



Anne McEnery-Ogle, Mayor
Bart Hansen · Ty Stober · Linda Glover
Laurie Lebowsky · Erik Paulsen · Sarah J. Fox

April 19, 2021 - Vancouver City Council Meeting Minutes

WORKSHOPS

Workshops were conducted remotely over video conference utilizing a GoToMeeting platform. Members of the public were invited to view the meeting via the live broadcast on www.cvtv.org and CVTV cable channels 23 or HD 323, or on the City's Facebook page, www.facebook.com/VancouverUS, or listen via the GoToMeeting conference call.

4:30-5:30 p.m. HP Master Plan Update

Greg Turner, Land Use Manager, 360-487-7883; Mark Person, Senior Planner, 360-487-7885

Summary

Staff provided Council with the proposed Master Plan for the development of Section 30 planned by Hewlett-Packard.

5:30-6:00 p.m. 62nd Avenue Apartments Rezone Request

Bryan Snodgrass, Principal Planner, 360-487-7946

Summary

Staff provided Council with an overview of a zone change request for the 62nd Avenue Apartments project.

REGULAR COUNCIL MEETING

This meeting was conducted remotely over video conference utilizing a GoToMeeting platform. Members of the public were invited to view the meeting via the live broadcast on www.cvtv.org and CVTV cable channels 23 or HD 323, or on the City's Facebook page, www.facebook.com/VancouverUS. Public access and testimony on Consent Agenda and Public Hearing items were also facilitated via the GoToMeeting conference call.

Call to Order and Roll Call

The regular meeting of the Vancouver City Council was called to order at 6:30 p.m. by Mayor McEnerny-Ogle. This meeting was conducted remotely over video conference.

Present: Councilmembers Fox, Paulsen, Lebowsky, Glover, Stober, Hansen, Mayor McEnerny-Ogle

Absent: None

Also present on the call were the following: Eric Holmes, City Manager; Brian Carlson, Deputy City Manager; Jonathan Young, City Attorney; Amanda Delapena, Assistant to the City Council; Brent Boger, Assistant City Attorney; Cayla Cothron, Associate Planner; Chad Eiken, Community and Economic Development Director; Annette Griffy, Utility Engineering Program Manager; Keith Jones, Senior Planner; Rebecca Kennedy, Long Range Planning Manager; Cara Rene, Communications Director; and members of the public.

Approval of Minutes

Minutes - April 5, 2021

Motion by Councilmember Glover, seconded by Councilmember Stober, and carried unanimously to approve the meeting minutes of April 5, 2021.

Proclamations

Bird-Friendly Week

Mayor McEnerny-Ogle read and presented a proclamation to Sam Neuffer, president of the Vancouver Audubon Society, proclaiming April 19-25, 2021, as Bird-Friendly Week.

Meals on Wheels People Stride for Seniors Day

Mayor McEnerny-Ogle read and presented a proclamation to Jeremy James Cochran, Meals on Wheels Director of Corporate Partnerships, proclaiming April 24, 2021, as Meals on Wheels People Stride for Seniors Day.

Community Communication (Item 1)

Mayor McEnerny-Ogle opened Community Communication and, receiving no testimony, closed Community Communication.

Consent Agenda (Item 1)

Motion by Councilmember Paulsen, seconded by Councilmember Fox, and carried 6-1 to approve the Consent Agenda. Councilmember Hansen voted No.

1. Approval of Claim Vouchers

Request: Approve claim vouchers for April 19, 2021.

Motion approved claim vouchers for April 19, 2021, in the amount of \$6,658,539.84.

Public Hearings (Item 2)

2. Periodic review and update to the Vancouver Shoreline Master Program, as required by the Washington State Shoreline Management Act under RCW 90.58.080(4)

Staff Report 053-21

AN ORDINANCE relating to the Shoreline Master Program periodic review as required by Revised Code of Washington ("RCW") Chapter 90.58, the Shoreline Management Act; amending the City of Vancouver Shoreline Master Program (SMP) Chapter 2 Applicability, Shoreline Permits and Exemptions, Section 2.1 Applicability; Section 2.3 Exemptions from a Shoreline Substantial Development Permit; Chapter 3, Shoreline Master Program Goals and Policies, Section 3.6 Flood Prevention and Flood Damage Minimization; Chapter 4 Shoreline Designations, Section 4.3 Shoreline Designations; Chapter 5 General Shoreline Use and Development Regulations, Section 5.1 General Shoreline Use and Development Regulations; Section 5.3 Critical Areas Protection; Section 5.4 Public Access; Section 5.6 Site Planning and Development; Section 5.7 Vegetation Conservation; Section 5.9 Water Quality and Quantity; Chapter 5A VMC 20.740, Critical Areas Protection; Chapter 6 Specific Shoreline Use Regulations, Section 6.2 Shoreline Use, Modification, and Standards Table 6-1; Section 6.3 Use-specific Development

Regulations; Section 6.4 Shoreline Modification Regulations; Chapter 7 Administration and Enforcement, Section 7.1 General Provisions; Section 7.2 Administrative Authority and Responsibility; Section 7.3 Master Program Amendments; Section 7.4 Permitting Procedures; Section 7.5 Enforcement; Section 7.8 Rescission of Permits; Chapter 8, Definitions; and Appendix A Unofficial Shoreline Designation maps; subject to approval by the Washington State Department of Ecology (Ecology); providing for severability; and providing for an effective date.

Summary

The periodic review proposal includes text changes in strikethrough/underline format and associated map changes to ensure the SMP stays current with changes in laws and rules, remains consistent with other city plans and development regulations, and is responsive to changed circumstances, new information, and improved data. The proposed amendments are summarized below, and the full detailed list can be found in the Summary of Proposed Amendments provided as an attachment to this staff report:

State Legislative Amendments

- *Revise cost thresholds for shoreline permit exemptions.*
- *Add new shoreline permit exemption to comply with the Americans with Disabilities Act and state law.*
- *Clarify process, definitions, and/or references to comply with state law.*
- *Update wetlands regulations to align with Ecology's most recent critical areas guidance.*

Additional Amendments

- *Fix errors and address issues of clarity, consistency, redundant or inaccurate language and/or process and relevancy of regulations.*
- *Expand sections of the SMP related to mitigation for adverse impacts to shallow-water habitat to include creation, enhancement, and/or payment of mitigation bank credits.*
- *Replace existing terms of "extreme edge or bank" with specific and defined terms to clarify under what circumstances revetments can be located partially below the Ordinary High Water Mark (OHWM), that they are not considered fill, and when and how adverse impacts to shallow-water habitat require mitigation.*
- *Remove provisions from the frequently flooded areas section not required to be included in the SMP, and include a soft reference to the Title 20 critical areas regulations.*
- *Update SMP Chapter 5A to be consistent with VMC Title 20 Critical Areas Protection code updates since 2012, and amend for applicability and permitting in shoreline jurisdiction.*
- *For all other shorelines within City limits not included in the area along the Columbia River from Wintler Park to the Vancouver Flushing Channel, maintain the full extent of the 100-year floodplain in shoreline jurisdiction for conservancy designations, and apply minimum jurisdiction (200 feet from ordinary high water mark) in High*

Intensity and Medium Intensity designations to allow for reasonable use of land and development where intended. Update Shoreline Designation Maps to reflect this proposed change to shoreline jurisdiction.

- Change structural shoreline stabilizations to a permitted use in High Intensity designations (currently a conditional use) to eliminate undue process on properties that already have developed shorelines.*
- Allow a signage master plan or sign program to be developed through a Special Sign District Process in order to supersede SMP requirements, where appropriate.*
- Clarify the relationship between critical areas regulations and their applicability in shoreline jurisdiction for ease of use by both applicants and planning officials.*
- Only require mailings for shoreline statement of exemptions that require a federal permit.*
- Make height limitation 35' for non-water-oriented commercial uses in Medium and High Intensity designations to be consistent with the allowance for other uses.*
- Change non-water oriented institutional uses in High and Medium Intensity designations to a permitted use to reduce undue process while maintaining provisions that encourage water-oriented uses, where feasible.*
- Include allowances for non-water-oriented commercial uses per state law to provide flexibility where appropriate or where water-oriented uses are not feasible.*
- Defer to the review and approval under federal requirements for disposal of dredging material and encourage environmentally sound beneficial uses, when feasible.*
- Make amendments to address non-substantive items that will improve readability and usability for both applicants and planning officials.*

On February 9, 2021, the Planning Commission held a public hearing on the SMP periodic review and, by a vote of 5-1, forwarded a recommendation to Council to approve the periodic review and proposed amendments to the Vancouver Shoreline Master Program as outlined in this staff report. They requested that staff, in forwarding their recommendation, notify Council about a challenge they have identified with the way shoreline regulations are currently applied to unauthorized camping in shoreline jurisdiction. In summary, they feel that it is difficult to support regulations that are not universally applied to all members of the population, and some Commissioners stated that it is bad policy to enact laws and regulations that are not applied evenly. The Commission acknowledged that the issue of houselessness is not easily resolved, and additionally wished to convey to Council that this note does not dilute the recommendation to approve the proposed amendments or the overall quality of the periodic review process. More detail on Commission deliberation can be referenced in the meeting minutes.

On the issue of unauthorized camping along shorelines, provisions exist in the SMP that give the Shoreline Administrator some enforcement authority for violations in shoreline jurisdiction, and this is generally understood to apply to uses or activities that require a permit under a jurisdiction's Shoreline Master Program. The City has consulted with the Washington State Department of Ecology on this issue, and while they recognize that unauthorized camping is an issue that impacts shoreline health, their guidance is that this is a larger social issue that impacts more than just shorelines and the Shoreline Management Act is not intended to nor is it the appropriate place to address it. In addition, the City Attorney's Office has determined that local jurisdictions are constrained in their ability to address these activities in the same way as other code enforcement issues. The City of Vancouver is bound by the Ninth Circuit Martin v. City of Boise case which restricts clearing houseless encampment sites where the individuals do not have a meaningful alternative, such as a shelter space or legal place to camp. Although project staff have found that the SMP is not the appropriate forum to address this issue, community concerns about adverse environmental impacts caused by unauthorized camping have been raised during the periodic review process.

Request: On Monday, April 19, 2021, subject to second reading and public hearing, approve the ordinance.

Cayla Cothron, Associate Planner, 360-487-7899; Keith Jones, Senior Planner, 360-487-7887

Mayor McEnerny-Ogle read the title of the ordinance into the record.

Cayla Cothron, Associate Planner, provided an overview of the periodic review process and the proposed amendments to the Shoreline Master Program (SMP).

Brent Boger, Assistant City Attorney, provided Council with additional information pertaining to enforcement provisions with the SMP and the limitations of those regulations in addressing unauthorized camping on shoreline areas.

Mayor McEnerny-Ogle opened the public hearing and received the following testimony:

- Matt Harding, representing the Port of Vancouver, thanked the City for consideration of the Port's comments throughout the review process and spoke in support of the proposed updates.

There being no further testimony, Mayor McEnerny-Ogle closed the public hearing.

Councilmember Fox thanked staff for a well-done staff report and

presentation, including follow-up information pertaining to Council's previous questions. Regarding the enforcement of unauthorized camping, she noted it can be difficult to separate the two processes of setting regulations and then enforcing those regulations, and the City cannot solve enforcement issues just by adopting regulations. She noted that enforcement of these regulations should probably be a separate item that is brought forward for Council's consideration in the future.

Motion by Councilmember Stober and seconded by Councilmember Hansen to approve the ordinance.

Councilmember Hansen noted he would be opposing the ordinance.

Motion carried 6-1 to approve Ordinance M-4334. Councilmember Hansen voted No.

Communications

A. From the Council

B. From the Mayor

C. From the City Manager

Adjournment

7:12 p.m.

DocuSigned by:



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Anne McEnerny-Ogle, Mayor

Attest:

DocuSigned by:



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Natasha Ramras, City Clerk

Meetings of the Vancouver City Council are electronically recorded on audio and videot. The audio files are kept on file in the office of the City Clerk for a period of six years.