

Portland Planning and Sustainability Commission

July 27, 2021

5:00 p.m.

Meeting Minutes

PSC Commissioners Present: Jeff Bachrach, Johnell Bell, Ben Bortolazzo, Jessica Gittemeier, Katie Larsell, Valeria McWilliams, Steph Routh, Gabe Sheoships, Eli Spevak, Erica Thompson

PSC Commissioners Absent: Oriana Magnera

City Staff Presenting: Andrea Durbin, Mindy Brooks, Daniel Soebbing, Sallie Edmunds, Tom Armstrong; Paul Ketcham, Kaitlin Lovell, Marie Walkiewicz, Matt Vesh (BES)

[Documents and Presentations for today's meeting](#)

Chair Spevak called the meeting to order at 5:01 p.m.

Chair Spevak: In keeping with the Oregon Public Meetings law, Statutory land use hearing requirements, and Title 33 of the Portland City Code, the Portland Planning and Sustainability Commission is holding this meeting virtually.

- All members of the PSC are attending remotely, and the City has made several avenues available for the public to watch the broadcast of this meeting.
- The PSC is taking these steps as a result of the COVID-19 pandemic and the need to limit in-person contact and promote social distancing. The pandemic is an emergency that threatens the public health, safety and welfare which requires us to meet remotely by electronic communications.
- Thank you all for your patience, humor, flexibility and understanding as we manage through this difficult situation to do the City's business.

Items of Interest from Commissioners

- *Chair Spevak* noted that the PSC is having an in-person gathering after our next (virtual) PSC meeting on August 10.
- *Chair Spevak* noted the letter about the Burnside Bridge project – coming soon for review. He introduced the letter about Zenith that the PSC is planning on sending to BDS Director Rebecca Esau. *Commissioner Gittemeier* noted some changes based on input we received. BDS evaluates Zenith's LUCS and that they consult Tribal Government for input on it.
 - Tom Armstrong provided more background on the context of the Zenith siting. A LUCS is a Land Use Compatibility Statement. This LUCS is part of the air quality permit renewal with DEQ. Over the past years, there has been a significant change, which is why Zenith needs a new LUCS before they can proceed with the air permit. Zenith is not proposing new development on this site. And at the same time, as referenced, Columbia

Riverkeeper has made a legal argument that the LUCS state administrative rule statement notes “consistent of the Comprehensive Plan”... so they may need to do more than check the box against the Zoning Code. But there is nothing in City Code relative to this. It’s currently a BDS decision, and they are under the state land use rules to make a decision within 120 days. We would expect them to make a decision in the next few weeks.

- *Chair Spevak* noted the letter is directed to BDS.
- *Commissioner Bachrach* raised concerns but is thankful for some of the legal explanation. I understand the advocacy some commissioners want to take on this issue. But what BDS is doing is a quasi-judicial review. PSC has never reached down into a single quasi-judicial issue, and I find that problematic. I think there are other ways we can voice our advocacy to not allowing fossil fuel infrastructure.
- *Commissioner Sheoships* noted that he’s in favor of this letter and offers a motion. *Commissioner Thompson* seconded.
- *Commissioner Routh* understands the hesitancy on engaging on something on which we have not had a briefing.
- *Commissioner Bortolazzo* sees the concern and shares it. It seems like this is cherry-picking lower-level applications. We are the steward of the process, and if we change it, it has to be for everyone, not on the subject matter – we lose credibility and provide less certainly if we weigh in since the process is not clear.
- *Commissioner Larsell* was wondering if the letter should be address to City Council instead.
- *Chair Spevak*: City Council will receive the letter as a copy. The PSC should be focused on the process, and this letter doesn’t suggest an outcome. It’s fair to recognize the Zoning Code is one piece, and the PSC also looks at a broader range of concepts and City policies.
- *Commissioner Gittemeier*: I echo these sentiments but see we hold a position in this space, and we’re talking about a huge fossil fuel facility.
- *Commissioner Thompson*: Some of the traditional efforts haven’t worked. There is a clear opportunity in the DEQ LUCS form. We are not the ones pushing BDS to do something unprecedented here – they already did that on the first LUCS.
- Tom: Zenith has not been an active party in the appeals to our Zoning restrictions.
- *Chair Speak*: The references to the Mult Co – that came out yesterday, and we’ll have to update this reference in the letter. Commissioners confirmed the friendly amendment. This letter is not something we had briefings or deliberations on; this is the perspectives of the members of the PSC.

(Y8 – Bell, Gittemeier, Larsell, McWilliams, Routh, Sheoships, Spevak, Thompson; N2 – Bachrach, Bortolazzo)

The letter will reflect this vote in that not all PSC members voted in favor.

- *Commissioner Routh* thanked *Commissioner Gittemeier* for drafting the letter and for everyone’s input. On the Burnside Bridge letter, I am talking with staff about to whom and how this letter will be written and the audience, efficacy, and timeline.

Director's Report

Andrea Durbin

- Thanks to *Commissioner Bortolazzo* and your role here. We wish you and your family a great adventure in Italy in this next year.
- Process for selecting a new PSC member (Ben's position) – Commissioner Rubio's team hopes to have an update in the next weeks on the selection process.
- Urban Renewal Area (URA) 101 Trainings in August: We have the Cully URA coming to the PSC in the fall, so we want to offer trainings to give PSC members basic information/training prior to the briefings and then your hearing/recommendation in October. These will be informal, non-quorum sessions. Julie will send out a list of time/date opportunities for any commissioner who is interested to get this training from staff before our work on the Cully URA (options on September 8).
- August 1 is the effective date of a HUGE amount of zoning code updates: the remaining portions of RIP, S2HC, River Plan – South Reach, and all of DOZA.

Consent Agenda

- Consideration of Minutes from the July 13, 2021 PSC meeting.

Commissioner Bortolazzo moved the Consent Agenda. *Commissioner Routh* seconded.

(Y10 – Bachrach, Bell, Bortolazzo, Gittemeier, Larsell, McWilliams, Routh, Sheoships, Spevak, Thompson)

Vote for PSC Vice Chair

Decision: PSC members

Commissioner Bachrach shared his interest. He and *Commissioner Larsell*, as the senior members, discussed the options, and they decided for him to

Commissioner Routh moved to be the Vice Chair for the remainder of 2021. *Commissioner Bortolazzo* seconded.

(Y10 – Bachrach, Bell, Bortolazzo, Gittemeier, Larsell, McWilliams, Routh, Sheoships, Thompson, Spevak)

Ezones Map Correction Project

Briefing: Mindy Brooks, Sallie Edmunds, Daniel Soebbing; Paul Ketcham, Matt Vesh, Kaitlin Lovell, Marie Walkiewicz, (BES)

Presentation

Memo & Attachments

Mindy introduced the project team: Daniel Soebbing from BPS, who you all know. We also have Paul Ketcham, the Biological Science Team Manager, and Matt Vesh, an Environmental Specialist / Wetland Ecologist from Bureau of Environmental Services.

Last week you received a memo from staff that included a summary of the process for this project through a final recommendation vote from PSC. We will briefly review that process. You also received a table with one discussion item and 3 non-discussion or consent items. We will take the consent items first, unless Commissioners would like to move any to discussion, and then get into the heart of today's agenda, which are wetlands.

Throughout the past year PSC has been voting on amendments to the Proposed Draft that was released in June 2020. You have voted to update the Natural Resources Inventory to include the feature map changes resulting from site visits, as well as voting on a number of code updates to address things like vegetation management to reduce wildfire risk and standards for septic systems. Tonight we are going to ask you to vote on a few more amendments.

All of those amendments, including tonight's, will be incorporated into a new 'as amended' Proposed Draft that will be published on August 5 and the subject of the August 24 hearing. The intent is to have everything discussed and voted on so far in one set of updated documents and online in the Ezone Map App. This will make it easier for you and the public to see the full package and how the ezones will change on individual properties.

After the hearing on August 24 there will be a final PSC work session, deliberation and final vote on the 'as amended' Proposed Draft.

This project is necessary because the existing ezones were applied based on maps produced in the 1990's. That data, shown on the left, is not as accurate as the data we can produce today with new technology. Because the data is old, the existing adopted policies about which resources should be protected do not align with the actual location of those resources.

With this project we are using the definitions and mapping protocols adopted in 2012 with the Natural Resources Inventory. Staff also propose to maintain the existing protection policies for streams, tree canopy, steep slopes and wildlife habitat. Last month we reviewed the feature definitions and existing protection policies with you. Tonight we are discussing the wetlands, for which we are proposing a new protection policy.

In the ezones, existing houses, decks, driveways, fences, parking lots that are there now can be maintained, repaired and replaced in the current footprint. Yards, gardens, pastures and landscaped area can also be maintained. The ezones will impact new development. That new development will either need to meet the standards laid out in the code or will need to be approved through Environmental Review. Both standards and review require mitigation for impacts to the identified natural resources. For example, if trees are removed to build a house, new trees will need to be planted to mitigate for the loss.

The memo sent last Thursday included information about these items and I'll summarize them now. The first, is the next round of Natural Resource Inventory feature map updates based on site visits between April 13 and July 15. You are voting to amend the Natural Resources Inventory to incorporate the results of the feature map changes. When the feature maps are updated, the existing policies for streams and forest canopy are automatically applied. You will see these updates in the 'as amended' draft.

The second item is an update to the document narratives to incorporate ODFW stream surveys related to fish habitat. This amendment is purely informational and does not impact the application of the ezones. The existing ezone policy is to protect streams and riparian areas. The ODFW information can be used during environmental reviews to understand potential impacts of development on fish habitat.

And the final item is related to scenic resources. As you recall from previous discussions, there are locations where the ezones overlap or abut protected scenic corridors. Because we are adjusting the boundaries of the ezones, we need to true-up the 's' zone boundaries to match. While doing this mapping work, staff identified a current issue that we can fix. When the ezones and 's' zone overlap, there are competing standards in the code. The ezones standards require new development to be setback from streams and wetlands and pushed closer to rights of way; the opposite is true in the 's' zone where the standards require development to be setback from rights of way. These competing standards means that some development proposal must go through Environmental Review. Staff are proposing a code change that will remove this problem. The amendment is, when ezones and 's' zones overlap, to exempt new development from the right of way setback. This means that the setback from streams and wetlands can be met in more situations, thus reducing the potential for Environmental Review.

Vote on Consent Items

- **Amendment A:** Update the Natural Resources Inventory to incorporate the results of site visits.
- **Amendment B:** Add a description of the survey methodology and outcomes to the Proposed Draft Volumes 2A – 2G.
- **Amendment C:** 33.480.040.B.2.a. Scenic corridor setback. A scenic corridor setback per Table 480-1 applies along street lot lines that abut the Scenic Corridor identified in the Scenic Resources Protection Plan. Development within an environmental overlay zone is exempt from this setback standard.

Commissioner Bortolazzo moved the Consent Agenda. *Commissioner McWilliams* seconded.

(Y10 – Bachrach, Bell, Bortolazzo, Gittemeier, Larsell, McWilliams, Routh, Sheoships, Thompson, Spevak)

Since last winter, we have said that this project is a correction project. Staff are using the existing and adopted protection policies to align the ezone boundaries with update maps of streams, tree canopy, steep slopes and wildlife habitat. But, wetlands are different. We are proposing a new protection policy for wetlands.

Mindy provided background about wetlands. Wetlands provide a host of important functions. In particular wetlands store water. They are like sponges. Every winter water is held in wetlands and then release slowly in the spring and summer to ground water and to streams. Wetlands also provide a place for flood water to go.

When a wetland is not protected and in filled in for development, the water has to go somewhere else. This can cause flooding and erosion on surrounding properties or in streams. Protecting wetlands means that the functions are maintained, either on site or by requiring mitigation for impacts to the wetlands.

Paul introduced himself. Environmental Services is conducting the Wetland Inventory Project to provide comprehensive, accurate, and detailed wetland data for stormwater system planning and other BES initiatives.

Wetland data is also used by the public and other City bureaus such as Parks, Development Services, and Planning and Sustainability for their planning purposes.

Wetland data is a valuable component of the planning process. Data on the location, quantity and quality of wetlands is needed to address regulatory requirements at the local, state, and federal levels. Avoiding and minimizing impacts to wetlands is important because their functions are expensive to replicate.

While the City's current wetland inventory is more accurate than prior inventories including Metro's RLIS and the National Wetland Inventory, gaps still exist. Specifically, not all wetlands are mapped by the current inventory and those that are mapped lack basic characterization information as well as more detailed condition and functional data.

Matt shared an overview of the BES Wetland Inventory Project — how it produces high-confidence data on the location, quantity, and quality of wetlands.

A foundational component of the Wetland Inventory Project is the 2010 Wetland Data Refinement Project, a strategic update of the City's wetland inventory data. The 2010 update obtained wetland mapping data from the Oregon Department of State Lands and the City's land use review records, permits, and other mapping data to refine and improve the accuracy of the City's wetland layer. The resultant wetland inventory has been used to support multiple City planning efforts including the Portland Plan and area specific projects such as the Airport Futures Project and the River Plan. Since the 2010 wetland update, the City has continued to add to the wetland inventory with high confidence wetland mapping data from qualified sources identified in the 2010 wetland update.

While the 2010 wetland update provided a vast improvement to the accuracy of the City's wetland inventory, many wetlands in the City's wetland inventory remain mapped as low confidence wetlands lacking field verification. A goal of the Wetland Inventory Project is to field verify all low confidence wetlands in the City's wetland inventory, thus converting them to high confidence wetlands. In addition to low confidence wetlands, the inventory continues to omit known wetlands and inaccurately portrays others that have been legally modified, or in some cases, developed. Brookside Wetlands and Foster Floodplain Restoration Area in SE Portland are high profile examples of omitted and inaccurately portrayed known wetlands, respectively.

Building upon the 2010 wetland mapping update, the Wetland Inventory Project compiled information regarding wetlands within the City's urban service area into a working field map to identify known and potential wetlands.

The next step in the wetland inventory process is requesting property access to field verify known and potential wetlands. A letter was sent to all landowners with known or potential wetlands giving notice of the City's plans to update wetland mapping and requesting property access. A Permission to Access Property Owner Consent Form was included with the notice. If a signed consent form is returned to BPS, then the consultant coordinates with the landowner to make a site visit.

The third step in the wetland inventory process is to field verify wetlands. Field verification means to walk over and/or visually check an area to make a wetland determination and map wetlands; this may or may not include collecting sample plot data. A sample plot is a specific area on the ground where soils, vegetation, and hydrology data are recorded using wetland determination data forms to make a wetland determination.

When access is not granted to a known or potential wetland, an offsite determination is made. An offsite determination may also be made when access is prevented due to safety issues or physical barriers. An offsite determination is a determination conducted using wetland and water maps, soil maps, aerial photographs, LiDAR topography, and other relevant information. An offsite determination with field verification can be made by viewing wetlands from an adjacent property.

If an onsite determination has not been conducted for a tax lot with know or potential wetlands, the landowner may request an onsite determination by the Wetland Inventory Project at a later date, even after the Ezone Correction Project is complete. The onsite determination data will be used to update the City's wetland inventory at that time. Similarly, wetland mapping data received through Land Use Reviews, Wetland Delineation Concurrence Files, and Removal-Fill Permits will continue to update the City's wetland inventory.

Commissioner Routh: Because we've had a couple hearings and people have questions about the resources that have been mapped on their properties, the findings from this would be subsequent, correct?

- Mindy: We are proposing to include this in the work now. The 2020 season statistics were included before the February 2021 hearing, and we are proposing to add the work from 2021 into this, which you'll see in the votes this evening.

Daniel provided a comparison of the existing wetland mapping that is in the adopted natural resource inventory and the new wetland mapping that has been produced by the wetland inventory project (slide 24). The areas that are shown in yellow are places that are incorrectly mapped as wetlands in the existing natural resource inventory. If the results of the Wetland Inventory Project are adopted, these wetlands will be deleted and removed from the inventory. The areas that are shown in red are places where wetlands have been found by the wetland inventory project that weren't previously mapped as wetlands. The blue areas are wetlands that are already mapped in the inventory that are not being changed by the Wetland Inventory Project.

Note – most of the changes are in the Columbia Corridor which is not part of the Ezone Map Correction Project area. The Columbia Corridor will be addressed in a future project. And as a reminder, there is a map error correction process that can be used to fix ezones that aren't applied correctly. If new wetland data is submitted to the City after the Ezone Map Correction Project has been completed, ezones can be added or subtracted, as necessary. These errors can be corrected through a quasi-judicial process, and they are typically processed free of charge to property owners.

Commissioner Bachrach: You did a wetlands mapping project on the Columbia Slough, but with the Goal 9 considerations, we don't want to add ezones on that. Has the City already determined the extent of the wetlands?

- Daniel: BES will offer free wetland determinations again in 2022. The opportunity will be there to correct mapping going forward. They can also do a wetland delineation process.
- Mindy: Just a reminder that the Columbia Corridor does have existing ezones, but they are not being updated with this project. The ezones will be updated with a future project.

As was mentioned before, there are some subareas of Portland where the existing adopted plans do have protection policies for wetlands. In those areas, we are proposing to keep the wetland protection policy and to correct the ezone boundaries to match – just like we are doing for streams, trees, etc.

But for other areas, particularly in the west hills, there aren't existing wetland protection policies. But as Matt just discussed, there are wetlands in the hills. Those wetlands are providing functions. If those functions are lost to development, there could be repercussion including flooding and erosion on nearby properties.

The policy that we are proposing is consistent with Metro's Title 13 requirements to protect wetlands and land within 50 feet of wetlands and is consistent with the 2035 Comprehensive Plan. This is also consistent with the citywide stream protection policy.

The proposed policies would apply in resource sites that don't already have existing wetland protection policies. In these sites, the proposal is to apply a p zone to wetlands and land within 25 feet of wetlands and to apply a conservation zone to land between 25 and 50 feet of wetlands.

The protection zone applies to the wetland and land within 25 feet of the wetland. The conservation zone applies to land between 25 and 50 feet of the wetland. Like for streams and forests, existing development can stay, be maintained and be replaced in the current footprint. Existing yards and pastures can also stay and be maintained. This includes the area where the wetland itself is located. The wetland is mapped on a mowed pasture, and the property owners can keep on mowing it without restriction.

The proposal will mean that new development would generally not be allowed within wetlands or within the 'p' zone around wetlands. New development would be allowed in the 'c' zone around wetlands either through standards or, in some cases, environmental review. Impacts within the 'c' zone would need to be mitigated. This proposal is a minimum, which would apply to resource sites that don't already have wetland protection policies. For resource sites that already have different ezone mapping policies that apply to wetlands, the existing policies would not change.

There are two portions of the proposed wetlands amendment. The first, D.1, is adding the WIP data to the citywide Natural Resources Inventory. This is just factual data, similar to the stream and forest mapping. Even if you vote not to apply a protection policy to the wetlands, it is important that the NRI include all factual information about existing natural resources in the city. The second amendment, D.2, is applying the consistent protection policy to the wetlands in the project area. You can vote on these separately or together.

Commissioner Gittemeier asked about the wetland protection policy with a 'p' or 'c' zone.

- Mindy: We are proposing to maintain those policies to match the new wetland protection policy. This is a minimum consistency citywide.

Commissioner Sheoships: Why were these sites not mapped as extensively?

- Daniel: The existing wetland inventory is based on the national inventory, which is rather inadequate on a regional level. When the original ezones were adopted, they didn't know they were there. Looking at ESEE decisions in old plans, wetlands were never mentioned.

Chair Spevak moved to adopt **Item D1: Wetland Feature Mapping** and **Item D2: Wetland Protection Policy**. *Commissioner Sheoships* seconded.

(Y10 – Bachrach, Bell, Bortolazzo, Gittemeier, Larsell, McWilliams, Routh, Sheoships, Thompson, Spevak)

Mindy: Next week we will release the as amended proposed draft and updated online maps. Notices will be sent including information about how to testify.

On August 24 there will be a public hearing. We recommend holding the written record open until September 10. This will allow any final site visits to occur and property owners can submit final written testimony regarding the results of those site visits. If there is anyone who would still like a site visit, those requests need to be submitted by August 25.

After September 10, there will be a complete record. September 27 will be the last work session and final vote on the package with the PSC.

Then we move on to City Council.

Chair Spevak continued the project until the August 24 public hearing.

Adjourn

Commissioner Spevak adjourned the meeting at 6:19 p.m.

Submitted by Julie Ocken