



MINUTES
PLANNING COMMISSION MEETING
City Hall – 550 Swift Boulevard – Council Chamber
WEDNESDAY, July 26, 2017
7:00 PM

Call to Order:

Chair Wallner called the meeting to order at 7:02 p.m.

Attendance:

Present: Chair Wallner, Commissioners, Mealer, Boring, Berkowitz, and Palmer. Also present were Council Liaison Dori Luzzo-Gilmour, Development Services Manager Rick Simon and Block Grant Coordinator Michelle Burden.

Approval of Agenda:

Chair Wallner presented the meeting agenda for approval.

COMMISSIONER BORING MOVED AND COMMISSIONER PALMER SECONDED THE MOTION TO APPROVE THE JULY 26, 2017 MEETING AGENDA AS PRESENTED. MOTION CARRIED UNANIMOUSLY.

Approval of Minutes:

Chair Wallner presented the meeting minutes of the April 26, 2017 Special Workshop for approval.

COMMISSIONER BORING MOVED AND COMMISSIONER BERKOWITZ SECONDED THE MOTION TO APPROVE THE MINUTES OF THE WEDNESDAY, APRIL 26, 2017 SPECIAL WORKSHOP AS WRITTEN. MOTION CARRIED UNANIMOUSLY.

Chair Wallner presented the meeting minutes of the May 24, 2017 Meeting for approval.

COMMISSIONER BORING MOVED AND COMMISSIONER PALMER SECONDED THE MOTION TO APPROVE THE MINUTES OF THE WEDNESDAY, MAY 24, 2017 MEETING AS WRITTEN. MOTION CARRIED UNANIMOUSLY.

Chair Wallner presented the meeting minutes of the July 12, 2017 Workshop for approval. Commissioner Berkowitz requested the record show that she objected to the uses described under the Urban Recreation land use workshop item from the July 12th workshop and also wanted to clarify the Commission's position on the maps as related to the DNR property. It was clarified that workshop minutes would reflect only a broad

overview of the meeting including topics covered and discussion on topics would be captured in the regular meeting minutes when the item is actionable.

COMMISSIONER BORING MOVED AND COMMISSIONER BERKOWITZ SECONDED THE MOTION TO APPROVE THE MINUTES OF THE WEDNESDAY, JULY 12, 2017 WORKSHOP AS WRITTEN. MOTION CARRIED UNANIMOUSLY.

Public Comment

Chairman Wallner asked the recorder to read the public comment procedures. After the procedure was read, **Chair Waller** opened the public comment period at 7:09 p.m.

Patrick Paulsen, 2253 Davison Ave., presented comments to the Commission regarding the update to the Critical Areas Ordinance language. He also provided the Commission with his comments in written form, attached as Attachment A

Laurie Ness, 2253 Davison Ave., presented comments to the Commission regarding the Critical Areas Ordinance update. She commented on language within the ordinance and the need for enforcement. Her comments were also provided in written form, attached as Attachment B

Chairman Wallner thanked the public for their comments and closed the public comment period at 7:13 p.m.

New Business – Public Hearing:

1. 2018 Community Development Block Grant (CDBG)/HOME funds

Block Grant Coordinator Michelle Burden presented the 2018 Community Block Grant application information. She indicated the purpose of the public hearing was to accept public comment on the 2018 CDBG program.

Chair Wallner opened the public hearing at 7:14 p.m. Having no one come forward for testimony, Chair Wallner closed the public hearing at 7:14 p.m. and opened the item for commission discussion.

2. Z2017-104 Text Amendment to the M-1 Medium Density District

Mr. Simon clarified that the text amendment was actually to the C-3, general commercial zone. He presented the text amendment and identified the used in both the M-1 and C-3 zones as well as the benefits of changing the zoning in the Horn Rapids area.

Commissioner Berkowitz asked if an overlay district had been considered for the subject area. Mr. Simon noted that in order to allow for flexibility an overlay was not being used in the instance. He clarified that it was not known at this time how far the C-3 boundary would be moved but did not anticipate a checkerboard effect.

Chair Wallner opened the public hearing at 7:19 p.m. Having no public testimony, Chair Wallner closed the public hearing at 7:20 p.m. and opened the item for commission discussion.

COMMISSIONER BORING MOVED AND COMMISSIONER PALMER SECONDED THE MOTION TO CONCUR WITH THE FINDINGS IN STAFF REPORT Z2017-104 AND RECOMMEND APPROVAL TO THE CITY COUNCIL OF THE PROPOSED AMENDMENT TO SECTION 23.22.010(D) OF THE RICHLAND MUNICIPAL CODE TO ALLOW FOR C-3 GENERAL COMMERCIAL ZONING TO BE APPLIED TO AREAS THAT ARE DESIGNATED INDUSTRIAL UNDER THE COMPREHENSIVE PLAN IN CLOSE PROXIMITY TO SR240. MOTION PASSED UNANIMOUSLY.

Communications:

Mr. Simon reminded commissioners that the August meeting will be pushed back a week to the 30th. He clarified that there would still be a workshop on August 9th.

Councilmember Luzzo-Gilmour gave the Commission an update on items approved at the last City Council meeting. Councilmember Luzzo-Gilmour also invited Commissioners to attend the annual National Night Out and City Fair on August 1st.

Commissioner Boring noted the new date for the August meeting should be updated on the current agenda.

Commissioner Berkowitz asked for clarification as to the next meeting on the Critical Areas Ordinance and whether or not there would be a public hearing. Mr. Simon offered clarification.

Adjournment:

Chairman Wallner adjourned the meeting at 7:25p.m.

PREPARED BY: Lynne Follett, Executive Assistant

REVIEWED BY: _____

Rick Simon, Secretary Richland Planning Commission

Critical Areas Ordinance Comments by Laurie Ness 7/26/2017

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Article. III

Revise: Fish and Wildlife Habitat **Conservation** Areas

Add: Enforcement for Article III-Fish and Wildlife Habitat Conservation Areas (see comment 2)

Add: Enforcement code for

Article IV Add: Enforcement code

for Article V Add: Frequently

flooded areas

Add: Enforcement code for frequently flooded areas

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A. 22.10.010 General purpose and intent.

Comment: The City of Richland is required to adopt development regulations that protect the functions and values of Critical Areas. For planning purposes this should be stated and this intent made crystal clear to anyone reading our code.

State: in the RMC for clarity, the intent of critical area protection takes priority above all other land uses and reference state code.

Revise: Critical area protection is not *just* for the benefit Richland. Please refer to the state code in the RMC or add it in the RMC.

2. "Fish and Wildlife Habitat Areas" are not the same as *Fish and Wildlife Habitat Conservation Areas* {RCW 36.70A.030 (5) (c)}. "Fish and Wildlife Habitat Areas" is "an meaningless term incorrectly used and a non-existent term within state code as a type of critical area. This term cannot be cross-referenced to the statutes. It is confusing to the public as a type of critical area. Please correct this type of critical area term verbatim from our state code and use it within our RMC as one of the 5 types of critical areas.

Comment: Our state code imposes the requirement that special consideration be

given to preserve and enhance anadromous fisheries. Stated it in the appropriate place in the RMC's CAO.

3. Comment: Frequently Flooded Areas as a type of critical area is missing. Our CAO needs to add it in the CAO. Being a type of critical area (RCW 36.70A.030 {5}(d) it should be included here along with the other 4 types, regardless if it appears elsewhere in the RMC. The public would not know where to look elsewhere, or worse, not realize it has critical area protections. This is misleading to the public and it is a requirement to include it as a critical area.

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22.10.040 Definitions

"Best Available Science /BAS"

1. *Comment:* Add the definition of Best Available Science as defined in its entirety within state code consistency and clarity so the public knows its role in protecting our critical areas.

2. *Comment:* Best Management Practices. Be consistent and include the full definition of BAS here. A partial definition can be misconstrued by the reader.

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"Qualified Professional" *Comment:* A "Qualified Professional" Not defined as to what discipline the engineer is a professional in. Please clarify. I think an engineering discipline should be stated here which is consistent with state code for this type of critical area. The RMC needs to codify this expertise for type of critical area.

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"Rehabilitation" Additional wording after "wetland functions" and values per our state code.

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"Secondary Habitat" What is this and where is it defined or referenced in the statutes. Replace: This is confusing definition that cannot be referenced back to a critical area type, with
Fish and Wildlife Habitat Conservation Areas. This is required by statute.

Add "Enforcement" "Violation" "Penalties" and state "Five steps of mitigation" into our critical areas ordinance for clarity.

The RMC's protection of critical areas is not complete without codifying specific direction regarding critical area violations to all our critical areas. Enforcement is only codified in regards to wetlands. Enforcement should be addressed for all the critical areas under their Article.

This would make this CAO cost effective for current and future planning which is the intent of the GMA.

sComments regarding proposed changes to City of Richland's Draft Critical Areas Ordinance before the City Planning Commission on July 26, 2017

Patrick Paulson
2253 Davison Avenue,
Richland July9, 2017

1. Change to stormwater definition not necessary

Kennewick Irrigation District (KID) proposed the following language be included in the Critical Areas Ordinance (COA):

"Stormwater" means runoff during and following precipitation and snowmelt events, including surface runoff, drainage and interflow and does not include irrigation surface runoff or drainage.

This language is confusing and unnecessary, since irrigation returns are not considered stormwater under the definitions used by the City or the state. Both the current draft RMC definition and the state's definitions limit stormwater to precipitation events; irrigation returns are not included. Adding this language increases confusion and seems to give irrigation returns even more of an 'exempt' status than they have. The state definition follows:

WAC 173-218-030 contains the definition

"Stormwater" means the portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes and other features of a stormwater drainage system into a defined surface water body, or a constructed treatment, evaporation, or infiltration facility.

2. Addition of an exemption for operation of irrigation system

KID has proposed the following language be included in the CAO:

The operation, maintenance, or construction of canals, waterways, drains, reservoirs or other facilities that lie within the boundaries of and are maintained by an irrigation district or company, provided that any new construction or related activity does not encroach into a critical area.

The proposed language change is confusing. It exempts "construction of canals, waterways, drains, and reservoirs or other facilities" in the first clause but then specifically says that "new construction" is covered by CAO if it would encroach into critical area.

Perhaps if the text is changed to "reconstruction of canals, ...", this would be in line with the other exemptions listed. See items B and C from the same section of the CAO, for example:

utilities, and associated structures; provided, that reconstruction of any structures may not increase the impervious area;

c. Normal maintenance, repair and reconstruction of residential or commercial structures; provided, that reconstruction of any structures may not increase the impervious floor area;

3. Description of the amendment to definition of critical wildlife habitat and secondary habitat overstates its affect on the characterization of the East fork of Amon

As noted by Rick Simon, the City's Development Services Manager, in his description of this change, the proposed change reflects the current definition of Fish and Wildlife Conservation areas. It would seem that the amended change merely restates the definition of critical areas and Fish and wildlife conservation areas required by the state, so has no real affect.

This comment is not about the proposed language change, but instead about the characterization of the change made by Mr. Simon in his notes to the Commission for the July 12th workshop. In particular, Mr. Simon states:

Those portions of the Amon Basin that are strictly made up of artificial features would be exempted from CAO regulations. This would include the east fork of the Amon Basin.

And

The proposed code change would formally exempt the east fork from CAO regulations.

If the East Fork meets the criteria of fully artificial wetland before then it is not subject to the CAO, but the adoption of this language doesn't affect the determination that the East Fork indeed meet these criteria.

(Note that the proposed CAO does not make it clear that the terms *Critical Habitat* or *critical wildlife habitat* are the terms the city uses to refer to "fish and wildlife conservation areas", as discussed in Section 6 below).

4. Response to our previous comment regarding wetland definitions

I'd like the code to specifically refer to guidance from the Dept. of Ecology regarding wetland definitions and delineation in addition to the reference to WAC 173-22-035.

5. Definition of Priority Habitat should not be removed

It has been proposed that the term "priority habitat" would be deleted from the definition section of the CAO.

If no definition for the term 'priority habitat' is given in the list of defined terms, then readers will be unaware that it is a term that is formally defined rather than a generic phrase. The definition should be kept with a citation to the relevant State code. The language can be updated if the State code changes.

(See "General comments" in Section 6 below regarding definitions).

6. Section giving definitions should be expanded to include definitions of items related to State requirements for GMA compliance

The State of Washington lays out specific criteria that a municipality must follow to ensure compliance with the GMA. For example, WAC 365-196-830, *Protection of critical areas* specifies that

- (2) Critical areas that must be protected include the following areas and ecosystems :
 - (a) Wetlands;
 - (b) Areas of critical recharging effect on aquifers used for potable water;
 - (c) Fish and wildlife habitat conservation areas;
 - (d) Frequently flooded areas; and
 - (e) Geologically hazardous areas.

It is difficult to examine the draft CAO to determine if it meets the criteria required by the state. The draft uses terms that do not appear in the WAC, and so, for instance, attempting to find the section of the CAO that deals with "Fish and wildlife habitat conservation areas" through a text search finds no results. Terms that are synonymous with terms that appear in the WAC and RCW should be defined in the Definitions section, along with the text of the term used in the State code and a reference to the State's definition.