

1. Call to Order. Chairperson Kelly Stravens called the regular meeting of the Millwood Planning Commission to order at 6:05 p.m. Other commission members present were Bobbie Beese, Josey Booth and Dan Hansen. Staff present: Tom Richardson, City Planner, Ray Oligher, Assistant Planner, and Brian Werst, City Attorney.

2. Approval of Minutes – September 12, 2012. Mr. Hansen moved to approve the minutes of the September 12 meeting as presented. Motion seconded by Ms. Beese. Motion carried unanimously.

3. Public Hearing: Shoreline Management Program Update. Mr. Stravens opened the hearing on the Shoreline Management Program by asking commission members if there were any conflict-of-interest disclosures to be made. Mr. Stravens and Ms. Beese noted that they own property or are related to people who live in the shoreline management area; neither felt that this would constitute a conflict of interest. No one in attendance challenged any member's participation in the hearing.

Mr. Oligher gave his staff presentation explaining the SMP update process, the public participation process, the work that had been completed to date, and how the proposed revisions would affect property owners.

Mr. Stravens asked for public comments.

Mr. Werst said the city received written comments today from the IEP's attorney and from Futurewise, and asked that the comments be part of the record. Mr. Stravens said the City also received a written comment from Department of Ecology.

Kitty Klitzke, Futurewise, said her organization strongly supports the draft update. V 1.4 is a substantial improvement over v 1.3. We know much more about shorelines than we did in 1984 when the regulation was written.

She recommended several changes:

- Conditional uses and variances be decided by the hearing examiner.
- Public access requirements need to be clearer. These requirements are definitely constitutional. The Shoreline Management Act has been requiring them since 1971.
- Native vegetation area of 50 ft should be widened to 100 or 150 ft; this is needed to protect the Spokane River. Futurewise is a proponent of good strong buffers.
- The Restoration Plan should either identify mitigation projects specifically or commit to identify them as part of the funding plan or identify needed restoration projects so we have a path forward.

Ms. Klitzke reviewed the comments in the letter Futurewise submitted on September 24, 2012 supporting specific sections of the SMP. They support the following parts of the draft SMP:

- They support the no net less language in the plan.

- They support requiring the use of native vegetation for screening; it grows better and helps protect the river and the environment.
- They support prohibiting new development that would require shoreline stabilization. That is expensive for property owners and is not very good for the river, and also can be hard on down-current properties.
- They support Policy CE 4.1 which clarifies when structural stabilization measures.
- They support Policy FHE 1.1 which calls for monitoring, mitigating and managing shoreline erosion has been a huge issue in other areas.
- They support Policy FHE 3.1 which provides policies for the Restoration Plan and restoration activities. They support the requirement for the use of native vegetation in restoration projects.
- They support additions to the municipal code which explain how the SMP and Critical Area regulations work together. This has been very confusing for property owners and developers in other areas.
- They support General Environment Policies 1 and 2, Water Policy 2 and Plants and Animals Policy 2A which clarify that impacts on plants and animals should be avoided when possible. Avoidance and mitigation sequencing are key tools to protect the shoreline and are required by the SMP Guidelines. Avoidance should also reduce mitigation costs.
- They support General Environmental Regulation 1 which calls for preventing environmental damage whenever possible. This is consistent with the SMA 90.58.020 and will protect the river.
- They support incorporating the no net loss standard in General Environmental Regulation 9 which complies with the SMA and SMA Guidelines.
- They support the Historical/Cultural Regulation 3 which requires areas with probable or documented cultural and archaeological resources to be evaluated by a professional archaeologist and consultation with Indian tribes. This can protect cultural and archaeological sites and also reduce delays.
- They also support regulations which avoid removal of trees wherever practical. Maintaining trees and other and woody vegetation is an important part of maintaining shoreline function.
- They strongly support the regulations on p. 52-53 which define circumstances in which wetlands can be impacted. These avoidance policies better protect the environment and reduce wetland mitigation costs.
- They support the wetland buffer requirements on p. 55 of the SMP, which are necessary to protect wetlands from adverse impacts.
- They supports Residential Regulation 4 which requires joint use of docks for new short and long subdivisions, planned unit developments and multifamily developments. Docks have significant adverse impacts on the Spokane River; they can substantially interfere with public trust which allows recreational and navigational uses of the river.
- The Cumulative Impact Analysis was very well done. It contains valuable information on the existing conditions history of conditions.

Their detailed recommendations are in the comment letter which was submitted.

Shirene Young, Inland Empire Paper, asked about the intent of the last paragraph of section 4.3 of the CIA referring to an expectation that some form of access to the shoreline will accompany development; would this be some kind of mitigation? Ray Oligher said this section attempts to state what we think could happen in the future if the property is developed. Mrs. Young said their attorney's letter includes their comment that the plan should not contain "what ifs" about the future of the paper mill property.

Wayne Frost, Frost Consulting, asked if comments would be received after this evening. Mr. Stravens said that depends on what occurs this evening; the hearing could be continued after this evening. Mr. Frost asked if all the shoreline regulations apply within the 200-ft area. Mr. Oligher said the regulations for the 50-ft Natural Vegetation Area are more stringent than for the 200-ft Shoreline Management Area. Mr. Frost asked if a homeowner in the 200-ft area would be allowed to add on to their homes or build a gazebo; would those require a substantial development permit? Mr. Oligher said many such situations would be exempt, but would require a review during the building permit review. Mr. Frost asked about a small project that is not required to obtain a building permit, such as a small gazebo. He is concerned about the onerous nature of requiring special development permits. The process needs to be clear. Also, he does not agree with the requirement for hearing examiner review; allowing more decisions made by the planning commission or the staff will make the process more approachable and understandable by the applicant.

Mr. Werst clarified that the city council should not begin its deliberation on the SMP until the planning commission has completed the hearing and submitted its written recommendation. Mr. Richardson said the plan is to have the written recommendation approved at the October 29 meeting.

Doug Krapas, Inland Empire Paper, said this is supposed to be a shoreline master plan document for enhancement of our shoreline. There are parts of the document where there are policy decisions which are not consistent with the mission of the SMP. The IEP's two main issues are, first, the private property rights and constitutional concerns as the document is currently written. There is nothing in the SMA process that requires access on private property. Why is the city taking that path? The second issue is the hypothetical situation of the mill's future existence. This is not the proper document to have that discussion. This sets a dangerous policy decision. The IEP would like to be on-record as opposed to the language in the document relative to that issue.

Mr. Krapas pointed out Policy EE 3.1 in section 18.12.032 which is not consistent with other statements in the SMP regarding public access on private property. He said the law does not require public access on private property.

Jaime Short said the WAC requires public access for all property, public and private. She agreed with Kitty Klitzke in citing that there are several instances around the state where public access has been provided on industrial sites.

Mr. Hansen said public access has been a prominent concern in Millwood; the public lacks access to the river.

Mr. Booth said we are trying to strike a balance to ensure that citizens have access to the city's natural resources while supporting the business environment and our historic resources.

Jack Bunton, 8915 E. South Riverway, said his house borders the sewer lift station and alley which people frequently use to get down to the river. A lot of the people do not clean up their messes. There is not adequate parking at that location. He said the County should reopen Boulder Beach. While the river is for everyone, this is not a good location; how do you restrict the public's use? He suggested that the city purchase the vacant lot next to his property. He also noted the high wake problems on the river this year. He loses a tree about every three years due to erosion.

Ms. Beese said Ms. Klitzke's comment regarding the hearing examiner is not accurate. If she wants the process to be the same as for zoning variances, then the hearing should be held by the planning commission with the final decision by the city council. Ms. Klitzke said her priority is that the procedure have transparency. She does not like to leave decisions at the director's discretion because over time staff can change or be pressured; it is easier for citizens to understand what is going on when decisions are made by either the planning commission or the hearing examiner.

Mr. Stravens reviewed the letter from IEP's attorney, Nathan Smith. The first issue relates to 18.14.200 Public Access. The letter cites case law which the planning commission has already reviewed. He said the document calls for encouraging, not requiring, public access; encouragement is not a "taking." Mr. Werst said the RCW requires public access on public property, but the WAC extended this to private property.

Ms. Beese said the second item in Mr. Smith's letter relates to what the zoning code requires. If it needs to be changed, it needs to be changed in the zoning code. She said the state law requires to consider "what if" scenarios.

Mr. Krapas said on the first item, if encouragement is the intent, then it would help to clarify this if we use consistent language. There are two inconsistencies, under 18.14.200(A), the document reads "Public access should be incorporated into all new private and public developments..." then in (B) it reads, "New private shoreline development is encouraged to provide public access..." If (A) would be changed to read "...encouraged into all new private developments and required for public developments," then the language would be consistent.

Under the second item, he agreed that it is a zoning issue, not a shoreline issue, so why is it included in the shoreline plan? He also cited Objective EE 3, and Policy EE 3.1 which states that if the property in the Shoreline Industrial Environment is redeveloped then the city “shall require public access.”

Mr. Hansen moved to change Policy EE 3.1 the word “required” be changed to “encouraged.” Motion seconded by Ms. Beese. Motion carried unanimously.

Mr. Stravens asked if Jaime Short had a comment. She said she appreciated hearing the conversation this evening and it helped to inform her and the agency’s process.

Ms. Beese asked to clarify the references to Coyote Rock and Coyote Rocks. Do these refer to the development or the land feature? Ms. Beese moved to add the word “development” after Coyote Rock when it refers to the development. Motion seconded by Mr. Hansen. Motion carried unanimously. Mr. Oligher said he would check these and make the corrections.

It was agreed to keep the hearing open to allow time to review the written comments submitted by IEP and Futurewise. Mr. Stravens moved to continue the hearing until 6:00 p.m. on Monday, October 15, 2012. The motion was seconded by Mr. Booth. Motion carried unanimously.

4. Approval of Shoreline Management Program. This item was deferred until the public hearing has been closed.

4. Adjournment. Mr. Stravens moved to adjourn pursuant to RCW 42.30.090. Motion seconded by Ms. Beese. Motion carried unanimously. The meeting was adjourned at 7:50 p.m.

Mr. Stravens said the next meeting will be a special meeting on October 15, 2012 at 6:00 p.m. for the continued hearing item.

  
Chairperson

  
Secretary