

I. Call to Order

A regular session of the Gresham Planning Commission was called to order by Vice-Chair Anderson on the 23rd of November 2020, at 6:33 PM online via Zoom. The meeting was digitally recorded and minutes prepared by Jennifer McGinnis.

COMMISSIONERS PRESENT: Richard Anderson, Vice-Chair
Jef Kaiser
Sue Ruonala
Phil Wich
Laura Pramuk

COMMISSIONERS ABSENT: Paul Drechsler, Chair
Michael Bennett

STAFF PRESENT: Katherine Kelly, Planning & Implementation Manager
David Berniker, Urban Design & Planning Director
Jennifer McGinnis, Planning Technician II
Amanda Lunsford, Administrative Analyst
Kevin McConnell, Senior City Attorney
Kathy Majidi, Environmental Program Coordinator
Sarale Hickson, Assistant Development Planner
Ken Koblitz, Development Engineering Manager
Jeff Lesh, Environmental Data Analyst

COUNCIL LIAISONS PRESENT:

COUNCIL LIAISONS ABSENT: Councilor Widmark
Councilor Hinton

II. Environmental Overlay Project (EOP) Hearing CPA/PMA 20-26000278

Ms Hickson gave an overview of the project, including the process, purpose and summary of outcomes, code text and map updates, and code compliance and adoption. She explained the importance and value of resource areas. She explained that the purpose of the project is to update methodologies, make the code easier to understand, provide clear and objective standards that are consistent throughout the city, allow for flexibility in mitigation, and allow for

density without harming natural resource areas. Additionally, she stated that another project goal is to reduce landslide and natural disaster risk. She then went over the sections of development code that will be updated. Ms. Hickson first went over the proposed Natural Resource Overlay (NRO), including changes to allowed temporary and permanent disturbance areas, density transfer and mitigation requirements, and impacts to single-family home development. Ms. Hickson went over the proposed code map updates as related to the NRO, including that the proposed overlay will allow boundaries to shift as natural resources shift and that there is a slight reduction in area covered by the overlay.

Next, Ms. Hickson went over the proposed Hillside and Geologic Risk Overlay (HGRO). Changes to this overlay include a shift to clear and objective standards, introducing fire-safety considerations, and defining when geotechnical review is required. The map updates related to HGRO include a new high slope subarea category, targeted prioritization of deep landslide areas, landslide deposit areas, shallow landslide areas, and a reduced footprint.

Ms. Hickson then went over the sections of the Gresham Comprehensive Plan the proposal needs to comply with, in addition to the statewide goals and Metro Titles. She stated that Metro has sent a letter stating that the project is in compliance. She explained that the next step in the process is the Council hearing on December 15, 2020. If City Council adopts the project, it will be effective on January 15, 2021.

Commission Discussion

Commissioner Wich asked if there are any conflicts with the program related to affordable housing. He asked if there is a list of mitigation sites for areas where mitigating on residential sites is not feasible. If there is, what does it take to get on that list and who decides what properties are included? In addition, is there a list of sites for density transfer? Is there somewhere to direct people if the developer does not already have an idea where to mitigate or transfer density? Ms. Hickson responded that while affordable housing was not something looked at directly with this project, there is a general understanding that the quicker and more simple review of housing, the less cost to the developer. In addition, clear and objective reviews and not requiring an impact analysis should make development quicker and cheaper. However, she explained that this was not an explicit aim of this project as generally, areas that are affordable are not the areas closest to streams and hillsides. Regarding density transfer, the applicant needs to identify the parcel they wish to transfer density to. There is no list of privately held parcels that may wish to be included. Ms. Majidi added that in 2010, the City put together a Natural Resource Master Plan to rank priority areas for restoration. If someone provided payment-in-lieu of mitigation, this would be put toward these restoration areas.

Commissioner Kaiser asked how firm the boundaries of the resource areas will be. He explained that the Urban Forestry Subcommittee is looking at additional tree canopy inventories, which

may cause them to rethink some of the boundaries. Ms. Hickson responded that the project team looked at distances from water resources such as streams and wetlands in addition to publicly owned upland habitat but did not look at areas based on vegetation. The proposed protection areas are fairly similar to the current protected areas. Tree protection boundaries would need to be a separate project that goes through a similar process as the environmental overlays.

Commissioner Pramuk asked about the level of oversight required to enforce the proposed conditions. She requested input on how planning staff is going to implement the proposed new standards when staff are being cut from the planning department. Ms. Hickson responded that the proposal will change many reviews from a Type II review, which requires public comment and discretion, to a Type I review, which is clear & objective. This will require much less staff time. There will still be options for discretionary review. In these cases, the applicant will need to provide a peer-reviewed report. She explained that there will be less planning discretion and more professional specialized review. Ms. Majidi added that a major impetus for bringing the project forward is that the current code is difficult to interpret and explain to landowners. Because of this, compliance has been low. A standardized approach with a technical guidance manual will allow for standardized responses, which will require less staff time.

Commissioner Ruonala stated that Carol Rulla sent in a letter with two suggestions. The first was that the conditions on density transfers as described in the proposed code could be interpreted to apply to all new setbacks created by land division, even lots that do not contain or are far from resource areas. Commissioner Ruonala asked staff to comment on this. Ms. Hickson added that the goal of density transfer is to provide an incentive to keep developers out of resource areas completely. They are trying to get the overall allowed density spread throughout the entire subdivision rather than concentrated in one area. The proposed caps on increased density are intended to limit the overall impact. Commissioner Ruonala also asked about the allowance for setback reductions. Ms. Hickson responded that this allowance is currently part of the Habitat Conservation Area Overlay and they have not found major impacts to livability from this allowance.

Commissioner Anderson asked about transferring density onto a parcel owned by a different person, which then gets sold to a new person. He asked if that person would be held to providing the extra density. Ms. Hickson responded that no one would ever be required to build at a higher density than the underlying zoning.

The Planning Commission then took a recess to read the written public comments and new documents that came in as the hearing started.

Public Comment

Dale Hult, All County Surveyors: Mr. Hult stated that he is with a land surveying and civil engineering firm that does a lot of work in Gresham. He stated that he was involved in this project about 4 years ago, but didn't hear much more about it until recently. He commented on the e-mail Ray Moore sent about the impacts to three lots under the proposed code. He has not seen anything about how the proposed code affects an existing home or other development. He stated that staff says the proposed code is less restrictive, but it is actually a lot more restrictive. He stated that the staff report is in error by saying that the DOGAMI LIDAR is accurate as his firm is constantly hired to check this LIDAR data due to inaccuracies. He stated that his firm offered their services to review and correct the inaccuracies on the map. Mr. Hult stated that there was no way to see the changes that were made to the code.

Ms. Hickson responded that the proposed code states that any and all legally established existing development is allowed to continue. She stated that changes have been made to the code between the stakeholder meetings and the hearing process. An approval track for flat land has been added where if a geotechnical engineer can state that there will not be an impact to the land around it, the flat land is not restricted to the percentage disturbance that the rest of the hillside is subject to. Ms. Hickson added that the Council Bill and proposed code are the typical documents provided at a hearing for Commission review.

Steven Dodson, Grune Technica: Mr. Dodson asked if this is the first time public comments have been taken as he did not receive anything about the project until mid-October. He stated that it is difficult for the public to provide comment when the information is provided last minute. He added that his concern is that there are several different easements on a specific property in addition to the proposed overlays and the only part of the lot that is not in the HGRO is in the easements and he believes it will affect the property's value.

Ms. Hickson responded that there have been 18 public meetings. The project team has sent out notices and emails and has had discussions with multiple groups. In addition, Measure 56 notices were sent out. In response to the questions about the specific lot, Ms. Hickson responded that much of the overlay on the lot is the same as it was before but there will be differences in what is allowed in the current vs. proposed overlay. She explained the processes the citizen could go through to build on the lot, including a clear and objective Type 1 review, discretionary route where the applicant must prove the slope will be impacted less, or they can apply for a Variance if they cannot meet either of these because the City cannot take away all use of the property. She further explained that the portions of the lot that cannot be built on due to easements would not be classified as disturbance area. The footprint of the house, driveways, and lawn would be classified as disturbance area.

Jason Coleman: What recourse does a property owner have when the proposed overlays affect the marketability of the land?

Ms. Hickson responded that the Hillside overlay has been in place since 2003 with almost the exact same boundaries. The Habitat Conservation Area Overlay was put in place in 2009, so this may have been after the property was bought, but the owner would have been notified. Ms. Majidi added that the proposed code offers a clear and objective track so the vetting the citizen did with builders may have a different outcome now. The property will have similar constraints as before, but now there will be different pathways for the development of an established lot.

Meryan Lester, 556 NE Anderson Rd: How will the project affect the houses in the area at Anderson Road and Division?

Ms. Hickson responded that only a small portion of Ms. Lester's lot is within the Hillside overlay and that any use currently on the lot can be continued. If Ms. Lester wanted to construct improvements to the portion of the lot within the overlay, she may need to demonstrate that it would not have an impact to the slope.

Mr. Koblitz asked to address the previous questions from Mr. Hult. Mr. Koblitz stated that he personally gave Ray Moore's office information on November 2. At that time, changes were incorporated into the code that addressed slopes of 15% and under. The lots in question were fully landscaped and is considered permanent disturbance. Even though the lots are within the Hillside overlay, any use that has been happening historically is able to continue.

Commissioner Ruonala asked for input from staff regarding the comment the Commission received that LIDAR is not particularly accurate. Mr. Lesh responded that LIDAR is a vast improvement over the hillside data the City is currently using and it provides a much more accurate understanding of slope.

Commissioner Pramuk moved to close the discussion, which was seconded by Commissioner Wich and passed unanimously. Commissioner Pramuk stated that she feels uncomfortable voting to approve the project given the comments they have received tonight. She stated that she would like to make a motion to continue the hearing to clear up these comments. Commissioner Ruonala asked for advice from the City Attorney.

Mr. McConnell stated that if the Commission needs more time, they do not have to provide a positive recommendation. The Commission can provide a recommendation to City Council to not approve the item. He stated that it is scheduled to go before Council on December 15. Staff added that they would need to call for a special meeting in order to get the project to Council on December 15 if the Commission wants to continue the hearing to another day.

Commissioner Kaiser stated that he does not think the hearing should be continued without direction on what they need to make a decision. He stated that they should have a plan if they are going to continue the hearing.

Commissioner Ruonala stated that she has concerns and feels uncomfortable with the process since the Commission received new documents at 6:32 pm and members of the public are saying that documents were not available. Ms. Hickson responded that the majority of documents provided to the Commissioners were publicly available on the City's website for at least a week prior to the hearing.

Commissioner Wich asked if written public testimony received after the start of the meeting should be taken into consideration. Mr. McConnell responded that one comment was received at 6:29 pm, which is permissible due to the language on the public notice. However, the written comments in the "Chat" function on Zoom are not considered part of the record. In addition, a recess was taken to review the documents provided immediately before the hearing.

Commissioner Pramuk moved to not recommend the proposal. Commissioner Ruonala seconded. Commissioner Wich stated that he understands that last minute questions came in but the City fulfilled its obligation to make the information available and they need to consider whether they would make a different decision based on the new comments. Vice-Chair Anderson stated that the City has had 18 public meetings. While the Commission received late testimony, a recess was taken to allow people to read the new information. He added that while there are always going to be imperfections in data, the proposal includes mechanisms to correct errors if and when they are found. Commissioner Kaiser stated that he agrees with Vice-Chair Anderson.

Mr. McConnell asked Commissioner Pramuk to state her reasons for not approving a recommendation to Council. Commissioner Pramuk responded that she received the mailing that was sent to the public. She stated that this mailing included many acronyms and technical language. She stated that she believes there needs to be additional outreach to the business community, developers, and those directly affected. She added that while she believes the goals and objectives of the project are very good, she does not think the impacts have been adequately explained to the Commission or the public. Commissioner Ruonala stated that the issues brought up by Mr. Moore were new items that she had not considered before, and she does not feel educated enough on the proposal to vote. She stated that she agrees with Commissioner Pramuk with these additions.

Commissioner Pramuk made a motion to recommend denial of the proposed Comprehensive Plan Amendment/Plan Map Amendment 20-26000278 to the City Council, which Commissioner Ruonala seconded. The motion failed as follows:

Commissioner Anderson:	No	Commissioner Kaiser:	No
Commissioner Pramuk:	Yes	Commissioner Wich:	No
Commissioner Ruonala:	Yes		

Commissioner Kaiser then made an alternate motion to recommend approval of the proposed Comprehensive Plan Amendment/Plan Map Amendment 20-26000278 to the

City Council based on the findings, conclusions, and recommendations contained in the November 23, 2020 Staff Report. The motion was seconded by Commissioner Wich. The motion passed 3:2 as follows:

Commissioner Anderson:	Yes	Commissioner Kaiser:	Yes
Commissioner Pramuk:	No	Commissioner Wich:	Yes
Commissioner Ruonala:	No		

IV. Other Business/Adjournment

Draft September 14, 2020 Minutes:

Commissioner Wich moved to approve the September 14, 2020 minutes, which Commissioner Ruonala seconded. The motion passed unanimously.

Letter to Council:

Commissioner Anderson brought up the letter to Council that Commissioner Pramuk drafted regarding raising development fees to help fund the Planning Department. Commissioner Pramuk asked the other Commissioners to send comments on the draft to staff to then pass onto her to be incorporated into the letter.

Mr. McConnell asked the Commission if they want to do a joint study session with the Council. Commissioner Pramuk responded that she wants to put together a letter first, then look at meeting with the Council. Commissioner Kaiser stated that Commissioner Pramuk put together a well-crafted letter, however he is not convinced this is the best way to move forward since the Commissioners can't exchange emails and their statement should be done in an organized fashion.

Mr. McConnell stated that another option is to make a motion for the Planning Commission Chair to appear at the next regularly scheduled Council meeting. After discussion, it was decided that the Commissioners will submit comments on the draft letter to staff, who will then provide the comments to Commissioner Pramuk. She will incorporate the comments into a version of the letter which the Commission will review at one of their future meetings. The letter will then be put in a final draft by staff to send to the Council.

Wich moved to adjourn the meeting, which Commissioner Ruonala seconded.

The meeting adjourned at 9:19 p.m.

Chairperson

Recording Assistant

Date

Date