



PLANNING COMMISSION

April 21, 2020
FINAL MINUTES

I. CALL TO ORDER

Chair Judi Roland called the meeting to order at 7:00 p.m. via Zoom Meeting due to Governor Inslee's "Stay Home, Stay Healthy" initiative due to the Covid 19- Pandemic.

a.) ROLL CALL/ESTABLISHMENT OF QUORUM

Commissioners present: Chair Judi Roland, Vice-Chair Lee, Commissioner Moutzouris, Commissioner Khanal and Commissioner Stephens.

Commissioner Mason was excused.

Staff present: Planning Services Manager, Jeff Dixon; Development Engineer Manager, Steve Sturza; Assistant City Attorney, Doug Ruth; Administrative Assistant, Jenn Oliver.

Members of the public present: Jessica Conquest

II. APPROVAL OF MINUTES

A. March 3, 2020 – Regular Meeting Minutes

Commissioner Khanal moved and Vice Chair Lee seconded to approve the minutes from the March 3, 2020 meeting as written.

MOTION CARRIED UNANIMOUSLY. 5-0

III. PUBLIC HEARING

A. ZOA19-0004, Proposed Floodplain Code Amendments to ACC 15.68, 'Flood Hazard Areas'. Public Hearing on amendments to remain consistent with the latest FEMA model ordinance and to coincide with separate FEMA adoption of updated Federal Insurance Rate Maps (FIRM)

Due to the teleconference meeting format, Planning Services Manager, Jeff Dixon provided some explanation of the unique hearing procedures and how interested parties could provide documents during the hearing, or provide testimony afterwards if they contact the city by e-mail at planning@auburnwa.gov or by phone at 253-804-5035 if they have technical difficulties in participating during the hearing this evening.

Development Engineer Manager, Steve Sturza provided a report for the Floodplain Code Amendments.

The City of Auburn is a participating community in the National Flood Insurance Program (NFIP). In 2010, the NMFS issued a Biological Opinion (referred to in this memo as the "Bi-Op") which concluded that continued implementation of the NFIP in the Puget Sound (Western Washington) region adversely affects the habitat of

certain threatened and endangered species listed under the federal Endangered Species Act (ESA). The Bi-Op required changes to the way the NFIP is implemented in order to meet the requirements of the Endangered Species Act (ESA).

In 2010, a model floodplain management ordinance was published by FEMA. FEMA developed the model ordinance to provide NFIP communities with model language that could be adopted as part of a community's local land use and building regulatory codes to address the requirements of the Bi-Op. FEMA requires each NFIP community to select one of the following three approaches for implementation of the Bi- Op requirements, referred to as the "Three Doors Approach":

- Door #1: Adoption of the provisions of the FEMA model ordinance (programmatic approach);
- Door #2: Checklist (community by community approach); and
- Door #3: Permit by Permit Compliance (project by project approach)

In April 2010, the Auburn City Council adopted Ordinance No. 6295 which accepted the Planning Commission's recommendation to incorporate the provisions of the FEMA model ordinance into the City's Flood Hazard Area regulations (Chapter 15.68 ACC), and adopting a revised Regulatory Floodplain Map. The ordinance also amended sections of City Code chapters 14.03, 16.10, 17.04, 17.09, 17.14, and 18.70.

The City's amended Flood Hazard Area regulations were approved by FEMA on September 21, 2011, recognizing the City as a 'Door 1' community and providing the City with coverage under the Endangered Species Act for its floodplain management activities.

In December 2013, FEMA issued an updated Model Ordinance for regulating floodplain development. City staff has been waiting to update the code to coordinate with the updated Federal Insurance Rate Maps (FIRM) that are being issued by FEMA. As anticipated FEMA contacted the City of Auburn to update our FIRM references on February, 19th 2020 and have until August 19th, 2020 to make the update. City staff has prepared updates to ACC, Chapter 15.68 to include the changes from the Model Ordinance to be consistent with City standards/practices for Planning Commission's consideration.

City staff routed the City's updated ACC, Chapter 15.68 to FEMA and Department of Ecology's (DOE) NFIP State Coordinator, David Radabaugh at the end of 2019 for review and input to ensure it meets current standards. Between March 3rd and March 30th additional comments were provided by David Radabaugh. These additional comments from DOE were provided in response to the Letter of Determination from FEMA directing City of Auburn to update our floodplain code and adopt the new flood insurance studies that have been under review for the past 13-years. Mr. Radabaugh would have liked to have provided the comments sooner, however they made the changes to FEMA's model ordinance on December 2019

which was right in the middle of the State Dept. of Commerce review of the City's Draft Floodplain code. The proposed changes to the ACC, Chapter 15.68 are shown by ~~strikeout~~/underline code attached to this memo as Exhibit A. A clean version of the ACC, Chapter 15.68 is also provided per request at the Planning Commission meeting that occurred on March 3rd, 2020.

STAFF PROPOSED UPDATES

Based on Staff's implementation of the Floodplain Development Code over the years, the Model Ordinance for the Puget Sound Region, and required changes from DOE, below are the substantive changes to ACC, Chapter 15.68:

- Reorganize ACC, Chapter 15.68 to correspond to the layout of the latest FEMA Model Ordinance for the Puget Sound Region. The changes that are transmitted under cover of this memo look extensive because of the amount of strikethrough and underline, however much of that is due to relocating existing adopted code language from one place to another. In other words, underlined language may not be new and may instead reflect a change in the organizational structure of the code. For this reason, staff is identifying this bulleted list of substantive changes.
- Update the definitions section to have the latest definitions per NFIP, NMFS, FEMA, DOE and City of Auburn. This comes from the latest Model Ordinance and current correspondence with FEMA and DOE.
- Definition of area to be regulated for floodplain development (see further discussion below)
- Designation of the Channel Migration Area (see further discussion below)
- Remove all of the permit application submittal criteria from ACC, Chapter 15.68 and include it in the floodplain development permit application only. Per recent comments from DOE some basic permit application submittal criteria is required in the code and has been added since the last meeting.
- Information already provided in ACC 18.70.025 for variances is removed to avoid redundancy.
- Establishing a minimum setback for structures of 15 feet from the 'Protected Area', or if not met, a habitat assessment is required.
- Remove a date for assessing cumulative improvements.
- Increasing the requirements for what is to be addressed in Habitat Mitigation Plans prepared for developments located outside of the Protected Area (Note: Does not change the requirement of whether or not to prepare a Habitat Mitigation Plan).
- Update the Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) reference dates to be August 19, 2020 for King County and March 7, 2017 for Pierce County Areas. Please note that maps of the north end of the City of Auburn that show the existing and proposed special flood hazard areas were e-mailed and mailed to the Planning Commission members as requested at the Planning Commission meeting that occurred on March 3rd, 2020.
- Update the code per various comments received from DOE between March 2nd to March 30th. The details of all of the required changes are provided in a separate document called Comments from Department of Ecology that was prepared by

David Radabaugh, with DOE. Below is a brief summary of the required changes.

- Additional updates to the exact working of some definitions
- Update the reference to the Flood Insurance Studies to be 8/19/2020
- A portion of the Urban Growth Area is in an area covered by the Pierce County FIS, the City should also adopt the Pierce County FIS and FIRMs
- Basic floodplain permit application requirements are needed in code.
- A new section for Notification to Other Entities was added
- Building construction and documentation requirements were slightly updated
- Additional variance criteria was added
- A new section for Standard for Shallow Flooding Areas (AO Zones) was added

Key Ordinance Change No. 1 - Area to be Regulated

In the 2010 Model Ordinance used by the City for development of its current regulations, the area specified to be regulated is the Special Flood Hazard Area (SFHA) and all 'Protected Areas'. The 2013 revised Model Ordinance specifies that the area to be regulated is the SFHA (inclusive of any 'Protected Areas' that are located within the extent of the SFHA) and removes the reference to "Protected Areas".

Protected Areas include the Riparian Habitat Zone (RHZ), any mapped Channel Migration Area (CMAs), and the FEMA-designated floodway. The RHZ is a dimensioned zone adjacent to rivers and streams located within the SFHA, and varies in width from 150 feet to 250 on each side of the river or stream's Ordinary High Water Mark (OHWM). In a number of cases in Auburn, the extent of the RHZ reaches beyond the SFHA that the river or stream is located within, resulting in a regulated area that includes the SFHA and the additional area of the RHZ that occurs outside of the SFHA in which that reach of river or stream is located within. One significant area where this occurs is along the western shoreline of the Green River, where there are urban densities of existing single-family and multi-family residences. In a number of cases, these RHZ areas outside of the SFHA are also located behind existing levees, or at elevations that are not expected to experience flooding during the base flood (also referred to as the "100-year" or "1% annual recurrence probability" flood).

While the primary purpose of regulating this RHZ area outside of the SFHA is to protect or preserve critical floodplain habitat for federally-listed threatened and endangered species, many of these areas have previously been heavily developed, and consist of structures, paved or other impervious surfaces, and urban landscaping, and consequently offer little habitat value to aquatic species.

Auburn also has a mapped CMA for the Green River that is presently included as part of its regulatory floodplain as required by the original (2010) Model Ordinance. Similar to the RHZ, the CMA also extends beyond the SFHA area in a number of areas within the City, and in many cases portions of this area are also located behind existing levees.

The third element of the Protected Area, the FEMA-designated floodway, is in all cases located within the FEMA-designated SFHA and therefore does result in any additional areas for floodplain regulation beyond the SFHA under the City's current regulations.

City staff recommends revising the regulatory floodplain to include the SFHA and the Protected Area as it occurs within the SFHA, unless the area is undeveloped with predominately native vegetation that have benefits to endangered species, in which case the regulations for riparian habitat zones shall apply and be included in the regulatory floodplain. This so that existing built out areas are not exposed to development requirements that don't make sense when they are expanding or modifying a development. The intent is to apply the critical area and floodplain regulations to areas where it matters most and to not require habitat protection plans or other types of efforts in already built out areas.

Key Ordinance Change No. 2 - Designation of Channel Migration Area

The 2010 Model Ordinance required CMAs to be delineated as part of the regulatory floodplain map, in any areas where channel migration areas had previously been mapped and adopted for local regulatory purposes, with the addition of 50 feet. It further specified that if there was no adopted channel migration area map for a water body, that there was no requirement to prepare a new delineation of a CMA for floodplain regulatory purposes.

The 2013 revised Model Ordinance specifies that where a channel migration area has not been mapped/adopted by the community, that a floodplain permit applicant shall either designate the entire SFHA as the channel migration area, or conduct a study to identify the channel migration area in accordance with FEMA's Regional Guidance for Hydrologic and Hydraulic Studies. The revised Model Ordinance also specifies that the floodplain administrator shall use the most restrictive data available for determining the channel migration area.

At the time of the City's 2010 flood hazard area amendments, the only established mapped channel migration area in Auburn was associated with the Green River (identified by a 1993 King County channel migration study). As a result, the only CMA that is designated on the City's current regulatory floodplain map is the Green River CMA. A channel migration area has not yet been mapped for the White River or Mill Creek, and there is therefore no CMA designated or required to be evaluated for development applications in the SFHA for these water bodies.

The revised Model Ordinance requires that for any floodplain permit application for development located within the SFHA where a CMA has not yet been mapped (White River SFHA, Mill Creek SFHA, and portions of Green River SFHA), the applicant has the option of treating the entire SFHA within the project area as a CMA, or to submit a special hydrologic/hydraulic study that establishes the location of the CMA pursuant to FEMA's technical criteria.

City staff recommends that we provide applicants for development within the floodplain the option to either provide a study that locates the CMA for their

proposed development site as described in the revised Model Ordinance or designate that all areas in the SFHA for which no CMA has been mapped shall meet the requirements for a CMA (i.e. all SFHAs without a mapped CMA would be automatically included as part of the Protected Area).

With Staff proposing to remove a date for assessing cumulative improvements, the Commission questioned if there would need for that to be specifically mentioned as part of the motion. Staff confirmed that it would be.

It was noted in the presentation that no channel migration studies have been done for the White River and the Commissioners asked why that has not been done since the White River flows through portions of Auburn. Staff replied that it is a very expensive process to have the studies completed.

A Planning Commissioner asked if A Street SE Bridge would be at risk in a 100-year flood. Staff reiterated that the reality is, there is always a risk.

The Commission thanked Staff for the new map showing more clarity.

Chair Roland opened the Public Hearing on April 21, 2020 at 7:44 p.m.

Chair Roland asked three times for public testimony.

With no public testimony, Chair Roland closed the public hearing at 7:46 p.m.

With no other questions from the Commission, the Commission deliberated.

The Commission sought discussed if the change to remove a date for assessing cumulative improvements required an acknowledgement in the motion as previously discussed. Staff corrected their previous answer and confirmed that the particular section that states a date for assessing cumulative improvements was shown as deleted in the changes presented and therefore a specific mention in the motion is not necessary.

Vice Chair Lee moved and Commissioner Stephens seconded to recommend ZOA19-0004, Proposed Floodplain Code Amendments to ACC 15.68, 'Flood Hazard Areas'. Amendments to remain consistent with the latest FEMA model Page 1 of 117 ordinance and to coincide with separate FEMA adoption of updated Federal Insurance Rate Maps (FIRM) be moved forward to City Council for approval.

Motion Passed (5-0)

IV. COMMUNITY DEVELOPMENT REPORT

Planning Services Manager, Jeff Dixon mentioned that the next Planning Commission regular Meeting is May 5, 2020. However, the Open Public Meetings Act requirements are suspended by the Governor at this time but this declaration expires April 24th. This could be extended by the Governor but if not, there is a chance the Planning

Commission will be held May 19, 2020, instead. More information to follow within the week and Staff will keep the Commissioners updated.

Mr. Dixon mentioned that although most of the Community Development Staff is working remotely at their homes, Staff continues to operate as normal as possible given the COVID-19 circumstances. Permits are still being issued with 194 being issued within the last 3 weeks. Staff comes in once a week to process payments for the permits and open the mail. Also, Code Enforcement staff is safely working in the field, and the plans are also being reviewed by the City's Plans Examiners.

He mentioned a few other construction projects that had significant developments. Auburn School District had the groundbreaking of Elementary School 16 on Lea Hill last week. The Legacy Project that is across from City Hall has transitioned from soil remediation earthwork to actual building construction this week. The Commission asked about the former Heritage Building in downtown that had originally burned down and staff responded that plans/permit applications are still being reviewed by the City.

He added that in response to the Governor's order that only "essential projects" may continue construction, the City is not making this interpretation on behalf of the developers/contractors. The City is requiring the developers/contractors to self-identify if they are "essential" and then implement health and safety practices on their sites. He indicated that this means many residential and commercial construction projects are currently shut down.

V. ADJOURNMENT

There being no further business to come before the Planning Commission, Chair Roland adjourned the meeting at 8:11 p.m.