

**REDMOND PLANNING COMMISSION
MINUTES**

June 19, 2013

COMMISSIONERS PRESENT: Chairman Franz Wiechers-Gregory, Commissioners O'Hara, Murray, Miller, and Biethan

COMMISSIONERS EXCUSED: Commissioners Chandorkar and Sanders

STAFF PRESENT: Pete Sullivan, City of Redmond Planning Department, Cathy Beam, City of Redmond Planning Department, Kelsey Johnson, City of Redmond Planning Department, and Kevin Murphy, City of Redmond Natural Resource Division.

RECORDING SECRETARY: Lady of Letters, Inc.

CALL TO ORDER

The meeting was called to order at 7:00 p.m. by Chairman Gregory in the Council Chambers at City Hall.

APPROVAL OF THE AGENDA:

There were no changes to the agenda.

ITEMS FROM THE AUDIENCE:

There were no items from the audience.

PUBLIC HEARING AND STUDY SESSION, Proposed Zoning Code Amendment related to Wellhead Protection regulations,

Chair Gregory opened the public hearing and called on Kelsey Johnson and Kevin Murphy, City of Redmond, for the staff presentation. Ms. Johnson noted that the Commission was briefed last week on this text amendment, and Commissioners did not have any issues with the proposed changes. She said there is one business owner at the meeting who is prepared to give testimony.

Judy Jewell testified to the Commission. She lives in Woodinville at 12120 202nd Avenue NE. Her business, Olympian Precast, is in Redmond. She is also the president and treasurer of a small business coalition that has worked on wellhead issues for the last 10 to 15 years. The group has used several names, but it is now called the Redmond Businesses for Environmentally Sustainable Team. She said her group has been working on this issue for some time. She has been working with some people in the City's Technical Advisory Group. Businesses have come up with some issues with the proposed changes to wellhead regulations, and Ms. Jewell says those issues are close to resolution.

She has been asking for protection of vested rights that come with this issue, and recently involved an attorney to make sure the language was proper. That private attorney has

been working with the City Attorney. The private attorney has told Ms. Jewell it is safe to say that the City Attorney admits the present language is contrary to the City's intent to allow existing non-conforming stormwater systems to be altered, expanded or intensified so long as the changes bring the system closer to conforming to current standards. Present terms, the attorney continued, require an owner to show no reasonable alternative exists, which is a difficult but not impossible standard to meet, especially if City staff members say that cost is not a consideration in determining reasonableness. Ms. Jewell said that the City staff has been helpful in finding ways to make this process more cost-effective for all parties involved. She said she was confident a resolution could be reached and she hoped to hold this hearing open for another week to allow for the processing of the legal language referred to above. Commissioner Biethan confirmed that staff would cover this concern in its presentation.

Chairman Gregory said he would keep the time for public comment open until next week and see how the legal issues are resolved over the language of the amendment. Ms. Johnson and Mr. Murphy gave a brief overview of the topic. Mr. Murphy noted that the City is charged with protecting the drinking water aquifer around the City's five drinking water wells. He pointed out the aquifer protection area, with the primary concern being the area closest to the drinking water well, Wellhead Protection Zones 1 and 2. Those areas encompass the one-year time of travel for groundwater to reach a drinking water well. Groundwater in Redmond is very shallow, about 10 to 15 feet below the surface. That groundwater provides for good quality drinking water, but because of its shallow nature, it is susceptible to contamination, and the City has experienced some incidents over the years where challenges with groundwater quality have occurred.

The Wellhead Protection Zones were designated in the Municipal Code and Zoning Code for the protection of the aquifer recharge area and adopted into law in 2003. A portion of that code recognized specific uses that were potentially harmful to the aquifer. Untreated stormwater infiltrating into the ground was noted as a potential risk. The Code directs the City to evaluate those risks from stormwater infiltration as well as the potential to modify stormwater systems at existing facilities to reduce those risks. The original code had a requirement to complete that evaluation by 2008. The City has identified more than 120 parcels, both private and public, that are of primary concern. These are facilities built from 1970 through the early 1990's. Since then, stormwater building codes have changed and treatment has been put in place on subsequent systems.

To align the City's code with the state code that also regulates stormwater infiltration systems, the City came up with an evaluation process for determining the site-specific risk from stormwater systems at each facility. An assessment program and modification schedule was adopted in 2010. Since then, the City has been working with businesses to implement that program and, more recently, address their concerns about implementing the program, including dealing with the costs of modifying their stormwater systems. A small group of four pilot businesses has been put together to evaluate their sites and work with the City to design stormwater systems that would help them reduce the risks to groundwater at their facilities.

Since all of these sites were designed 20-30 years ago, many have used all the space they have and so, there is no room for improvement, including new stormwater treatment technologies. There is often no room for a small building where hazardous materials could be handled, and there may be too few trees already or not enough parking. Any requirements from the City for modifications would potentially lead to a non-conformance situation. To protect groundwater quality, these businesses need to install a treatment system such as a rain garden or a bioswale. To do that, a tree or a parking space might need to be taken out. That is not possible under the City's pre-existing non-conforming use codes.

Ms. Johnson said the Zoning Code text amendment was needed to remedy this situation. The Code currently states that a non-conforming use, such as parking, landscaping, or setbacks cannot be expanded, altered, or intensified in any way. The City would like to allow some flexibility when there is no alternative location for placing the required stormwater improvements on site. The amendment would provide an option to intensify, alter, or increase the degree of non-conformity for uses or structures such that the stormwater improvements can be built and thus provide an environmental benefit to the City. The outcome of the change, hopefully, would create an improvement in groundwater protection in Redmond.

Ms. Johnson showed the Commission the section of Code language that is in question, which talks about the increase and degree of non-conformity. Since she last spoke to the Commission, the staff has been communicating with Ms. Jewell, her attorney, and the City Attorney to determine the actual changes in the text. As Ms. Jewell mentioned, the City and the businesses agree on the intent of the proposed change, but an agreement has not yet been reached on the actual language to be used. The two attorneys have met and agree that the language needs to be clarified with minor adjustments so that the interpretation is more in line with the intent of the City and businesses. The City would like to keep the public hearing open for another week to resolve this situation.

Commissioner O'Hara said he did not want to debate the language in question. He asked if the language issue could be resolved in a week. Ms. Johnson said she believed that would happen, and the attorneys were on board with that. Commissioner Biethan would have preferred to see this language before the meeting. Ms. Johnson said this was the same language the Commission saw last week. She simply showed the paragraph to the Commission that needs clarifying. Chairman Gregory summarized that the City and businesses agree on the intent of the language and asked the Commission if they would support going forward with recommending an approval of the amendment pending the final wording change, so as to approve the report at the next meeting. Otherwise, that could delay the approval another week.

Commissioner Biethan said he was concerned about having public testimony and that those concerns were properly addressed. He mainly wanted to see the new language before the next meeting. To prepare a report, Chairman Gregory noted, the Commission would have to recommend approval of the amendment. He said he was satisfied that the business group is on board with the changes proposed, but that there are simply some

language issues that need resolution. Commissioner Murray said he had no problem with giving a preliminary approval as long as the language is agreeable between the City and the business group. Commissioners O'Hara and Biethan agreed with that.

MOTION by Commissioner Murray to give a preliminary recommendation of approval to the proposed Zoning Code amendment related to wellhead protection regulations as long as the language is agreed upon between the City and the business group. MOTION seconded by Commissioner O'Hara. The MOTION passed unanimously for tentative approval.

STUDY SESSION, Proposed Zoning Code Amendment to raise thresholds for development-related State Environmental Policy Act (SEPA) exemptions thresholds

Chairman Gregory noted that he had reviewed this topic with regard to determining the rationale behind why the state has established certain SEPA thresholds. He was not able to find any expansion beyond what staff has presented on that topic. He was struck that the statement about creating walkable communities was simply placed in a matrix put together by the state's SEPA Advisory Committee. Chairman Gregory noted that the committee's mission statement squarely focused on the legislative mandate to raise the thresholds and reduce the SEPA workload, especially for communities who, in essence, do not need SEPA thresholds.

Cathy Beam, Planning Department, clarified that just because a project is SEPA-exempt it is not exempt from an environmental review process. She noted that SEPA exemptions would not involve weakening the review process. Ms. Beam said the City is following the Department of Ecology's directions in responding to the state legislature's mandate to streamline, save costs, and avoid redundancy. The City is opting for the maximum thresholds because staff believes the environmental review process is in place in Redmond to address any environmental issues through the development review process. That process is laid out in the Zoning Code, Municipal Code, and various technical notebooks, such as the stormwater technical notebook. Ms. Beam said raising the SEPA thresholds does not increase environmental impact because it is called a non-project action. Those projects will come in and the land development activity will still be subject to review.

Ms. Beam was able to find out a little more about the proposed exemption for commercial structures. She contacted the SEPA lead responsible for moving this through the rule making process, as well as the City's lobbyist, Doug Levy, and Carl Schroeder with the Association of Washington Cities. The response back was that cities and counties preferred a 40,000 square foot threshold while the environmental community preferred 20,000 square feet. That number was split down the middle at 30,000. That reaffirms the idea of a compromise of different positions. Ms. Beam also found that the Department of Ecology has 105,000 records in a SEPA register on this matter. The register reveals, in looking at all the SEPA thresholds in every city and county in the state, roughly 25% of projects would be eligible for exemption under the new rule as opposed to the former rule.

In Redmond, going through three years of data, Ms. Beam found four projects that would be exempt under the proposed rules as opposed to the existing rules. That number would be less than the 25% figure the state is using. She added that there are exceptions to the exemptions, including the involvement of critical areas. Any land development application with critical areas in it, no matter what size, is subject to SEPA. Exceptions in the state law also include water, which the City would be covered on anyway due to its Critical Areas Code. For a project in, over, or under water, there would be no SEPA exemption possible. Also, when an air quality permit is required, a SEPA exemption is not possible either. Plus, if a portion of a project is SEPA exempt, but part is not, it does not matter. SEPA would still be applied for that entire project. She reiterated that the 30,000 number with regard to commercial structures was simply a compromise.

Commissioner Miller asked if the City could eliminate thresholds altogether. Ms. Beam said the City is so sophisticated, she highly doubted SEPA was needed. Right now, SEPA is more of an administrative tool. The City has not had to rely on its substantive authority. She noted that some project might come along to challenge that idea, but she felt confident that the City was covered. Ms. Beam said the state law would not allow those thresholds to be eliminated. The new rules adopted by the state allow a jurisdiction to do a planned action coverage, such as what's been used in the Overlake neighborhood, for an entire city. In that instance, threshold levels would not be issued.

Commissioner Miller noted that the public is looking for predictability and consistency. At the same time, there is a concern over waiving any of the City's oversight responsibilities. He said people should know when a checklist is required, but should also know that the review process can be accelerated. Such a predictable process might be a win-win for groups like Sustainable Redmond as well as permit applicants. Commissioner Miller thought that would be a good idea, in light of the fact that the thresholds, if they were legally challenged, probably would not hold up in court. Commissioner Murray asked if Commissioner Miller would recommend approval of the threshold changes on the books. Commissioner Miller said this issue would not go away until the state made major changes with regard to the authority of SEPA.

Commissioner Murray suggested recommending approval of the threshold changes with the understanding that the City code regarding environmental protections has a good rationale behind it. Commissioner Miller said he wanted a better process for applicants and yet preserve the ability to use the tools provided by SEPA to recognize impacts on projects regardless of their size. Commissioner Murray said that ability would not be inhibited with the changes proposed, and said the process would be easier for applicants and the staff if thresholds were higher. Commissioner Miller said this could create a win-lose situation, with the losers being those seeking to preserve the City's oversight over the environmental aspects of the permits.

Commissioner Biethan noted that there is still a 21-day notice for all projects, and he disagreed that the City's oversight is lost. He said the oversight would simply happen in a different place and it potentially does not happen twice when it is not necessary. When

the oversight happens twice, that could allow for more people to catch problems, but that can be redundant and the loser is the applicant, with more uncertainty, process, and cost. Commissioner Miller said he would like to see review periods consolidated and use a review tool like the SEPA checklist in a way that is defined for Redmond's needs. Commissioner O'Hara said the existing code does define Redmond's needs. Commissioner Miller said he did not like the arbitrary expansion of parking lots. He would like to create a process determined by Redmond's values, not state values that appear to be arbitrary. He noted that he would probably vote against the proposed changes, simply to record his thoughts about these values.

Chairman Gregory closed the two remaining open issues on the issues matrix. He said the issues have been aired out sufficiently and he appreciated Commissioner Miller's concerns. Chairman Gregory said the environmental review is in place, and agreed with Commissioner Miller that a process should fit Redmond. Item 3 has been closed. Item 4 was the question, what is lost by not having a SEPA checklist? Chairman Gregory closed that issue as well. Commissioner Biethan brought up some concerns about Mr. Hinman's letter, sent in as a part of the public comment. Chairman Gregory pointed out that Mr. Hinman objected to the notion that the SEPA exemption itself does not have any impact, in and of itself. Commissioner Biethan said he was ready to move on. He simply wanted to clarify what Mr. Hinman had written. Chairman Gregory said the new proposal does not have an impact on traffic, per se. Any project underneath it would have the impact. He called for a motion of approval.

MOTION by Commissioner O'Hara, to recommend approval of the proposed Zoning Code Amendment to raise thresholds for development-related State Environmental Policy Act (SEPA) exemptions thresholds. MOTION seconded by Commissioner Murray. The MOTION passed with a 4-1 vote, with Commissioner Miller casting the nay vote. Chairman Gregory thanked the staff and Commissioner Miller for their work and input on the SEPA thresholds.

STUDY SESSION, Content of 2013-2014 Annual Update to the Comprehensive Plan, presented by Pete Sullivan, City of Redmond Planning Department.

Mr. Sullivan noted that this was the second study session on the proposed 2013-2014 Comprehensive Plan amendments and associated Zoning Code amendments, otherwise known as the annual docketing cycle. He said the City is not proposing to add a significant amount of new items, given the carry-over items from 2012-2013. The important addition for this study session is the discussion of the interrelationships of the amendments. Redmond's docketing allows for a rolling cycle, such that the City Council can take action on individual Comprehensive Plan amendments both from the City and from privately initiated parties throughout the year. Cumulative effects of the proposed changes are considered up front to make sure that the City is looking at the larger impacts of the amendments. This process is different than what some other cities do.

Mr. Sullivan explained that the themes of this year's inter-relationships include economic development, transportation, utilities, and public safety. In narrative form, those impacts

have been discussed. Mr. Sullivan noted that in the list of 18 items, a few changes have occurred since the Commission last reviewed them. Those include, a Comprehensive Plan land use map cleanup that will take place on the eastern boundary of the City near Bear Creek to remove an overlay zone that is actually for a parcel outside current City limits that does not need to be there. Another cleanup change is to a right of way parcel in North Redmond that has been erroneously labeled but will also require a Comprehensive Plan amendment to change the map.

Another recent change to the list is in regard to a private amendment that came through, to change the City's General Sewer Plan and Water System Plan. Staff has had several meetings on that request, which is highly technical and involves a parcel that is difficult to develop due to slope and critical area concerns. Based on staff's initial consideration of the proposal, staff will recommend to City Council that this item not be added to the 2013-2014 Comprehensive Plan docket because a critical connection is needed for the infrastructure in the NE 124th Street basin. The development of that property would extend water and sewer all the way up 154th Place NE and across North 116th Street to the King County wastewater transmission mainline. Without that connection, the system would not be complete. Other properties would be disenfranchised by this improvement not being made and would not have the benefit of connecting to water and sewer.

Mr. Sullivan said that this the applicant's request is in the opposite direction of what the City plans call for. Also, the City Council has made a decision on a similar sewer plan amendment and has considered a similar set of issues between the benefit of the neighborhood and the request of an applicant. Thus, staff is recommending that this should not be added to the docket. The City Council could choose to add this to the docket and it would be included for full review and recommendation. Mr. Sullivan asked if the Commission had any concerns about that issue that he could forward to the City Council.

Commissioner Biethan asked if there was any comment from the applicant about staff recommendation. Mr. Sullivan noted that the applicant is aware of the process just discussed and has asked where he can go from here. Mr. Sullivan has told the applicant that a staff report will occur on July 2nd and Council's final decision to set the docket will come on July 30th. Chairman Gregory noted that the Commission heard similar concerns on a previous sewer extension amendment, which would make including this new amendment on the docket a redundant exercise for them. Mr. Sullivan agreed with that assessment. He asked for a recommendation from the Commission to transmit the list of amendments and interrelationships as described on to City Council.

MOTION by Commissioner Murray to recommend the transmittal of the list of amendments and interrelationships, as described above, regarding the content of the 2013-2014 Annual Update to the Comprehensive Plan, on to City Council. **MOTION** seconded by Commissioner Biethan. The **MOTION** passed unanimously.

REPORTS/SCHEDULING/TOPICS FOR NEXT MEETING(S):

Chairman Gregory noted that there were two report approvals coming at the next meeting for the Commission. He said an interesting briefing would also be happening next week on the various administrative actions related to public notice of development activity. The Commission discussed this issue earlier this year, and Ms. Johnson will give an update on this topic.

ADJOURN

MOTION by Commissioner Miller to adjourn the meeting. MOTION seconded by Commissioner O’Hara. Chairman Gregory adjourned the meeting at approximately 7:53 p.m.

Minutes Approved On:

Planning Commission Chair

July 10, 2013
