

AIR, LAND, WATER, WILDLIFE AND HAZARDS SUBCOMMITTEE MEETING
ROOM 126, MULTNOMAH BUILDING
510 SE HAWTHORNE BLVD, PORTLAND OR
SEPTEMBER 23, 2015 3:00-5:00 PM

MEETING SUMMARY

I. Welcome, Introductions and Announcements

In attendance:

Subcommittee members

Stephanie Nystrom
Catherine Dishion
Jerry Grossnickle
Marcy Houle

Project Team

Rich Faith
Rithy Khut
Kevin Cook
Matt Hastie

Other community members in attendance: George Sowder, Paula Sauvageau, Carol Chesarek, Colleen Cahill, Allison Boyd

Rich Faith welcomed everyone to the subcommittee meeting and briefly explained what the agenda items are for the meeting.

II. Historic Preservation Policies

Rich provided background on this policy explaining that it has been drafted in response to direction given by the subcommittee at the last meeting. The proposed policy is based on existing policy language taken from the Comprehensive Plan pertaining to both historic and cultural resource preservation. Cultural resource protection policies from the recently adopted Sauvie Island/Multnomah Channel rural area plan are also included for consideration countywide.

The following are some of the major comments made during discussion.

- Historic preservation policy D.2: Do we really want to allow any use which can be shown to contribute to the preservation and reuse a historic landmark site? Didn't we talk last time about restricting what these uses might be? After further discussion the group decided to substitute "any use" with "a use".
- What's involved in being designated a historic landmark? Can the owner of a historic landmark have the designation removed? Once a property is designated a historic landmark, it should not be possible to remove the designation, particularly if the property owner has been able to take advantage of tax breaks and special funding programs.

- Colleen Cahill, who owns the historic Cedar School on South Troutdale Road, agreed that once a property has been designated a historic landmark, it should not be permitted to remove that designation. She is not interested in receiving any tax breaks for her property. If historic landmark designation is requested and received, the property owner should assume responsibility to maintain and preserve the site. If they don't, then that would be a misuse of the program.
- Would a historic landmark designation run with the property, or with the applicant?
Answer: Presumably with the property, but there is a pending court case that is dealing with that very question, so we need to see what decision comes out.
- Any county program for historic preservation needs to have teeth so once a historic landmark designation is given, it can't be removed. Should not let people misuse the program to take advantage of tax incentives, funding opportunities and other potential benefits, and then be allowed to remove the property from the program so it can be sold or torn down for another use.
- Should there be a policy about forming a Historic Landmark Commission that reviews and decides applications for designation?
- The policy as now drafted provides no guidance for what types of uses are going to be allowed within a historic structure or on a historic site. Need to set some parameters for what can occur there, similar to those for agri-tourism.
- The committee felt very strongly that once a historic landmark designation has been received it should not be removed. Staff cautioned that it may not be possible to do that. We will have to see what decision comes out of a pending court case that is dealing with that very question.
- The subcommittee would like it to be noted on the record that they support not allowing demolition of a structure that has been designated a historic landmark.
- Need to watch out for loopholes where the owner of historic property put the property in a trust to avoid having to pay back taxes deferred under preferential tax programs.

Action Taken: The subcommittee unanimously approved the policy with only one word change – replace “... any use...” in policy D.2. with “...a use...”

III. Riparian Corridor, Wetlands, and Wildlife Policies

Rithy Khut provided background on the proposed policies and the changes that have been made since the last meeting in response to the subcommittee's direction. He also explained that Assistant County Attorney, Jed Tomkins, reviewed the policies and offered some suggested changes. He will point those out as we discuss the various policies.

Significant comments over the course of the discussion were:

Riparian Corridor and Wetland Policies

- Ecosystem services value that has been added as item F under Riparian Corridor and Wetlands Policy 1 can be shown as a part of the economic value (item A).

- Revise A to say: “Economic value, including ecosystem services value (the benefits people derive from ecosystems, including but not limited to: nutrient recycling, air purification, climate regulation, carbon sequestration, water purification, food, temperature regulation and aesthetic experience);”
- Item B, Recreation value, under Policy 1, should be eliminated because it isn’t a compatible value in riparian corridors. The policy should be explaining why we want to protect riparian corridors. Recreation value doesn’t protect these corridors. Some disagreed and noted that hiking trails along rivers and streams are a popular recreational use in riparian corridors and wetlands. It was agreed that item B be revised to say: “Recreation value, where compatible with underlying natural area value.”
 - Item E, Natural area value, under Policy 1, should mention more than endangered plant or animal species; it should also include rare and sensitive species. After more discussion it was decided rather than saying “having endangered plant or animal species” replace it with “having a state or federally listed plant or animal species”.
 - Strategy A under Policy 1: Jed commented that “past ESEE Analysis Reports” could be limiting since new or updated reports could be done in the future. So staff recommends instead replacing the word “past” with “applicable”. Everyone agreed.
 - Strategy B under Policy 1: There was concern that the inventory called out in this strategy is not as complete as it should be. Does the inventory of riparian areas include Metro’s Title 13 mapped streams? Although staff was pretty sure it did, they were not certain. So it was decided to add language at the end of the strategy to address this.
 - Strategy D of Policy 1 says “Adopt the Statewide Wetlands Inventory”. Jed prefers it say “Utilize the Statewide Wetlands Inventory” so it does not obligate the Board of County Commissioners to take formal action to adopt. All agreed with the change.
 - Strategy F of Policy 1 calls out a specific ESEE Analysis done in the past. It’s possible this analysis could be updated, so we shouldn’t limit ourselves to only what occurred in the past. To address this, it was decided to add the following language to the end of the strategy: “..., or as revised by any subsequent ESEE analysis.”
 - Policy 3B should be strengthened to say “Incorporate headwaters management strategies... “ rather than “Consider incorporating”
 - Similarly, Policy 4 should say “Update” rather than “Consider updating...”.
 - Policy 4 addresses erosion control and stormwater management which is different than goal 5 protection, so this policy may not belong here, but unsure where it should go.
 - On the topic of headwaters management, could the County have a Headwaters environmental overlay zone (SEC)? There is a need to protect headwater areas. The current SEC-s overlay does not protect these areas. Do Metro’s Title 13 maps include more headwater areas than what is shown on the County maps? Staff will research that.
 - Regarding erosion and stormwater management regulations, should there be a policy that post-development storm runoff cannot exceed pre-development levels?

The reference to low impact development (LID) standards would already address that.

Wildlife Habitat Policies

- Make the same changes to these policies as those discussed and agreed upon for the Riparian Corridor and Wetlands Policies:
 1. Put Ecosystem services value with Economic value and explain what these are.
 2. Qualify Recreation value with "... where compatible with underlying natural area value."
 3. Replace "endangered plant or animal species" with "having a state or federally listed plant or animal species."
- In Strategy A under Policy 1 replace "past ESEE Analysis Reports" with "applicable ESEE Analysis Reports".
- Strategy B under Policy 1: Jed Tomkins had commented that calling out safe harbor inventory criteria may be too limiting. Instead of "... using the safe harbor inventory criteria of Statewide Planning Goal 5" staff recommends saying "... in accordance with Statewide Planning Goal 5."
- Policy 3 only mentions the Oregon Department of Fish and Wildlife (ODFW) as administrator of the Wildlife Habitat tax deferral program, but the soil and water conservation districts are also involved in administering the program. It was decided to include local Soil and Water Conservation Districts in the policy.
- Policy 5 on restricting house sizes should be strengthened to say "Amend.. " rather than "Consider amendments..." Staff responded that we aren't sure we can limit house sizes, so we need to explore this first. Given the uncertainty, consider amendments would be a better way to say it. Also, code amendments to limit housing size may not actually be part of the SEC overlay; they could show up elsewhere. No change made.
- For wildlife protection, we may want to consider policies directed at reducing bird strikes. Recent articles on this topic point out ways of doing that. Dark sky lighting helps, as does certain window treatments. There was no direction from the subcommittee on this issue.
- Policy 5 talks about minimizing loss of wildlife habitat, but the issue is really about minimizing harm to wildlife habitat. It was agreed to replace "... minimize loss of ..." with "... minimize harm to ...".

IV. Natural Hazards Policies

Matt Hastie provided the background on these policies and the changes since the last subcommittee meeting based on discussion that occurred then.

Steep Slope and Landslide Hazards

Matt wanted to clarify that he may have misrepresented the discrepancies in steep slope thresholds of 20% and 25% indicated in current plans. The zoning code's hillside

development standards apply to slopes of 25% or more. This primarily means that a geotechnical report is required to build on these slopes to determine slope stability and any related hazards. The West Hills RAP calls out protective measures for slopes of 25% or greater. The Comprehensive Framework Plan establishes 20% as the gradient for steep slopes. Kevin Cook explained how the Hillside and Erosion Control permits apply to development on slopes and the different gradients that each apply to. Matt asked whether the committee members still want to go with a 20% threshold for proposed development to meet hillside development standards, or to stay with the current 25% in the code.

A member expressed a desire to go with the 20% number because based on the geology of the West Hills it is better to go with a conservative number there.

Another member said as long as staff has the ability to require a geotech study when conditions warrant one, regardless of slope, there is no need to change the policy to 20%.

A third member said that it's not worth the extra 5% -- going from the current 25% to 20% is not worth it.

The fourth member wanted to stick with the policy as proposed that identifies steep slopes as those of 20% or greater.

Major comments during discussion of the steep slope and landslide hazards policy were:

- Runoff from roofs can cause erosion problems when it is concentrated discharge in one spot. Hopefully that will be considered and addressed.
- There are lots of landslides in the West Hills. It is very slide prone. Damage to property from landslides is not covered by homeowner's insurance, so we have a responsibility to protect people from landslide hazards, which are usually caused by development. What happens on someone's property could affect others. That's reason to favor the 20% number. Maybe require a lesser geotechnical analysis for slopes under 25% to lessen the burden and cost there. Another idea is to require a notice to be recorded when developing on steep slopes. That gives subsequent buyers notice about slope and landslide hazards associated with the property.

Action Taken on Slope Hazards: Because the subcommittee was evenly split about using 20% or 25% as the threshold number in the policy, it was decided to forward it to the CAC without a specific slope percentage. The number will be bracketed in the policy to indicate a choice for the CAC's consideration when it comes to them.

Matt explained that strategies on liquefaction have been included with the landslide hazard policies. From his research, development regulations for areas subject to liquefaction are usually handled through building design, not from a land use perspective. He does not know of any jurisdiction that regulates liquefaction. The

information he gathered on this topic served as the basis for the language used in the strategies.

A member pointed out that Gresham prohibits dry wells where liquefaction is likely to occur.

Floodplain Protection and Channel Migration

A member stated that residential development should not be allowed in the floodway. Staff responded that it is already prohibited there. It is still allowed to build in the floodplain but subject to flood protection standards.

The last bullet under the policy about updating mapping should be revised to also include mapping updates initiated by the County. Add the language "... as needed or as initiated by the County" at the end of the sentence.

No other changes to the Floodplain Protection and Channel Migration policy.

Wildfire Hazards

Committee member question: The policy mentions fire safety and mitigation standards; where are those standards?. Staff answer: They are already written into the code.

There was concern that fire safety standards may conflict with wildlife habitat protection policies where the former might require trees and other vegetation to be removed near a dwelling, but the latter tries to prevent or minimize vegetation removal. The second strategy under this policy should be clarified to say wildfire protection needs to be done in accordance with wildlife habitat protection. It was agreed to revise the strategy to say: "To reduce wildfire risk while protecting wildlife habitat, expand and tailor requirements to areas identified as prone to wildfires but not currently subject to regulation."

Another comment was that there should be a strategy that addresses additional restrictions for development of properties that have multiple hazard risk factors.

V. Existing Policies Related to Air, Water, Wildlife and Hazards

There was not enough time to begin discussion of this agenda topic so it will be taken up at the next subcommittee meeting. Rich pointed out that in reviewing the existing policies, the subcommittee should not dwell on the introductions to the various policy topics, because much of this will be rewritten with the new comprehensive plan. Depending on how the new plan is organized, some of this introductory language may not be needed at all. What we are primarily interested in are the policies and strategies.

VI. Public Comment --- None

VII. Wrap Up and Adjourn

The meeting adjourned at approximately 5:04 pm.