

City of Medical Lake
124 S. Lefevre Street – City Council Chambers
Planning Commission Meeting and Public Workshop
December 15, 2022, Minutes

NOTE: This is not a verbatim transcript. Minutes contain only a summary of the discussion. A recording of the meeting is on file and available from City Hall.

1) CALL TO ORDER, PLEDGE OF ALLEGIANCE, AND ROLL CALL

- a) Commissioner Hudson called the meeting to order at 5:02 pm, led the Pledge of Allegiance, and conducted roll call. All present.

2) INTERESTED CITIZENS: AUDIENCE REQUESTS AND COMMENTS

- a) Tammy Roberson 424 W Brooks – Ms. Roberson shared concerns about policies and procedures of the Planning Commission and Robert’s Rules of Order and concerns regarding CAO.
- i) Requested additional time to speak. Motion to allow additional three to six minutes of speaking time made by commissioner Jorgenson, seconded by commissioner Mayulianos, motion carried 3-1-1 with commissioner Mark voting nay and commissioner Munson abstaining. Continued commentary.
- ii) Motion for additional three minutes made by commissioner Mayulianos, seconded by commissioner Munson, motion carried 3-2, with commissioners Hudson and Mark voting nay. See attached detailed commentary provided by Ms. Roberson.
- b) Scott Holbrook 424 W Brooks – shared that today is Bill of Rights Day and gave commentary on setbacks, buffers, and wetland areas.

3) APPROVAL OF MINUTES

- a) **November 17, 2022**, Regular Meeting and Public Hearing
- i) Commissioner Mayulianos suggested making a correction to Section 2 a) i) to state “motion carried 3-0-2 with commissioners Mark and Munson abstaining”. After further discussion, it was decided to change the wording to “motion carried 3-2 with commissioners Mark and Munson abstaining”. Per legal counsel, this will allow the format of minutes to be consistent to those from City Council meetings. Motion to make correction was made by commissioner Mark, seconded by commissioner Mayulianos, motion carried 5-0.
- ii) Commissioner Mayulianos suggested changing the wording in section 8 c) to “neutral wetlands specialist”. Motion to change wording made by commissioner Mayulianos, seconded by commissioner Munson, carried 5-0.
- iii) Motion to approve minutes as amended made by commissioner Mayulianos, seconded by commissioner Munson, motion carried 5-0.

4) STAFF REPORTS

- a) Elisa Rodriguez, City Planner
- i) Mrs. Rodriguez thanked the commissioners for their work on meeting procedures. Shared that she will be out of the office until January 3, 2023. Introduced Sonny Weathers, new City Administrator.
- ii) Mr. Weathers thanked the commission for their critical work and shared a little about himself.

5) SCHEDULED ITEMS

- a) Critical Areas Ordinance
- i) Commissioner Munson suggested that they go through Ms. Roberson’s handout titled CAO Summary Handout. Commissioner Hudson suggested they go through the form using the CAO section numbers. Commissioner Munson asked Mrs. Rodriguez for her input. Mrs. Rodriguez shared that she has responded to these prior and it is up to the commission to determine whether to make the suggested changes. Mrs. Rodriguez shared that she reviewed the file on the Stanley St. Apartments project and that she understands that many of the citizen concerns are regarding the desire to prevent that from ever happening again.
- ii) Proposed change #1 re: section 17.10.020 (H) – Commissioner Mayulianos made a motion to add language “the planning official must provide a single report that meets the requirements laid out in 17.10.020 H”. After additional discussion, commissioner Mayulianos withdrew her motion.

- iii) Proposed change #2 re: section 17.10.030 (B) – Mrs. Rodriguez addressed and after further discussion amongst the commission, no motions were made to make the change to the CAO draft.
- iv) Proposed change #4 re: section 17.10.040 (A) (15) – commissioner Munson shared his commentary and asked for Mrs. Rodriguez’s opinion. Mrs. Rodriguez shared input and after further discussion amongst the commission, no motions were made to make the change to the CAO draft.
- v) Proposed change #5 re: section 17.10.050(E) – motion to remove the words “or less” made by commissioner Mayulianos, seconded by commissioner Jorgenson. After further discussion, commissioner Mayulianos withdrew her motion.
- vi) Proposed change #6 re: section 17.10.050 (F) (1) – Commissioner Mayulianos asked Ms. Roberson for clarification. Mrs. Rodriguez also gave an explanation.
 - (1) Motion by commissioner Mark to modify section 17.10.050 to add a new subsection (f) which would state “surface and subsurface hydrological conditions unless hydrological conditions are irrelevant to the subject critical area”, seconded by commissioner Mayulianos, motion carried 5-0.
- vii) Proposed change #7 re: section 17.10.090 (F) (1) (a) – Mrs. Rodriguez made a statement regarding the commentary and offered clarification to Ms. Roberson’s concerns. Commissioner Mayulianos made a motion to remove the entire paragraph on the bottom of page 19 of the CAO draft, section 17.10.090 (F) (1) (a) (i), seconded by commissioner Jorgenson and additional discussion was had. Motion failed to carry (2-3) with commissioners Hudson, Munson, and Mark voting nay.
- viii) Proposed change #8 re: section 17.10.090 (f) (2) - proposed to add subsection (j) which would add language to include an additional 15-foot buffer. Commissioner Munson asked Mrs. Rodriguez to elaborate on setback vs buffer. Mrs. Rodriguez gave an explanation and her thoughts. Further discussion was held.
 - (1) Commissioner Mayulianos motioned to add to paragraph 17.10.090 (f) (2) subsection (j) which would state “Buffer Setback. A minimum building setback of fifteen (15) feet is required from the edge of a wetland buffer. The City Planner may allow intrusions into this setback on a case-by-case basis if it can be demonstrated by clear and convincing evidence that impacts will be satisfactorily mitigated. This building setback from the buffer shall be identified on the site plan.” Seconded by commissioner Jorgenson, and additional discussion held. Motion failed to carry (2-3) with commissioners Mark, Hudson, and Munson voting nay.
- ix) Proposed change #9 re: section 17.10.110 – Mrs. Rodriguez clarified request from Ms. Roberson. Commissioner Mayulianos motioned to add subsection (H) to section 17.10.020 – General Provisions which would read “*Exceptions*. Where the applicant seeks an exception to any requirement imposed by this code or believes said requirement denies all reasonable economic use of the subject property, justification in support of an exception must be clear and convincing. Grant of an exception, on the other hand, must not be unreasonably withheld.” Seconded by commissioner Munson, motion carried 5-0.
- x) Motion to approve and send the CAO draft, staff report, and all exhibits to City Council with the request for council to examine section 17.10.040 (A) (15) regarding ability to appeal made by commissioner Mark, seconded by commissioner Mayulianos, motion carried 5-0.
 - (1) Point of order by commissioner Hudson clarifying that the CAO draft will go to council with suggested amendments made tonight.

6) PUBLIC WORKSHOP

- a) Application LU 2022-004 TA, Proposal to amend MLMC Section 17.42.030 to allow shipping containers under certain circumstances
 - i) Mrs. Rodriguez started presentation on the requested amendment. Explained that she is not presenting the application but rather opening discussion and clarification. Commissioner Mark requested that Mrs. Rodriguez not go through the presentation due to the late hour. Mrs. Rodriguez agreed and asked petitioner Larry Stoker to say a few words.
 - ii) Mr. Stoker explained his situation and shared his reasons for proposal. Discussion was held.
 - iii) Discussion will continue at next meeting

7) COMMISSION MEMBERS’ COMMENTS OR CONCERNS

- a) Commissioner Mayulianos requested to add the changes of procedure to the next agenda

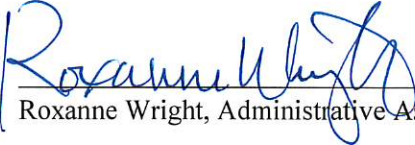
8) INTERESTED CITIZENS: AUDIENCE REQUESTS AND COMMENTS

- a) Tammy Roberson – shared her disappointment and frustration about the CAO decisions made tonight in particular commissioner Munson’s previous suggestions he later voted against.

9) **CONCLUSION**

- a) Commissioner Hudson motioned to conclude the meeting, seconded by commissioner Mark, carried 5-0 and meeting concluded at 7:39 pm.

Date: 2/9/23



Roxanne Wright, Administrative Assistant

“Motion to *Reconsider*” Summary Handout

Planning Commission – 15 Dec 2022

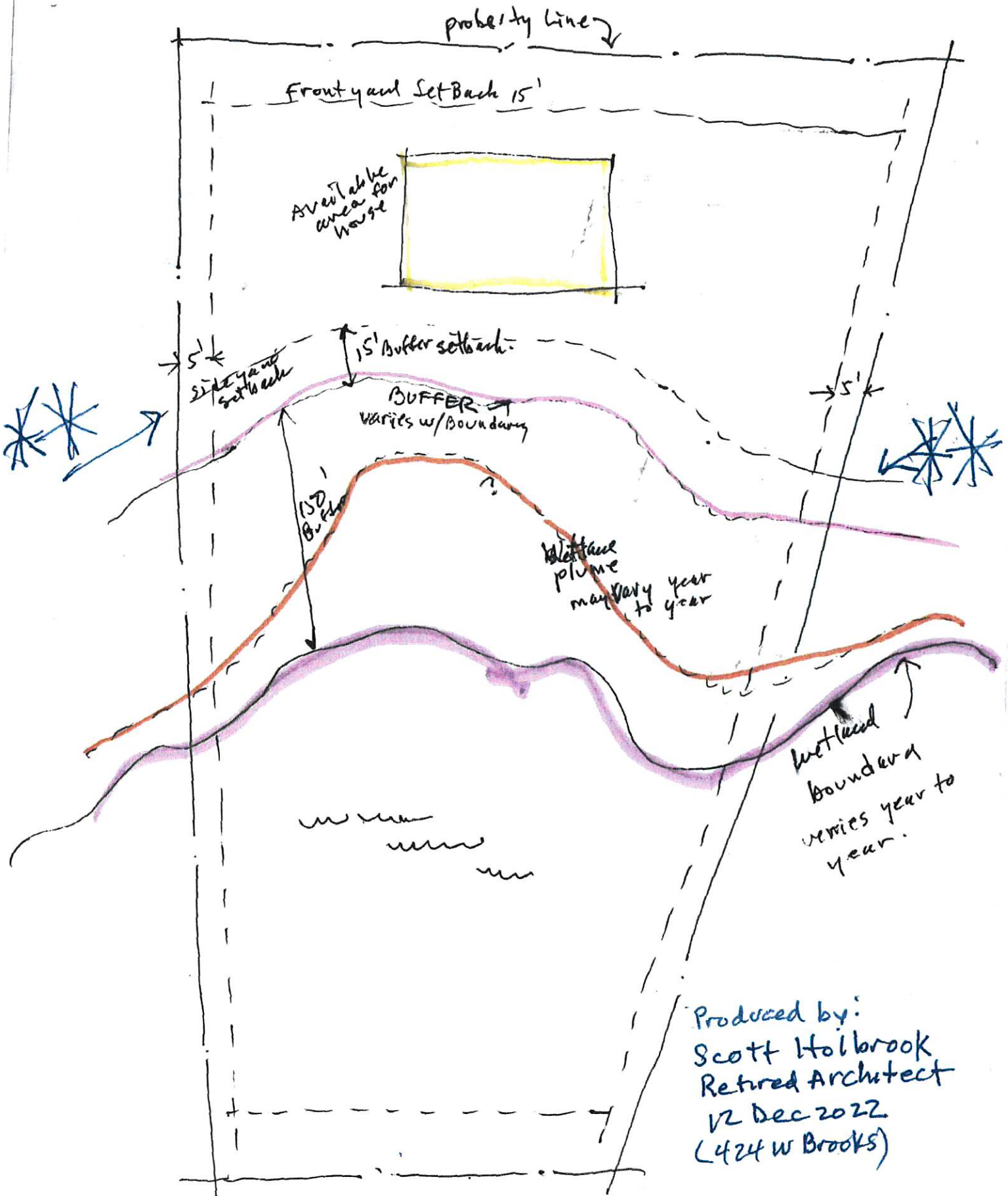
#7 a (on draft 17 Nov 22 PC Minutes) -- Procedural process and time interval mistakes occurred in regards to amending the PC Rules of Procedure on 17 Nov 2022: (taken from ML’s PC Rules of Procedure and Robert’s Rules (for dummies, 4th edition)

With due respect, I would like to point out the Chair had incorrectly followed the procedural process (IAW PC Rules of Procedure and also Robert’s Rules) by making a motion to “amend” the wording in the PC Rules of Procedure which dealt with a “*motion to reconsider*”. The Chair had also stated an incorrect time interval. (it is on recording from 17 Nov 22, at approximately time frame of 1:31:48)

- ◇ BTW, this is certainly an interesting incident to keep in mind -- I thought it was extremely strange that for the first time since 2015, “*a motion to reconsider*” was actually used by the Commission, then the Chair proceeds to amend it at the very next meeting with no previous notice given which told me I needed to do further research into this particular motion since it came up as a surprise. Facts are as follows:
- ◇ **Page 6** (PC Rules of Procedure): “These rules may be amended or new rules adopted by a majority vote of all members of the Commission, **provided that the proposed amendments or new rules shall have been introduced into the record at a prior Commission meeting.**” NOT complied with.
- ◇ Chair’s procedural mistakes in regards to Robert’s Rules (for dummies):
 - Page 71: “In addition to the hour and location, the content of the meeting’s notice, or call, must specify all items of business that require previous notice under your rules. Common examples of such special items of business include proposals to amend bylaws, to adopt or **amend special rules of order...**”
 - **Page 113**: “Previous notice of a motion involves either announcing at a meeting your intent to make a motion at the next meeting or providing written notice of the motion in the call of the meeting.” -- also not complied with.
 - **Pages 112**: “Winding up for the pitch: Previous Notice – **Previous notice of a motion is given at the meeting preceding that at which the motion will be introduced.**”
 - Page 183: “The subsidiary motion to Amend applies to pending motions only. It can’t amend bylaws, agendas, policies or other motions that have already been decided. In those cases, the proper motion is to Amend Something Previously Adopted ...”
 - Page 464: “Another tip that can make meetings go faster and reduce surprises from any member who likes to spring a controversial motion on everyone at the last minute is to have some special rules covering meeting agendas.”
- ◇ Chair’s time interval mistakes in regards to Robert’s Rules (for dummies):
 - **Page 274**: “Calling up the motion to *Reconsider* (that is, debating and voting on whether to reconsider in the first place) has to take place in the current session or the next session, **unless the next session isn’t going to occur within a quarterly time interval.** In that case, it has to be completed by the end of the current session.”
 - Page 275: “Your motion to *Reconsider* is called up by any member at any appropriate time (and doesn’t need to be seconded) ...”
 - Page 273: “The motion to *Reconsider* is not the same as the motion to **be** reconsidered...” It poses the question, “Shall we give further consideration to a motion already voted on.”
 - Page 276: “...But even when the motion to *Reconsider* isn’t in order, there’s no reason you can’t revisit a motion, adopted or not, at your next (or any future) meeting.” Also, “In fact, if a motion is made at any meeting and doesn’t get a second, it can even be renewed at that very same meeting.”

Tammy Roberson, 424 W Brooks

Example: 17 Dec 2022 Planning Commission



Produced by:
Scott Holbrook
Retired Architect
12 Dec 2022
(424 W Brooks)

CAO Summary Handout

(Correcting City Planner's CAO responses (dated 6 Dec 22) to Commissioner Munson's Suggested Modifications dated 31 Oct 22)
Planning Commission – 15 Dec 2022

Note to Commissioners: The City Planner had responded to old comments versus the most up-to-date documents that was provided to her (dated 17 Nov 22) plus she never provided a copy of her responses back to me since I am also a coauthor (as stated in Commissioner Munson's email dated 10/22/2022 13:16:34.

#1 Proposed change "Written Findings Required" new subsection (Chapters 17.10.020 and 17.10.130):

- ◇ The Planner's suggestion that the requested addition is "redundant" fails to deal with the essential criticism. The fact that some of these requirements are partially stated in 17.10.040 is not enough. My goal is to have the requirements to be stated directly in a single location. **This is a very important aspect of citizen oversight.**
- ◇ Next, the City Planner's allegation of redundancy is incorrect. The quoted portions of the Code neglects to include two important requirements:
 - The reporting official states what the "information relied on" is.
 - Nothing in the current Code directly specifies that such a written document will be a public record or that those documents will become part of the next agenda.
- ◇ Ultimately, if the City only objects to the change on the ground that they have already provided these protections in the previous paragraphs, there should be no objection to their inclusion in the Code.
- ◇ Thus, the quoted portions should be amended to read: "The planning official must provide a single report **that meets the requirements laid out in 17.10.020 (H).**"
- ◇ The other proposed changes should be included consistent with the scheme laid out in my comments.

#2 Proposed change adding a new sentence to Chapter 17.10.030 (B):

- ◇ The Planner's suggestion that the "existing language in 17.10.120 – Unauthorized Alterations and Enforcement covers this topic" is not correct.
- ◇ No portion of the proposed ordinance requires narrow construction of exemptions.
- ◇ No portion of the proposed ordinance explicitly confers the power to levy fines.
- ◇ If the Commission wishes to move the proposed text to 17.10.120, that is fine, but the text should be included somewhere in the Code.

#3 Proposed change regarding Chapter 17.10.030 (A) (3): No objection.

#4 Proposed change to alter Chapter 17.10.040 (A) (15) to make appeal rights clearer:

- ◇ The City would be served to consider edge cases when drafting Code. Just because meetings are ordinarily held on week days does not mean that the Code cannot be written to be as clear as possible.
- ◇ The important issue being covered by language regarding commencement of an appeal is that an appeal window should not open until the decision is sent out. As written, the appeal window opens when the decision is **made** which creates traps for underinformed citizens.

#5 Proposed change to modify final sentence in Chapter 17.10.050 (E) "more or less information is required":

- ◇ The City should not have discretion to require less information from an applicant during a phase where there is no citizen oversight.
- ◇ Such discretion is vulnerable to abuse and is not subject to meaningful review because the decision is made before citizens ever have a chance to be involved.

- ◇ An interesting fact to note -- "...more or less information is required..." and "...requiring additional or less information ..." statements **came from Vancouver's Critical Areas Protection** (Chapter 20.740.50 para E).
- ◇ Again, the Commission voted previously in favor of never having less but the same or more in protections.

#6 Proposed change to adding subparagraphs to Chapter 17.10.050 (F) (1):

- ◇ "Requiring hydrological conditions for a wildlife habitat may be irrelevant information." – Then amend the statement to read "... unless hydrological conditions are irrelevant to the subject critical area."
- ◇ Ultimately, this is a statute designed to provide protection to vulnerable ecological resources.
- ◇ Where the Code is vague or inexplicit, there is room for exploitation.
- ◇ The Code should be written with the goal of limiting such vulnerabilities.

1) #7 Propose change to the never-ending saga "allowed activities" paragraph (Chapter 17.10.090 (F) (1) (a)):

- ◇ The comments from the City Planner largely ignore the reasons that this comment has been provided:
 - The problem is not the text of 17.10.030.
 - The problem is that the proposed text of this particular subparagraph (17.10.090(F)(1)(A)) is problematic.
 - Using my proposed text (from DOE's Wetland Guidance for CAO Updates for Eastern Washington) does not drastically change the rules, but it does make for a clear, better code.
- ◇ Did the Commissioners know that according to the Wetland Policy Director at the Dept of Ecology:
 - Any such project (a road through a Cat 1) would require permits from DOE to go forward?
 - **The City does not have unilateral authority to approve a road through the middle of a Category I wetland?**
- ◇ If this paragraph is not removed to be a lot more in line with DOE's guidance, then it would be preferable for the Code to reference "**regulated** activities" versus "allowed activities" which would make it clearer that any act must be reviewed and approved by the City before it is allowed to occur.
- ◇ Again, an interesting fact keeps coming up -- the source for this disputed and not an ideal paragraph comes from Vancouver's Municipal Code 20.740.140 (Critical Areas Protection), para C, 1, a, (page 3) to be exact.

#8 Propose change dealing with the 15-foot building setback from the edge of a wetland buffer (Chapter 17.10.090 (f) (2)):

- ◇ **The previous version of the Code had a building setback from the edge of a buffer and this version should too.**
- ◇ Confusing answer given by City Planner to Commissioners – "A buffer is a setback from a wetland. This proposal is to have a setback from a setback. All other setbacks from property lines still apply." *(see attached drawing handout)*
- ◇ This buffer setback is actually a building setback which has a very specific purpose – to limit the potential degradation that results to a buffer when someone undertakes construction activities nearby.
- ◇ As one knows, each property building lot whatever its shape has set backs from the property. In ML, it is 15 feet from front yard, 15 feet from back yard and 5 feet from side yard. (MLMC 17.16.060)
- ◇ The building can sit anywhere within these new boundary lines.
- ◇ When a wetland boundary is on that property, the house cannot sit any closer to the wetland than the wetland buffer (i.e., 150-foot setback which is based on a combination of wetland category ratings, land use intensities, and/or habitat scores).

- ◇ In this proposed statement, “a minimum building setback of 15 ft is required from the edge of the wetland buffer” means the buffer has its own additional setback. If the wetland has a 150-foot buffer, then the house must be 165 feet away from the wetland boundary as shown in the retired architect’s sample drawing.
- ◇ **This shows that the author does not understand or is awkward in her wording.**
- ◇ The City should not decrease the protection afforded to critical areas when it writes a new ordinance.
- ◇ It is a specific and limited protection which the City already has and should leave in place.
- ◇ Once again, if the Code passes as is written, we will end up with less protection in our CAO than we had in the previous version. NOT GOOD (especially if one remembers what happened to the Stanley Wetland).
- ◇ Didn’t the Commission also vote previously in favor of keeping the current protections in place (in other words, never less, the same or more (if appropriate reasons were to be given) in this updated CAO? (reference to 27 Jan/31 Mar 2022 Planning Commission Minutes)

#9 Proposed change dealing with Burden of Proof (Chapter 17.10.110):

- ◇ This comment is well taken.
- ◇ Propose that the burden of proof section be included as part of Chapter 17.10.020 – General Provisions.
- ◇ It makes more sense there.

Tammy Roberson, 424 W Brooks