHARDSON inquired as to the length of the trail.

WINDISH responded that it was approximately 3 to 4 miles.

MYERS added that the City has a park on the west side of the river by the foot bridge. He suggested that that could be one other place where there would be access.

ECKLUND asked if a bridge would be built to get across the river.

WINDISH advised that they will be building a mile of trail on the east side of the river, and from that a pedestrian bridge south over the next couple of years.

DENNS asked if they were still talking about 200 feet out there.

WINDISH advised that that is what is currently in place and they have not discussed making it any smaller.

DENNS thought that at the last meeting the government said that it would not be that big. She is not really sure what the State regulations are. She wanted to know why the City of Sumner was setting regulations in that regard, as there are State regulations already in place.

ECKLUND advised that the Shoreline Management Act established 200 feet. When the State passed the initiative to develop the Shoreline Management Act, 200 feet was what was part of that initiative.

DENNS wanted to know if it is sitting null and void right now.

ECKLUND advised that it was not voided. The guidelines are the administrative rules that ensure how jurisdictions should apply the law. The legislation is in tack, and the legislation defined 200 feet. The guidelines are just the real fine details of what that means; a level of detail that the legislature does not go into.

LIVINGSTON asked WINDISH that if we are leaning toward a final public hearing on this, could we incorporate a review of the sale plan, as it has obviously has come up several times. The public trail plan is not necessarily the issue here. We are getting some overlapping questions. It would be nice to provide an overview of the plan for the trail along with a brief summary to incorporate in the final presentation.

KAREN SHIGIO, 3711 42nd Avenue East, appeared. She is out in the middle of the industrial park. She just has a general question as to how all of these regulations will impact future development of the industrial park. If developers comply with all the regulations, will development continue?

WINDISH advised that there are 4 developers out there that have applied for shoreline permits for development. They require shoreline permits because they chose to locate their storm water detention point within 200 feet of the jurisdiction line. They discussed the trails and the conditions of those permits to meet the public access and that they were required to dedicate and/or build those trails. It does not seem to be slowing down industrial developers. They understand that it is part of the development process.

MARILYN HILL, 14115 16th St. North, appeared. She asked that if they put in a trail will they be tearing down the fences between trail and the properties. They have a fence in order to keep people off their property, and to keep their animals in the pasture.

WINDISH stated that fences would be allowed to separate the trail from the adjacent properties, as long as it was outside 25 feet from the trail.

HILL asked WINDISH if the City tears down her fence, is it responsible to put up a new fence.

WINDISH thought that that might be a possibility, and may be addressed in the public access section, wherein it talks about security and fencing.

ECKLUND stated that the City's park plan has provisions for cost associated with developing the plan, in hopes that new development comes along and accommodates the development of a trail. In that there are also provisions for security and that may address the obligation of incurring some costs associated encouraging that development.

HILL wanted know when they are planning to put the trail in.

ECKLUND believed that it was being done on an opportunity basis. She stated that the IAP comes out every year to do priority jurisdictions in terms of park land or recreational facilities.

JOHN COATES, 1405 Pacific Avenue appeared. He wanted to know what happens if a resident does not want a path in their back yard.

ECKLUND stated that they could run the path around the property, if that was something that was necessary.

COATES stated that there is a path on one side of his property and railroad on the other, and that his back yard faces the river. The path would be cutting right through his back yard. He does not want people coming through his back yard. He wanted to know if litigation was necessary in this matter.

LIVINGSTON stated that as far as the trail plan is concerned, it has already been passed. We are only dealing with the shoreline regulation at this time.

COATES wanted to know then if the trail was a done deal.

WINDISH stated that it was a done deal, however, how it is built and how they apply the property and move it into reality is going to be a step by step process.

RICHARDSON stated that there were a number of property owners at previous meeting that have the same objections as COATES. It is his understanding that in situations where the property owner refuses, they can halt it, or make it go across the river or back around. Nothing can be done without the consent of the property owner.

ECKLUND stated that unless the City wants to pay for it.

RICHARDSON stated that it was still the property owner's option.

MONTE SCHLIESMAN, 2817 146th Avenue East, appeared. He wanted to know who is responsible for the shoreline area. Is the City taking full responsibility for everything? If someone were to walk up and look into your business, is the City responsible for their actions. He would like to know the same thing with regard to the trail. Isn't that type of liability expensive?

WINDISH stated that it is the same issue if it is a public access easement; the same as if you were on a road or sidewalk. You have the right to secure your property with a fence. Your insurance will have to deal with it if somebody gets over that fence and gets hurt.

SCHLIESMAN wanted to know if that meant that the City is actually taking control/ownership of the property.

WINDISH stated that it could be an easement or it could be dedicated. If it is an easement, the property owner would own the underlying property, and then grant an easement for public access.

SCHLIESMAN again asked who assumes liability.

RICHARDSON stated that the City assumes liability once there is an easement on the property.

WINDISH stated that there are sidewalks and streets all over the City. There is a lot of liability.

SCHLIESMAN was concerned that the trail would be secluded.

RICHARDSON stated that that is something for which the City is prepared.

SCHLIESMAN questioned how a trail could be put that close to the river.

RICHARDSON stated that it is the same liability that the City undertakes when somebody walks across the bridge on the way to the old cannery.

SCHLIESMAN had one further question. He wanted to know how they could put a strip of asphalt that close to the Shoreline Management Act.

RICHARDSON stated that that would be a very good thing to be prepared for in the next meeting.

ECKLUND stated that there are usually provisions for some sort of retention.

LIVINGSTON asked if there was any additional public comment at this time.

The public comment portion of the hearing was closed.

LIVINGSTON asked if we are looking at the April meeting as the next step for the Shoreline Masters Program.

WINDISH stated that April 18th would be a special meeting to consider the finalized draft. They would then probably schedule a public hearing for a month from that point.

MYERS asked if they could look into the West Main rebuilding of property. He is concerned about provisions for rebuilding the houses if they are completely destroyed. The houses are close to the river and cannot be moved.

WINDISH stated that there will be provisions in there for non-conforming usage.

LIVINGSTON clarified that there will be a study session at 7:00 p.m. on the 18th of April, 2002, to discuss the next step on the shoreline.

WINDISH stated that it will be a public notice, however, it will not be a public hearing.

UNFINISHED BUSINESS

1. East Main Street Design Strategy

WINDISH stated that at the last work session on East Main Street, they talked a lot about parking and some of the underlying themes addressed by the Planning Commission were aspects of "future parking". In any event, the properties will be required to build their parking from the side to the rear.

MYERS asked if it should be said that they cannot park on the side, that it has to be in the lot.

WINDISH stated that that is possible, however, they do not require that yet. If it is on the side, it is required that it be said it is proposed in the strategy. They then have to do a lot line, which is being proposed, and he would hope the buildings would take advantage of it. In that regard it would be more advantages to be in the rear.

SMITH stated that it would be rear access anyway.

WINDISH referred the Commission to the handout, which lays out incentives in how to structure this. He asked the Commission for feedback on it.

The matrix on the second page of the handout outlines 3 alternatives. The first alternative requires an access easement be granted across the property. This would require a 24 foot access easement from the property to facilitate a public access that would subdivide all these properties. The second alternative would provide incentives to the property owner to dedicate parking. Alternative three would be a payment in lieu of providing parking. That would attract properties with small lots that want a larger building. They could pay into a fund that would help pay for other parking.

Alternative 1 really applies to people who may not want to be involved in joint or shared parking. The property owner might view it as more control over the access, and the ability to post "no parking" signs.

Construction cost would be independent of the property owner and they would continue to own the property. If the property owner ever wanted to sell the lot, they could, or they could build a building above the parking. They would be required to meet the minimum and maximum parking requirement for the businesses. They would have to pay the tax on the property, all the storm water utility fees on the amount of the impervious surfaces, liability insurance and the long term maintenance.

Alternative 2 offers flexibility on the minimum and maximum required parking. If you dedicate it, the City will cut you some slack on that. In the event that you have a property that is fully developed along the maximum, and it is shared, you will see a benefit for sharing with other businesses. You may be allowed credit for on street parking, and reduce the amount of parking that is required. In discussion with the Public Works Department about shared construction of regional detention facilities, if the City helps out with that, maybe there will be no storm water utility fees. There are tax advantages if the land is dedicated on the properties, and if it is donated to the City, maybe they would have a reduction in income tax, etc. The City would also take on the liability of the parking lot, as well as the maintenance. In discussions with Public Works, they discussed orchestrating some kind of regional facility being built in the parking lot. There is a planning place right now where drainage goes north. There is a 4 acre property up there that is wet land that a developer gave to the City. They are looking to use that as a regional detention facility. When Graham and Washington Street were constructed, they would normally be required to provide some kind of detention facility locally to take the water off. However, what they did with the LID is put money into a fund for the development of this large detention facility. They might be able to do the same thing here, wherein the property owner can pay into that fund, and the on-sight detention field will go out to the drainage facility. This would only be allowed if they were going to be dedicating the property. They would otherwise have to have to provide for their own detention. If that is the route they choose, they would no longer own the property and no longer have control over public access. If the City later decided that it did not want the property, the property owner who dedicated it would then have right of first refusal. One thing discussed was the shared, joint, and publicly owned and privately owned properties being intermixed. It is what is going on downtown now, and in an informal way is already being shared. That is what is being addressed in alternative 1, the need to have access.

MYERS asked if in alternative 1, would they block the parking lot?

WINDISH stated that they would for a period of time. There is a calculation in part of the matrix regarding a tax break, and storm water fees on a square foot basis. If any commercial or industrial property is charged for having impervious surfaces, basically the water hits the ground and it has to go through our storm water system. They will be helping pay for that storm water system. The parking would be approximately \$300.00 per year, and over a 10 year period about \$3,000.00.

WINDISH asked if there were any questions at this time. The requirement would be for easement, however, as far as parking they would have some flexibility in whether they wanted to dedicate the parking.

MYERS suggested that maybe part of it would be education. If they dedicated it to the City it would be taken off of their taxes. Maybe the dedication could work in a provision that if the City abandoned it, it would then go back to them. This might make it more appealing to them, if they were willing to dedicate.

LIVINGSTON stated that he liked the incentives. He thought it was creative in that it did not necessarily lock anyone in. It shows where we want to go in the future.

MYERS suggested having a joint study session with the Council.

WINDISH stated that the next step would be to have him finalize the document, and at the next meeting formally pass that on to the recommendation. It could be done at this meeting, however, it is not on the agenda.

MYERS asked if it could be passed before they could have a joint study session with the Council.

SMITH stated that a study session can be requested after passage.

WINDISH stated that they could make a recommendation on the plan at the next meeting, and then at the Council study session invite the Planning Commission to do that. The Commission can then talk to them about their recommendations before they have a hearing on it.

MYERS stated that they could have a joint study session and then go on to public hearing.

WINDISH stated that they already had a public hearing on it, so they are working with those comments and the comments from Planning Commission.

NALDER had a question with regard to alternative 2. If he wanted a zero lot line, and wanted to dedicate his property, which is just a little strip in the back, can he build it with no parking under alternative 2? Let us say he needs a lot of parking, but by the time he dedicates it, he does not have a parking requirement, can he still build under alternative 2? What if the rest of it never happens?

MYERS stated that he believes everybody realizes that this may start, and you may get one parking lot and it may never end up to be. He thinks that once the businesses start moving and coming in that it is going to go on.

NALDER stated that we are talking about those lots that are small to begin with. If he dedicates a little strip in the back, could he build lot line to lot line and right up front.

WINDISH stated that what he could do is pay a fee in lieu of it.

NALDER asked what would happen if nobody else ever participates, and there never is a parking lot.

WINDISH stated that that is the risk you would have to take.

SMITH asked, what if you have off street parking and you only need two spots and you have got two spots in the front and you dedicate the back portion?

NALDER asked that if they choose alternative 2, would they be able to do more development than they can currently? If they choose to go under this alternative and dedicate some of it for future City parking.

WINDISH stated that potentially you could. He will have to write in some reductions and maximum percentage possibilities. If you wanted to reduce below the minimum, you could only do so much.

MYERS stated that some of those lots would not be able to have any size business on them and have parking. They would have to go with shared parking.

NALDER noted that development is all ready happening on that particular parcel, and yet the shared parking lot is not really available. They are willing to risk that?

WINDISH stated that they were.

LIVINGSTON stated that they would go on with this at their next meeting on April 4th.

MYERS suggested that they have a joint study session on the 8th.

WINDISH stated that he would set that up.

LIVINGSTON clarified the dates: Meeting on the 18th on the Shoreline Master Program, and Meeting on the 4th on the Sumner Improvement - East Main Street Design Strategy. He noted that NALDER would be absent for that meeting.

CORRESPONDENCE

WINISH stated that correspondence was received from Jack Kelly regarding the Station Area Plan.

WINDISH provided articles from The Planning Commission Journal. He discussed articles from "Regional View" Puget Sound Regional Counsel. He thought it had interesting information on transportation, and the timing of peaks and valleys depending on traffic on the freeway. He was also interested in the article "From Highway to My Way". What he felt was interesting about that was that it addressed the same type of thing that is being done with East Main. Instead of widening it out and making it a 5 lane arterial road, it discusses keeping it civilized and small town. This article addresses how it is being done in other part of the country. It discusses a level of service being adopted for some down town areas in Florida. The level of service is "F", which is basically congestion, almost to a stand still. Their argument is that it is down town, and that there is going to be some congestion and that is not necessarily bad.

LIVINGSTON asked what the service is on Main Street. He thought that it may approach an "F" on a Saturday or Sunday.

WINDISH also mentioned an article in the News Tribune on the Commuter Rail Station, in which there is a quote by Jack Kelly.

STAFF COMMENTS

WINDISH stated that as discussed in the last meeting Leonard Bauer was working for the State. John Doan is now in the director's position. He is Assistant City Administrator and Community Development Parks Director. With Leonard's remaining salary, they will be hiring an associate planner, and then probably an assistant planner and still be able to keep on part time planner. They look forward to having a whole planning staff.

Also, the Legislature passed a bill that extended the deadlines for the 2002 Comprehensive Plan Update. The original deadline was September 1st. It is now December 1, 2004. They can now actually start a process that will be a little more thought through, and a little more involved to update our comprehensive plan, which should make the Planning Commission's load a little more manageable this year.

COMMISSIONER COMMENTS

RICHARDSON wished to address the letter of February 2nd relating to his notification of his absences for Planning Commission Meetings on January 3rd and 24th. The letter basically says that from approximately December 25th to January 13th he was having some emergency surgery, and that notification was not possible at that point. He wanted to make that known and wanted to be able to have that excuse. Also, on the 24th he reviewed his mail, which was postage marked February 1st for that meeting, however, the notice was 6 days late. He wanted to make known that on at least those 2 occasions he was not able to attend for rightfully excused reasons. If a motion needs to be made to excuse those absences, he will do that. Otherwise, he just wants to make it part of the record.

WINDISH asked that if any of the Commissioners do not receive some kind of notice from him a week prior to the meeting, that they should give him a call.

SMITH wanted to make known that during the last study session, he made notification after 5:00 p.m. This was unavoidable, as the situation had not arisen until after 5:00 p.m. He wanted to apologize for the late notice, however, it could not be helped. Other than that, he wanted to comment that he thinks the East Main Street Plan is good. He feels it is something that can really be built on. There are a lot of good ideas there and forward thinking.

MYERS stated that he had the pleasure of meeting with a young gentleman that lives in Milton and has a business in Fife. He is moving his business to the Sumner area. He made the comment that he was moving his business to Sumner because it had the small town atmosphere. He felt that Fife is terrible, and that he could get from his house to his business in Sumner in less time than he could get from his house in Milton to his business in Fife. MYERS took this as a real compliment to Sumner. MYERS also wanted to note that with regard to his comment that Puget Power is going to shut off the power plant and sell the water, that that may not be completely accurate. At his Tuesday Rotary program, in attendance were the County Lawyer and the Chairman of Puget Sound Water and Light. They are working on saving Lake Taps. The last thing to happen in the program was Mayor Skinner's comments on what was happening with the Cascade Pipeline Collision. It is a 3 county consortium that is looking at planning that water from any jurisdiction can go to another jurisdiction and all be inter-tied. This is not going to happen tomorrow, however, it is in the planning. They are asking for 5% of the water out of Lake Taps to use for generating, and they want to take 5% and sell it to this pipeline. It is more water than the City of Seattle's inventory. It is a lot of water, and there is a huge reservoir. It sounds like they may be able to save Lake Taps and supply the entire in the area with water. He would like to have somebody come and talk to them about it.

WINDISH stated that they are having a City Council meeting on Monday night. It will be a study session. At that study session, Len Vickler, a planner who works for AHBO, which is a planning firm in Tacoma, will be giving a presentation on low impact development. He will be addressing new technologies that reduces storm water run off and that is more environmentally friendly. He will discuss how you cluster subdivisions and new technologies and ideas that have been coming out over the last few years. He attended a conference last June with the Mayor and City Council member Stuart Scheuerman. It was very inspiring. It was exciting to see solutions to some of these problems. They talked about ESA and fish and water quality. Len Vickler has been doing research and working with Pierce County on some projects, and is very excited about this. He will be giving a free presentation to the Council and also to our staff. WINDISH would encourage attending the meeting on Monday night. They will be presenting things that are cutting edge, things that, as we get into the comprehensive plan, are going to come to the forefront in some of the discussion. They are looking at talking about environmental policies and how do we develop in a friendly way. It is at 6:00 p.m. The staff presentation will be at 2:00 p.m. in the afternoon on the 28th of March.

ADJOURNMENT

LIVINGSTON motioned for meeting adjournment at 9:40 p.m. RICHARDSON seconded the motion. The motion passed unanimously.