



City of Walla Walla Planning Commission
Development Services
55 E. Moore Street
Walla Walla, WA 99362

CITY OF WALLA WALLA PLANNING COMMISSION AGENDA

Monday, May 2, 2016 – 7:00 PM
City Hall, Second Floor, Council Chambers
15 N. Third Avenue, Walla Walla

1. CALL TO ORDER

2. ROLL CALL

3. MEETING MINUTES

A. Regular Meeting April 4, 2016

4. OLD BUSINESS

A. Shoreline Master Program Update (Chamberlain)

Summary: Final Planning Commission review of the Draft Shoreline Master Program Update and making a recommendation to the City Council.

5. STAFF UPDATE

6. ADJOURNMENT

Persons who need auxiliary aids for effective communication are encouraged to make their needs and preferences known to the City of Walla Walla Development Services Department three business days prior to the meeting date so arrangements can be made.

The City of Walla Walla Planning Commission is a seven member advisory body that provides recommendations to the Walla Walla City Council on the preparation of and amendments to land use plans and related codes such as zoning. Planning Commissioners are appointed by City Council.
Actions taken by the Planning Commission are not final decisions; they are in the form of recommendations to the City Council who must ultimately make the final decision.



CITY OF WALLA WALLA PLANNING COMMISSION

Meeting Minutes **DRAFT**

April 4, 2016

1. CALL TO ORDER

Meeting was called to order by Andrea Petersen at 7:01 p.m.

2. ROLL CALL

Members Present: David Fogarty
Kent Huxel
Andrea Petersen

Members Absent: Daryl Pearson
Allen Litzenberger
Andrea Petersen
Larry Bayman

Staff Present: Elizabeth Chamberlain, Director
Jon Maland, Senior Planner

Others Present: Steve Moss, City Council Liaison

Quorum was established.

3. APPROVAL OF MINUTES

A. Planning Commission meeting of February 1, 2016.

Commissioner Fogarty moved to approve the meeting minutes. Commissioner Huxel 2nd the motion.

Motion passed 4-0

4. PUBLIC HEARING

A. ZCA-15-0001: Shoreline Master Program Update (Chamberlain)

Elizabeth Chamberlain, Development Services Director, provided the staff report for the public hearing on the draft Shoreline Master Program Update. Also acknowledged the two consultants assisting with the SMP update, Dan Nickel, Watershed Company, and Bill Stalzer, Stalzer & Associates, were available for questions.

Ms. Chamberlain reviewed the proposed changes to the draft plan that had been made as a result of the previous reviews by the Commission, staff, and public comment received to date. Staff and the consultants responded to Planning Commissioners questions.

Chair Petersen opened the public hearing.

Daniel Clark, 717 N. Main Street representing Walla Walla 2020: Provided written comments focused on the public access regulations outlined in Section 5.6 with suggested edits for the Planning Commission's consideration.

Mike Denny representing Community Council: Mentioned the recently completed Enhancing Outdoor Recreation Opportunities report by Community Council. A copy of the report was provided to the Commissioners. Mr. Denny, spoke of the importance of trail connections and specifically mentioned the planned trail along Mill Creek from 9th Street to Gose Street.

Jon Campbell: Responding to the comments provided by Walla Walla 2020 and that there should be an opportunity for property owners to be aware of the comments and have an opportunity to respond.

Judith Johnson representing Kookskoskie Commons: Provided a written comment letter and shared those comments with the Commission. Specifically commenting on the proposed 35 foot buffer and that not being sufficient for riparian restoration projects where the EPA now requires a minimum of 100 feet. The EPA standard changed in 2014 whereas the City's CAO was adopted in 2008. Ms. Johnson is requesting that a 100 foot buffer be established for undeveloped property along Mill Creek between Rooks Park and Gose Street.

Andrew Ruckers: Environmental Studies student at Whitman College. Provided comments that the draft SMP is a regulation document not a planning document and it should be both. Commented that the plan does not take into a rebuild of the Flood Control Channel and it should as a "foreseeable and reasonable development" within the 20 year planning horizon. Also suggested the SMP should include identified properties for restoration opportunities.

Steven Pao, 334 Woodland Avenue: When it comes to public access private property rights need to be respected. Mr. Pao also mentioned the previously submitted written comments.

Daniel Clark, 717 N. Main Street: Spoke again that since the levee along Mill Creek is already utilized by pedestrians as public access that there is an inherent right/adverse possession.

Public hearing closed at 7:50 p.m.

Ms. Chamberlain explained that a document will be prepared by staff and the consultants responding to the public comments given during the public hearing. Chair Petersen asked if a draft could be ready for review at the April 18, 2016 special Planning Commission that is scheduled. Staff responded that yes a draft could be ready for initial discussion.

5. STAFF UPDATE

No staff update.

6. ADJOURNMENT

Meeting adjourned at 7:58 pm

Commissioner Huxel moved to adjourn.

Motion passed 4-0.

7. NEXT MEETING: April 18, 2016 special meeting



MEMORANDUM

TO: Planning Commission

FROM: Elizabeth Chamberlain, AICP, Development Services Director

DATE: April 26, 2016

RE: Shoreline Master Program Update – Final Planning Commission review and recommendation

History

The Planning Commission has been reviewing the draft Shoreline Master Program Update over the past several months. Here is a summary of the review to date:

- January 4, 2016: Reviewed the public participation plan, Cumulative Impact Analysis, Restoration Plan, Shoreline Analysis, and how the draft SMP and shoreline environments were developed.
- February 1, 2016: Reviewed Chapter 3.0 Shoreline Vision and Goals and Chapter 4.0 Environmental Designations.
- March 7, 2016: Reviewed Chapter 5.0 and Chapter 6.0, Shoreline Use and Modifications Policies and Regulations. Development scenarios were also presented applying the draft regulations to potential project sites.
- April 4, 2016: Public hearing on the draft SMP. Staff went over the proposed changes to the plan based on feedback provided at the previous Planning Commission meetings and public comment received prior to the public hearing.
- April 18, 2016: Reviewed staff's response to the public comments received during the public hearing.

Discussion

At the May 2, 2016 Planning Commission meeting, staff will review the public comment response table again and discuss any final questions the Planning Commissioners may have on the draft plan.

Additions to the table plus highlighting the comments a little differently to separate out which comments staff recommends not moving forward with and comments that the Planning Commission could recommend including in the draft document has been provided.

On May 2, 2016, staff is looking for the Planning Commission to provide their recommendation on the draft SMP that will then be forwarded on to the City Council. The schedule is to have City Council take action on the draft plan at their May 25, 2016 meeting.

***** Please remember to bring your shoreline plan binder with you to the meeting along with the revised pages handed out on April 4, 2016.***

City Staff Response
Public Comments at April 4, 2016 Public Hearing
Public Comments received April 18, 2016

Legend

Color	What it means
	Staff recommends not to change the draft SMP as suggested by the commenter
	Planning Commission could consider the suggested change by the commenter
	No action needed. Response is explanatory or a "comment noted" statement.

Commenter	#	Location	Comment	Response
Judith Johnson, Kooskooskie Commons (Walla Walla non-profit)	1	6.2 Development Standards/ Table 6-2	The 35-foot buffer for Mill Creek is inadequate for purposes of ecological function for Mill Creek as defined by the EPA in their 2014 funding guidelines for riparian restoration; the EPA mandates a 100 ft riparian buffer on streams of this size and important to the recovery of ESA-listed fish species. Meeting these EPA criteria is essential to receive federal funding for riparian restoration, including from state or tribal agencies whose funding is federally source.	The SMP is based on maintaining, at a minimum, the baseline condition. The process reviews the existing ecological condition and measures the no net loss standard from this benchmark. The County's regional working group, which included representation from the City, emphasized the use of the existing Critical Areas Ordinances from each jurisdiction. The City's CAO used best available science (BAS) when it created the existing CAO and corresponding 35-foot buffer along Mill Creek within city limits. While BAS for salmonid bearing streams does indicate the need for larger buffers, the restoration of the existing condition along Mill Creek within the City would essentially go beyond the WAC requirements <u>and the City's adopted CAO (DOE approved) used -BAS.</u>
	2	1.2 Scope and Jurisdiction of the Regional Shoreline Master Program/	The final Walla Walla Shoreline Master Plan requires any development within 200 ft. of Mill Creek, 1) not impair ecological function and 2) incur no net loss of current ecological function of listed streams. An example of concern: the property being cleared for new construction of a motel at Myra Road, which abuts the flood control levy adjacent to Mill Creek, shows no apparent setback for a riparian buffer. Just downstream from that property are some important springs within a natural and mature riparian buffer that is wider than 35 ft. If that area were to be developed, would it be cleared to accommodate only a 35 ft buffer the ecological value would be impaired?	The current draft SMP is not in effect until City Council adoption <u>and</u> Department of Ecology approval. Any current development applications would be reviewed under the existing SMP. Any existing development applications adjacent to wetlands would need to comply with the City's existing critical areas ordinance until the SMP is adopted. Upon SMP final approval, such development would be subject to the critical areas regulations being proposed in the SMP appendix. The proposed SMP also includes standards for mitigation sequencing (Section 5.1) and vegetation clearing (Section 5.3)
	3	1.6.A.5 Critical Area Maps	We recommend that the Walla Walla SMP adopt the EPA guidelines for riparian buffers instead of the outdated ones in the Walla Walla County Critical Areas Ordinance.	See the response to comment #1
	4	Comment re: language not in SMP / Table 6.5-1	The Mill Creek Flood Control Channel is already is past its fifty years projected lifespan. There is much concern among related governments and agencies that it would be inadequate to prevent a catastrophic flood. It is also disappointing that, although a preliminary assessment is already underway for changes in the Mill Creek Flood Control Project, the SMP avoids any recommendations on this important topic. Replacing the current flood control channel with updated design and construction methods that produce a more ecological and people friendly flood control channel seems to be inevitable. We are concerned that the SMP as now written does not	The City currently does not have an identified plan for such restoration of Mill Creek's flood control channel. If such a plan were developed, the SMP can be used to accommodate such actions and proposed restoration. Section 6.18: Shoreline Restoration and Enhancement, addresses the emphasis on promoting restoration actions in the future. As noted in response to comment #2 above, the 35-foot buffer from Mill Creek was based on the existing critical areas ordinance which utilized the best available science and an evaluation of the existing condition.

			provide for these eventualities. Kooskooskie Commons proposes that the draft SMP be amended to create a 100 ft Ecological Restoration Area along the entire Mill Creek Flood Control Channel from Rooks Park through the City of Walla Walla to Gose Street in College Place on currently undeveloped properties.	
	5	Comment re: language not in SMP / Table 6.5-1	[Creating a 100-foot Ecological Restoration Area] would also provide the potential to acquire in advance or in accordance with a reconstruction of the Mill Creek Flood Control Channel, 100 feet of affected properties, which are not yet developed. A designated 100-foot wide Ecological Restoration Area would allow for private landowners to seek funding from federal sources to implement ecologically effective riparian areas and enhance their properties value.	Such an action should be identified in a restoration planning effort, with benchmarks and funding potential included. The SMP Restoration Plan is intended to identify those restoration actions which have been previously identified and supported and are likely to be implemented in the near future.
Daniel N. Clark Walla Walla 2020 (citizens group)	6	5.6 Public Access Policies. Policy-1.	Promote the provision and maintenance of quality physical and visual access to shorelines, with a focus on <i>both</i> public properties <i>and</i> private properties under development.	The focus of this policy was specific to “public property” as emphasized in WAC 173-26-221(4)(d)(ii). Policy -2 under 5.6 discusses private development. Planning Commission could amend the policy as suggested by Walla Walla 2020. Staff’s opinion is that the both public and private developments are covered between the two policy statements.
	7	5.6 Public Access Policies. Policy-2.	Encourage public access as part of new shoreline development, commensurate with <i>existing and projected public demand</i> , as well as the level of public access demand created by the development, and consistent with public safety.	Staff does not recommend including “projected public demand” as there is not a way to measure future public demand of a potential public access point. When requiring public access there generally needs to be a nexus for the exaction which is why the statement “level of public access demand created by the development” is stated. Once a development is proposed, the level of public access demand can be evaluated.
	8	5.6 Public Access Regulations A	Implementation of the public access provision in this SMP shall be consistent with constitutional and legal limitations on the regulation of private property. Public access required for individual developments <i>that are water-related</i> shall be <i>primarily</i> related and proportionate to the level of demand for public access generated by the development. <i>Developments that are not water-related should be required to provide public benefits such as ecological restoration or public access.</i>	The addition of “water-related” is more limiting than what was intended by this regulation. Recommend not including proposed revision. The second addition (we assume use of the term “water-related” was actually intended to be the more broad term of “water-oriented”) is already addressed by 5.6 G.4, which requires public access for nonwater-oriented development. Recommend not including proposed revision.
	9	5.6 Public Access Regulations B	For the purposes of this SMP, public access shall not be construed to include the right to enter or cross private property, except through the use of dedicated public right-of-way or through a <i>required</i> easement that allows public access.	Use of the term “required” is not recommended here – may be considered a “takings.” The regulation already states crossing private property is accomplished through dedication of public right-of-way or through easement. Do not need to add “a required”.
	10	5.6 Public Access Regulations E	E. Consolidated community access for new multi-lot or multi-unit development shall be preferred over individual access, provided that the access provided is proportional to the demand generated by the proposed uses <i>or to the existing and projected public demand.</i>	See response to comment #7
	11	5.6 Public Access Regulations G.8.	Multi-unit residential development, including land divisions creating more than four (4) lots. The public access requirement is met where a single–family residential development of greater than four (4) parcels but less than ten (10) parcels provides community access to the shoreline or to a common waterfront lot/tract for non-commercial recreational use of the property owners and guests within the proposed subdivision, <i>as well as the public.</i>	WAC 173-26-241(3)(j) requires new multiunit residential development, including subdivision of land for more than four parcels, provide community and/or public access in conformance to the local government’s public access planning and the WAC. The Regional Working Group felt for smaller residential developments that full public access would be <u>an</u> onerous financial obligation and security concern. The RWG opted for community access instead when the residential development is for 5 to 10 parcels/units. This approach has been utilized in other SMPs approved by Ecology.

				The Planning Commission could recommend modifying this requirement to require full public access for new residential development greater than 4 parcels (meaning visual or physical access to the general public)
	12	5.6 Public Access Regulations H	The public access requirement may be waived An applicant shall not be required to provide public access if the SMP Administrator determines that one or more of the following conditions apply:	The City could consider making this proposed change as it still allows the SMP Administrator to make the determination.
Andrew Reckers	13	Comment re: language not in SMP	The Guidelines (173-26-191) say that “Shoreline master programs are both planning and regulatory tools.” This one, unfortunately, is nearly entirely a regulatory tool and ignored “planning” including policies in its own Walla Walla Urban Area Comprehensive Plan.	Comment noted
	14	Comment re: language not in SMP	...consultants working on the Update could have been directed to complete tasks such as identifying key parcels where daylighting might occur, as well as creek view corridors that it are important to create or preserve. Given that development is proceeding in the downtown, including a proposed new 100 foot building next to Mill Creek, there is a danger that the Shoreline regulations proposed in the Update that, as noted, simply ratify existing zoning, contradict the intent expressed in ENR 9 to re-plan the Flood Control Project in the downtown.	Comment noted
	15	Comment re: Language not in SMP	The guidelines (WAC 173-26-186) require local governments “to evaluate and consider ... reasonably foreseeable future developments.” The SMP did not consider reasonably foreseeable Mill Creek Flood Control Project will need to be redesigned and rebuilt within the next 20 years. ...it was and is reasonably foreseeable that the Mill Creek Flood Control Project will have to be redesigned and rebuilt within the 20-year time horizon of this Update. The Update therefore appears to violate the Guidelines in that it does not “evaluate and consider” one major development within Walla Walla: the necessary re-planning and reconstruction of Mill Creek flood control and related infrastructure according to modern criteria within the 20-year time horizon of the Update.	Local master programs are to evaluate and consider cumulative impacts of reasonable foreseeable future development on <i>shoreline ecological functions</i> (emphasis added) and other shoreline functions fostered by the policy goals of the act. The Shoreline Analysis Report and No Let Loss Report look at the existing shoreline condition, the underlying zoning of the property within 200 feet of Mill Creek and how that property may develop in the foreseeable future, and evaluate that future development to determine that shoreline ecological function is not degraded from the existing condition. The existing condition on Mill Creek within the city limits is a concrete, constructed flood control channel with quite a bit of existing development along the shoreline. We look at the current zoning of the property within 200 feet of Mill Creek and determine the reasonable development that may happen. A reconstruction of the Flood Control Channel is not foreseeable development in staff’s opinion. Also, at this point, future restoration plans have not been clearly established for Mill Creek. Such efforts can be incorporated into the 8-year periodic update of the City’s shoreline master program. Planning for public access and/or restoration has to be part of the planning effort by the Flood Control Project, not the SMP (See WAC 173-26-221(4)(c) re public access planning). As planning for the future of the Flood Control Project takes place, public access and/or restoration opportunities must be included for consistency with SMP policies and regulations, as well as Comprehensive Plan policies and goals in effect at that time, as required by WAC 173-26.
Mike Denny – Walla Walla Community Council	16	Comment re: public access	Representing Walla Walla Community Council and provided a copy of the Enhancing Outdoor Recreation Opportunities Report recently completed by Community Council. Mr. Denny focused on the recommendations in the	Section 5.6, Public Access, outlines when public access is required of development projects. The City is aware of other adopted plans regarding a trail connection from 9 th Street to Gose Street and will balance the requirements

			report that centered on trails and trail access and that public access along Mill Creek. Specifically mentioned completion of a trail along Mill Creek from 13 th Street to Gose Street.	of Section 5.6 with those other adopted plans when evaluating development proposals. WAC 173-26-221(4)(c) discusses utilizing a planning process to address public access. As part of the City's comprehensive plan update effort, we will be developing a transportation plan that will look at non-motorized opportunities. Once the comprehensive plan update effort is complete we will be able to integrate the plan with the SMP.
Jon Campbell – landowner	17	Comment re: Comments provided to Walla Walla 2020	Given the comments presented by Walla Walla 2020 during the public hearing, there should be time granted to property owners along Mill Creek to respond to Walla Walla 2020's comments.	Comment noted.
Steven Pao - landowner	18	Comment re: Responding to the public access comments given during the Public Hearing	Mr. Pao spoke to private property rights and that public access requirements need to recognize private property rights.	Comment noted. An addition to Policy Section 3.3, Goal 4 regarding public access was recommended by staff in the April 4, 2016 public hearing draft SMP as a result of the comment letter submitted by Mr. Pao.
David Fogarty – Planning Commissioner	19	Comment re: Public Access Element of the SMP; lack of a Public Access Plan similar to the Counties of Asotin, Columbia, and Garfield plus the Cities of Clarkston and Starbuck.	Comments that a Public Access Element is required part of the SMP. Opinion that the Public Access Element was treated in this update effort only in a formulaic and trivialized manner is a deficiency in the draft SMP. Also mentions the proposed trail from 13 th Street to Gose Street. Requested an amendment to Section 5.6, Public Access, as follows: <i>New addition: G.9: Shoreline development adjacent to an existing bicycle-pedestrian trail or one proposed in an approved City plan. If the trail is on a levee where a public entity has an easement but the property owner claims ownership of the underlying land, the property owner will be required to sign an agreement stating that he/she has not objection to public access on the trail.</i>	Public access with the draft SMP was thoroughly discussed by the Regional Working Group balancing the desire of public access, particularly a continuous trail along Mill Creek, with private property rights. The proposed sections related to public access (3.3, 5.6) is that balanced approach. The January 28, 2016 memorandum prepared by Bill Stalzer addressed how public access and recreation considerations are provided for in the Shoreline Analysis Report and the regulations in the draft SMP. Please also see the response to Comment 17 related to the trail from 9 th Street to Gose Street. Proposed addition of G.9: Specific easement language granted for maintenance activities does not give a public entity carte blanche to utilize the land for public access. As noted under Comment 7, when requiring exactions, the condition needs to be related to the development's impact. The comments noted are staff's response and recommendation. If the Planning Commission feels strongly that an additional regulation be added to Section 5.6 as noted in the comments by Commissioner Fogarty then the Commission can do so. Staff suggests if the Planning Commission includes the regulation in their recommendation that the Planning Commission support it with conclusion statements.