



**CITY OF MOUNT VERNON  
PLANNING COMMISSION MEETING**

Virtual Hearing\*\* Starting at – 6:00 p.m.

Agenda for April 5, 2022

*\*\*Staff will be emailing instructions to the Planning Commission regarding how to join to this virtual hearing via Zoom. Others that wish to attend this meeting need to contact City staff (360-336-6214 or [PermitTech@mountvernonwa.gov](mailto:PermitTech@mountvernonwa.gov)) and ask for the needed virtual hearing information no later than 4 pm on April 5, 2022*

	DESCRIPTION	PUBLIC HEARING?		ACTION REQUIRED	STAFF CONTACT
1.	Approval of 11/16/2021 Minutes	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Motion	Rebecca Lowell
2.	Code Amendments to MVMC Chapters 17.30, 17.45, and 17.84	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Motion	Rebecca Lowell
3.	Review of the 2022 Docket Approved by City Council	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	None	Rebecca Lowell
4.	Miscellaneous – Good of the Order	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	None	NA

City of Mount Vernon  
Planning Commission Meeting  
**DRAFT** Minutes November 16, 2021

Rebecca Lowell called the meeting to order at 6:05 pm.

Present were Planning Commission members Christian Carlson, Mary Mae Hardt, Jim Fickkert, Adair Orr and Andrew Vander Stoep.

Planning Commissioner Christopher Bollinger was absent.

**City Staff**

Principal Planner Rebecca Lowell  
Development Services Director Chris Phillips  
Senior Permit Technician Shawna Gossett

**City Representatives and Consultants**

Lyndon C Lee, LC Lee & Associates  
Sean Dwyer, Keating, Bucklin & McCormack, Inc  
Leila Willoughby-Oakes, Watershed  
Dan Nickel, Watershed

**Members of the Public**

Paul Woodmansee, BYK Construction  
Stacy Mattson, Mt Vernon Moose Lodge  
Larry Trim  
Denise Stiffarm, Attorney, Mount Vernon School District  
Dan Mitzel  
Richard Brocksmith

**1. APPROVAL OF MEETING MINUES FROM OCTOBER 5, 2021**

A motion was made by Commissioner Orr, seconded by Commissioner Carlson to table the approval of the October 5, 2021 minutes to the next Planning Commission Meeting.  
The motion passed unanimously 5-0.

**2. PUBLIC HEARING – Shoreline Master Program Periodic Update**

Attached to these meeting minutes is a copy of the Powerpoint Presentation slides presented by Ms. Lowell during her staff presentation.

Ms. Lowell presented a summary of the proposed changes to the Shoreline Master Program including the Department of Ecology's (DOE) Initial Determination that includes responses from the City regarding the required and recommended changes requested and DOE's final Initial Determination of Consistency. In addition, suggested changes, in part, from a comment letter by Matthew J. Vivian with VanNess Feldman, LLP.

Ms. Lowell continued her staff presentation explaining the Shoreline jurisdiction in Mount Vernon extends from the Skagit River and is required to include:

- Upland areas called shorelands that extend 200 feet landward from the edge of the Skagit River;
- Biological wetlands and river deltas connected to the Skagit River; and,
- Some or all of the 100-year floodplain, including all wetlands.

Three examples of the shoreline jurisdiction were presented:

Potential Extent of Shoreline Jurisdiction

- 200 feet from the Ordinary High-Water Mark (OHWM) where no floodway or associated wetlands exist
- 200 feet from the waterward point of the slope inflection on existing levees where no associated wetlands exist, and the floodway is located on the waterward side of the existing levee
- 200 feet from the waterward face of the existing floodwall where no associated wetlands exist, and the floodway is located on the waterward side of the existing floodwall.

Ms. Lowell reviewed the process and schedule outlining City Council will hold a public hearing in December for local adoption, followed by submittal of the locally adopted SMP to the Department of Ecology.

The Commission did not have any questions for staff at this time.

**PUBLIC COMMENT**

Paul Woodmansee, Sedro Woolley:

- Is not in favor of the amendments due to impacts to the development community.
- Asked what the regulatory benefit would be for a property to be designated on the shoreline map.
- Concerns regarding impacts to the development community and impacts of a continuous floodplain mapped on development potential on sites, new edge where the SMP has jurisdiction
- Opinion of commenter that this a roadblock to development, and impacts the existing housing issues, or lack of inventory in the City/County-roadblock on development (.2% vacancy rate)
- Comment that this an additional layer of the permitting process (stop a lot of development happening for housing)
- Mr. Woodmansee of BYK Construction, developed a 72- unit building in the City of Burlington in the floodplain

Dennis Stiffarm, Attorney representing Mount Vernon School District:

- Two parcels are owned by the MVSD impacted by this legislative proposal
- Ms. Stiffarm interested/looking forward to working with the city to understand how the parcels if located in shoreline jurisdiction will be impacted
- One parcel is an existing school district facility; other is an undeveloped 10-acre site slated for future development
- Is the future viability of the site in jeopardy, is development on this site still a go?

Dan Mitzel, Mount Vernon:

- Mr. Mitzel has had assistance from Law Firm VanNess Feldman in 2021 on a private development proposal
- He provided detailed comments on the proposed SMP updates and appreciates the changes made to-date by staff
- Regarding the picture shown by staff (part of staff's Power Point presentation) that was taken today of the Swanview property, the only area underwater is the westerly 20-25% of property which is in the floodplain and the water was only one foot to 1.5 feet below the floodplain. This is the this is highest he has seen the water since 2005.

- US Army Corps. of Engineers made wetland determinations on his property already (jurisdictional and non-jurisdictional); submitted Joint Aquatic resource Permit Application (Form)
- Concern over creating this pre-emptive designation, already have DOE sign-off on property
- Comment regarding Highland Greens 2 & 7- of the opinion these do not connect to Barney Lake and do not have a hydrological designation and will put a cloud over the property
- Opinion that the draft Shoreline Master Program maps developed are incorrect
- Opinion the overlay indicating associated wetland should go away entirely
- Opinion is not in favor of the amendments, in particular the new designation of Shoreline with Potential Wetlands Connections and concerned about the pre-emptive designation on properties.

Sean Dwyer stated that comments that are project specific or relate to quasi-judicial matters are not appropriate for consideration or discussion during this legislative forum.

In response to Public Testimony Planning Commissioner Christian Carlson stated:

- Spirit of environmental regulations in ecologically sensitive areas is conservation; foregoing these updates and building these developments to prevent flooding/impact to humans is not the only policy goal of the SMP
- Shoreline jurisdiction is the most sensitive land we have, the city should accommodate that over fiscal/business interests
- The answer can't continue to be in Skagit County to continue to develop- undeveloped land (i.e., greenfield sites)
- Increasing density is the answer going forward, otherwise always stuck in the same cycle.
- Appreciates the intent of this law, and shoreline protection as a guiding principle for development

Discussion followed and the Commission asked questions of City staff.

Ms. Lowell then responded to questions asked during the testimony as follows:

**Question:** What are the benefits of predesignating properties?

When a property is not mapped or designated in the SMP and there are wetlands on a site that are associated with shorelines, the property is automatically designated as Urban Conservancy. This has not changed from the 2009 SMP. The Urban Conservancy designation has very limited development options.

By predesignating properties that have potential for wetlands, property owners or developers do not have to go through the time-consuming process of changing shoreline designation in order to develop. When a property is pre-designated with the potential for wetlands on the property and during the permitting process it is determined that there are no wetlands, then it is simply is not subject to the shoreline provisions.

Also of note, just because a property has to get a shoreline permit does not mean the property cannot be developed, just that additional permits may be required.

**Question:** How was the mapping changed?

In response to the comments received from Mr. Vivian changes were made to the maps. Originally there were separate designations in the legend of the map for specific designations. We clarified these by removing the designations from the legend and noted that there is an overlay zone which indicates

that shoreline associated wetlands may be present. This means that site specific technical information will be required in order to determine if property is in a shoreline jurisdiction. If there are no wetlands found, then there is no shoreline jurisdiction.

Developers could submit an Administrative Determination permit to the City to determine if a property will need to submit for a Shoreline Permit in order to develop the property. This can occur prior to development permit submittal.

Discussion followed with input from City representative Lyndon Lee and Dan Nickel on the above topics.

Planning Commissioner Adair Orr stated:

- Supportive of the SMP Periodic Update
- There to be increased scrutiny for ecological conservation – the proposed changes are not duress – it is a process, straight forward

The Commission closed the Public Hearing at 7:11 pm.

Motion by Adair Orr, seconded by Christian Carlson recommending City Council adopt the updates to the City's SMP along with the Findings of Fact and Conclusions of Law and SMP mapping changes as presented by staff. In addition, the Planning Commission will disregard and not consider the quasi-judicial portions of comment #14 and its associated Exhibits A, B, and C that are contained in and responded to within Exhibit 7 of the staff report.

The motion passed unanimously 5-0.

The Commission took a 5-minute break

### **3. PUBLIC HEARING – Code Amendments to chapter 15.36 and Title 17**

Rebecca Lowell presented proposed changes to the Floodplain Management Standards (MVMC15.36). Amendments are being made to remain compliant with the National Flood Insurance Program (NFIP) and ensure the City remains, at a minimum, a Class 8 City per the Community Rating System (CRS). To be a Class 8 City means that our residences have a reduced flood insurance rate.

The amendments include the following

- Add a cumulative 10 year requirement for substantial improvements and substantial damage
- Clarifies that equipment for residential construction is required to be elevated at least one foot above the base flood elevation
- Describes that nonresidential construction that is flood proofed must be “dry” flood proofed
- Clarifies insurance premiums for nonresidential structures that are flood proofed
- Amends the manufactured home requirements to be the same as what is required for other residential structures
- Adds the AH zone to the requirements for AE and A1 – 30 Zones
- Adds details to the description of AO zones
- Adds a requirement in the AO zones that adequate drainage paths around structures on slopes to guide floodwaters around and away from structures is required.

Discussion followed and the Commission asked questions of staff.

Motion by Mary Mae Hardt seconded by Adair Orr to recommend to City Council for adoption of the code amendment to Chapter 15.36.

Christian Carlson proposed that the remaining code amendments be tabled until the January Planning Commission Meeting.

The Commission agreed unanimously.

#### **4. MISCELLANEOUS**

Ms. Lowell informed the Commission that City Council would be meeting tomorrow with Berk Consulting regarding the update of the 2016 report and on affordable housing. Further that she will be providing a few slides on the topic of fully contained communities and their affect.

Discussion followed on the above topics and the Commission asked questions of staff.

There being no further business, the meeting adjourned at 8:11pm.