DRAFT

# CITY OF SHORELINE

## SHORELINE PLANNING COMMISSION

**MINUTES OF REGULAR MEETING**

December 17, 2015 Shoreline City Hall

7:00 P.M. Council Chamber

|  |  |
| --- | --- |
| **Commissioners Present**Chair ScullyVice Chair Craft Commissioner MalekCommissioner MaulCommissioner MonteroCommissioner Mork Commissioner Moss-Thomas | **Staff Present**Rachael Markle, Director, Planning & Community DevelopmentSteve Szafran, Senior Planner, Planning & Community DevelopmentPaul Cohen, Senior Planner, Planning & Community DevelopmentAlex Herzog, Management AnalystLisa Basher, Planning Commission Clerk |
|

**CALL TO ORDER**

Chair Scully called the regular meeting of the Shoreline Planning Commission to order at 7:00 p.m.

**ROLL CALL**

Upon roll call by the Commission Clerk the following Commissioners were present: Chair Scully, Vice Chair Craft and Commissioners Malek, Maul, Montero and Mork. Commissioners Moss-Thomas arrived late.

**APPROVAL OF AGENDA**

The agenda was accepted as presented.

**APPROVAL OF MINUTES**

The minutes of October 15, 2015 were adopted as submitted.

**GENERAL PUBLIC COMMENT**

**Janet Way, Shoreline,** thanked the Commissioners for their service and for allowing a free exchange of ideas between the public and the Commission.

**PUBLIC HEARING: Proposed Changes and Additions to Shoreline Municipal Code Regarding Cannabis (Marijuana)**

Chair Scully briefly reviewed the rules and procedures for the public hearing, and then opened the hearing.

**Staff Presentation**

Mr. Herzog reviewed that over the years, there have been several cannabis-related measures and legislation that have created the State’s current two-system process for regulating medical and recreational marijuana. Overshadowing these new laws is the Federal environment where all forms of cannabis are illegal. New legislation in 2015 was aimed at meeting the Federal government’s concerns regarding cannabis enforcement, including preventing distribution to minors, preventing criminal enterprises from benefitting from marijuana sales and use, and ensuring public health and safety. Another notable change was the abolishment of collective gardens as a means to grow, process, buy and sell cannabis for medical use. He reviewed each piece of new legislation as follows:

* **Senate Bill 5052** contained significant changes, including moving the medical cannabis system under the jurisdiction of the Liquor and Cannabis Board (LCB), and state licenses will now be required for anyone making retail sales of medical cannabis or producing or processing medical cannabis for retail sales. In addition, businesses that are now operating as medical cannabis collective gardens (2 in Shoreline), will have to make the shift to operating as licensed cannabis businesses or shut down completely. As per SB 5052, medical cannabis has been combined with recreational cannabis businesses and collective gardens that are not operating as licensed cannabis businesses will be prohibited effective July 1, 2016. The legislation also provides for LCB-certified cooperatives with a maximum of four patients or designated providers. The changes to the medical cannabis system are intended to mitigate some of the problems associated with collective gardens that were, in practice, operating as storefronts for patients prescribed cannabis as treatment. To address the changes to the medical market, the LCB reopened the license period for retail stores on October 12, 2015.
* **House Bill 2136** extended to cooperatives some of the requirements of Initiative 502, which set parameters around recreational cannabis. The cooperatives are intended to bridge the gap for the medical cannabis patients who currently purchase products from collective gardens. Specifically, cooperatives will be required to be at least 1,000 feet from special facilities (recreational centers or facilities, child care centers, public parks, public transit centers, schools and playgrounds). Recreational cannabis businesses have been subject to this requirement for years through I-502. In requiring cooperatives to abide by this constraint, the bill also granted cities the power to reduce buffer zones around some special facilities, but all cannabis businesses must remain at least 1,000 feet from schools and playgrounds. The bill also revamped the tax structure so that a 37% excise tax is imposed at the time of cannabis retail sale instead of there being an excise tax of 25% at production, processing and retailing. Medical cannabis sales are now included in this tax structure, as well.

Mr. Herzog reported that there are currently six licensed collective gardens, two recreational retailers, and one processor in the City. In addition, the City has received two notices of application since the LCB reopened its licensing window: one for a cannabis retail license and another for a cannabis retail license with a medical cannabis endorsement. In recent months, the City’s Customer Response Team inspected all six collective gardens in Shoreline for compliance with existing City code requirements. Most of the six had various minor violations but none were majorly non-compliant. Between mid-May and the end of June, LCB staff who were under age 21 went into all recreational cannabis stores statewide and either presented their true identification or none at all. A variety of stores, including one in Shoreline, sold to these minors. He noted that the State has done similar checks for liquor sales, and found the compliance rate to be comparable.

Mr. Herzog provided a map showing the geographic dispersion of marijuana-related businesses in the City, noting that most are clustered around the Aurora and 15th Avenue Corridors. The two new applications are also in these areas.

Mr. Herzog reviewed the ways that local municipalities can impact cannabis businesses and cooperatives:

* **Zoning and Prohibition.** The City may prohibit production, processing and/or retail outlet and sales of cannabis through zoning and outright prohibition, and several cities in the State have taken this approach. The City can also limit cannabis entities to certain zones in the City. Currently, cannabis producers and processors are restricted to zones where light manufacturing is permitted, and cannabis retailers are permitted in commercial zones. One change this year is that the new cooperatives must be located in residential zones, within the domicile of one of the participants.
* **Buffer Zones.** The City may reduce the 1,000-foot buffer requirement around certain types of facilities to as little as 100 feet, but the authority to adjust buffer distances does not apply to schools or playgrounds. Cooperatives must be at least one mile from licensed retail stores.
* **Individual Notice.** The City may adopt an ordinance requiring that cannabis license applicants provide individual notice of their application to special facilities within 1,000 feet of the proposed location. The City can require that the notices be sent at least 60 days before the license is granted. This requirement would provide special facilities that receive the notice an opportunity to comment to the LCB before the license is issued.
* **City Enforcement.** Local governments can adopt additional requirements and/or restrictions on cannabis-related businesses. While the LCB will have the primary enforcement role, the City will be responsible for the enforcement of any additional requirements that are implemented.

Mr. Herzog reviewed that the City Council had a robust discussion about this issue on November 9th, and considered policy questions about prohibition, zoning, and lowering the buffer zone. They expressed an interest in providing access to medical marijuana for patients who found the treatment useful and thought that prohibiting cooperatives was not in the City’s best interest. They did not want to pursue decreasing the buffer zones around special entities or limiting the number of cannabis entities. They discussed the City’s current code provisions for collective gardens and gravitated towards adopting a 1,000 foot buffer zone between retail cannabis locations as a good way to ensure geographic disbursement and prevent clustering.

Mr. Herzog summarized that staff recommends the Commission recommend to the City Council adoption of Ordinances 734 and 735. Ordinances 734 will help clean up the provisions that relate to collective gardens, which will be prohibited after July 1, 2016, by removing all applicable provisions effective June 30, 2016. Ordinance 735 will require 1,000 feet between retailer locations to prevent clustering and will seek to limit the impact of vehicular and pedestrian traffic on the surrounding community. He advised that the Commission’s recommendation would be presented to the City Council in late January, with the goal of adopting regulations in February.

Commissioner Moss-Thomas asked if people who grow cannabis in their personal residences must obtain a license. Mr. Herzog said the LCB has taken the lead role in licensing and growing, and the current provisions that allow medical patients to grow will remain in effect. Patient who elect to grow can choose to join a database run by the state, which will provide extra protection in the eyes of the law if they were to be prosecuted.

Vice Chair Craft requested more details about medical cooperatives and how they differ from collective gardens. Mr. Herzog explained that collective gardens are essentially storefronts for anyone who would benefit from consuming medical cannabis as a treatment, and cooperatives more clearly speak to the intent of the collective gardens. Cooperatives would have a maximum of four members, whereas collective gardens can have a maximum registry of 10. Each member of a cooperative must contribute to the production of the cannabis. Cooperatives must also be located within the domicile of at least one member, and the product cannot be sold to anyone outside of the cooperative membership.

**Public Testimony**

No one in the audience indicated a desire to comment.

**Commission Deliberation and Action**

**COMMISSIONER MOSS-THOMAS MOVED THAT THE COMMISSION RECOMMEND THE CITY COUNCIL ADOPT ORDINANCES 734 AND 735 AS PRESENTED BY STAFF. VICE CHAIR CRAFT SECONDED THE MOTION.**

Commissioner Moss-Thomas said that, overall, the proposed changes are appropriate. However, she questioned the fairness of prohibiting cooperatives from locating within 1,000 feet of a retailer. She felt this could create an unfair burden for people who require medical cannabis by requiring them to buy from a retailer if they live within 1,000 feet of a retail business.

**COMMISSIONER MOSS-THOMAS MOVED THAT THE 6TH “WHEREAS” STATEMENT IN ORDINANCE 735 BE AMENDED, STRIKING “NO CLOSER THAN 1 MILE FROM A MARIJUANA RETAILER”, TO READ,**

**“WHEREAS, the new legislation for Medical Cannabis Cooperatives establishes criteria for the location and operation of the cooperative including that it must be located in a participant’s domicile and only one cooperative per tax parcel.”**

**COMMISSIONER MORK SECONDED THE MOTION.**

Chair Scully asked the intent of the 1,000 foot buffer requirement between retail businesses and cooperatives. Mr. Herzog said he is not positive of the intent, other than to break away from the idea of collective gardens. Commissioner Moss-Thomas pointed out that cooperatives would be much different than collective gardens, in that all members must participate and they cannot sell the product to others. The membership would also be limited to four. Vice Chair Craft pointed out that cooperatives would be governed by the State and the City would not have any enforcement ability. Mr. Cohen referred to the land use charts, which list the four types of marijuana uses, and pointed out that medical cooperatives would be allowed in all zoning categories but a 1,000-foot buffer could limit the number of cooperatives that could locate in any given area.

Commissioner Mork asked if a cannabis-related business would be required to relocate if a special facility such as a school locates closer than the 1,000-foot buffer. Mr. Herzog answered that a special facility would be allowed to move within a buffer zone, but the existing cannabis business would not be reprimanded or lose its license. The buffer requirement cannot be enforced after the fact.

Commissioner Malek agreed with Commissioner Moss-Thomas’ concern about disenfranchising a group that is disadvantaged. They should not be obligated in a way that results in a financial detriment. However, he asked if there is evidence of collective gardens undermining the retailers by misappropriation. Mr. Herzog answered that cooperatives are much different than collective gardens. Cooperatives are aimed to benefit just the patients who are involved. The change that prohibits collective gardens and allows cooperatives, as well as the change that allows retailers to apply for an endorsement to sell cannabis, reduces some of the gray areas and better serves the medical community.

Commissioner Malek summarized that there does not appear to be an issue with retail and cooperatives being near each other. He asked if the proposed ordinances are intended to address the issues that currently allow for medical marijuana to be distributed in the State or is it a hybrid of something that the State couldn’t quite get its arms wrapped around. Mr. Herzog answered that, as per the two ordinances, Medical marijuana can be purchased from retail businesses or obtained via cooperatives. The intent is to provide patients with access to medical marijuana from both angles.

Commissioner Moss-Thomas said she knows citizens in Shoreline who have basically formed a cooperative to provide medical marijuana to patients who do not have the physical means or ability to grow for themselves. These patients either help grow the product or contribute to the cost of growing the product. Most people she knows who use medical marijuana consume it as an edible, tincture, cream, etc., and more than half use it for pain as an alternative to narcotics. Making it into an ingestible form requires a more raw product than if you are smoking it.

Commissioner Montero said he understands that a 1,000-foot buffer might be too much, but he is concerned that eliminating the buffer zone in its entirety could result in abuse.

**THE MOTION TO AMEND THE MAIN MOTION WAS APPROVED 6-1, WITH COMMISSIONER MONTERO VOTING IN OPPOSITION.**

Commissioner Moss-Thomas noted that marijuana can be used in Washington State for both recreational and medical purposes. She referred to Table 20.40.160 (Station Area Uses), which indicates that cooperatives would be allowed in all station area zones, but retail, processors and producers would be prohibited. She voiced concern that this could create a hardship for people who use the product for medical purposes and must depend on a retailer because they do not have the ability to grow it themselves. These people may also be dependent on public transportation. She is not opposed to buffer requirements, but outright banning the use is not appropriate. She pointed out that, as currently proposed, medical office, nursing and personal care facilities are allowed in an MUR-70’ zone, with certain criteria. She questioned why processors and producers, who also have to follow state regulations, would not also be permitted in an MUR-70’ zone.

Mr. Cohen recalled that prior to the recent adoption of the Station Area Development Code, there was a long discussion and a consensus that smoke shops, arcades, and some other uses were undesirable in the station areas. To be consistent with this direction, staff recommended that marijuana retail, processing and producing should also be prohibited in the station areas.

**COMMISSIONER MOSS-THOMAS MOVED THAT TABLE 20.40.160 (STATION AREA USES) BE CHANGED TO ALLOW CANNABIS OPERATIONS-RETAIL, CANNABIS OPERATIONS-PROCESSER, AND CANNABIS OPERATIONS-PRODUCER AS PERMITTED USES IN THE MUR-70’ ZONE AND AS PERMITTED USES WITH CONDITIONS WHEN ADJACENT TO AN ARTERIAL STREET IN THE MUR-45’ ZONE. COMMISSIONER MAUL SECONDED THE MOTION.**

Commissioner Moss-Thomas suggested that all references to “marijuana” should be changed to “cannabis.” Secondly, she said that while she understands concerns that cannabis-related business might attract unsavory people, it is important to keep in mind that these businesses must follow very stringent State guidelines. They can also be lucrative and provide additional tax revenue for the City. She felt the product should be available to people living in the station areas who are unable to go to collectives. While retail uses would not be appropriate in residential areas, they should be allowed in the MUR-70’s zone, as well as the MUR-45’ zone when adjacent to an arterial street. The 1,000-foot buffer will ensure that the businesses are not clustered together.

Chair Scully said he does not support the proposed amendment. He recalled that in their discussions about the light rail station areas, the Commissioners talked about residential being the focus. In addition, they heard a lot of public concern about the types of uses that would be allowed. He felt that there are already a lot more allowed uses than what many of the citizens would want. He noted that the table could be changed in the future as the City gains more experience with cannabis-related businesses; but for now, he does not believe they know enough about the impacts to allow the uses in residential areas. Vice Chair Craft concurred.

**THE MOTION FAILED 1-6, WITH COMMISSIONER MOSS-THOMAS VOTING IN FAVOR OF THE MOTION.**

Commissioner Moss-Thomas referred to Table 20.40.130 (Nonresidential Uses) and asked if “collective gardens” would be eliminated. Mr. Cohen said the use would remain on the table for the time being but would be removed once the new state law becomes effective on July 1, 2016.

Commissioner Montero requested a definition for the term “processer.” Mr. Herzog said the State has defined this definition, but he does not have the exact language available. Generally speaking, it is one who takes the grown product and produces it into an edible, cream, solution, etc.

**THE MAIN MOTION, AS AMENDED, WAS UNANIMOUSLY APPROVED.**

Chair Scully closed the public hearing.

**STUDY ITEMS: Development Code Amendments – Engineering Development Manual and Light Rail Systems and Facilities, Permitting Process and Regulations**

**Staff Presentation on Proposed Amendments to the Engineering Development Manual**

Mr. Szafran explained that the language in Shoreline Municipal Code (SMC) 20.70.020 refers to SMC 12.10.100 for the processes, design and construction criteria, inspection requirements, standard plans, and technical standards for engineering design related to development. However, SMC 12.10.100 does not exist. The proposed amendment would change the reference to SMC 20.70.015, which is a new provision that will be added to the Engineering Development Manual. The proposed amendment would also strikes out all of the specifications of the Engineering Development Manual (Items A through G), which staff does not feel belong in the Development Code. A public hearing on the proposed amendment is scheduled for January 21, 2016.

**Staff Presentation on Proposed Amendments Related to Light Rail Systems and Facilities**

Director Markle explained that the purpose of the proposed amendments is to identify the development standards that would apply to the design of light rail facilities/systems and to create a permitting process to review and approve the design of light rail facilities/systems. She reminded the Commission that they discussed the proposed amendments in September, but staff delayed further consideration until additional staff analysis and coordination with Sound Transit could occur. While doing this additional analysis, staff found there was a gap in the City’s existing development regulations and the ability to apply said regulations to areas of the City that are not zoned and uses that do not clearly fall into design categories.

Ms. Markle explained that most of the land in which the light rail facilities/systems would be located is in un-zoned public rights-of-way that are not zoned. Because the City’s use table relies on a property’s zoning to determine where uses are allowed, the light rail use is essentially not allowed or would have to be interpreted by an administrative decision. In addition, the City’s current design standards are determined by the type of development (single-family, multifamily, and commercial). Because light rail facilities/systems will not fall cleanly into these development types, it will be difficult, if not impossible to determine what standards for development will apply. The proposed amendments are intended to identify where the light rail facilities will be allowed to locate and outline what regulations would apply.

Ms. Markle advised that the regulations are largely modeled after the commercial sections of the code. She recalled that the 185th Street Station Subarea Plan includes regulations and design standards specific to parking garages, which would fall primarily within the Mixed Use Residential (MUR) zones. However, the code is not clear if parking garages are located in areas that are not zoned. The proposed amendments clearly link the design standards to the light rail facilities, regardless of what zone they are located in.

Ms. Markle said it is also important to create a process that would apply when the existing regulations do not quite fit an essential public facility, such as the light rail facility. She explained that, currently, light rail facilities/systems are only allowed in the MUR zones with a development agreement. However, most of the light rail facilities/systems will be located on R-6 zoned property or in the right-of-way adjacent to R-6 zoned property and will not be able to comply with the current standards. In addition, Development Agreements do not allow for deviations from code standards that are necessary to allow light rail facilities/systems. For example, the stations and garages will exceed the 35-foot height limit in the R-6 zone. While the City could create an entire chapter that is devoted just to light rail facilities, staff is proposing to use the SUP (SUP) process as a mechanism to approve modifications from the Development Code. This will allow the City the ability to apply reasonable conditions for compatibility with adjacent land uses. The SUP process would allow for public comment, public notice and public hearing, as well as an appeal avenue for either Sound Transit or the public, if necessary.

Ms. Markle referred to information provided by the City Attorney and included in the Staff Report explaining the differences between the Development Agreement and SUP Processes and providing information about why the City must amend its current code to remove the Development Agreement process. She explained that the City currently uses four types of processes (or permits), and the actions are based on who makes the decision, the amount of discretion exercised by the decision-making body, the level of impact associated with the decision, the amount and type of public input sought, and the type of appeal opportunity. Development Agreements are legislative decisions, which are not typically associated with a specific project or a single applicant. Legislative decisions apply to area or citywide concepts. The permitting associated with Sound Transit light rail facilities/systems will be project specific, so the legislative decision-making process associated with a Development Agreement would not be appropriate. A quasi-judicial decision-making process is intended to be used for project-specific applications. It allows for discretionary judgment in the review of the applications and includes a public hearing and notice, as well as an appeal process.

Again, Ms. Markle said staff is recommending the SUP for siting light rail facilities/systems using the quasi-judicial process currently outlined in the Development Code, which identifies the Hearing Examiner as the review and decision-making authority. However, she acknowledged that there are other options, as outlined in the Staff Report, that the Commission could consider as a unique process specific to the siting of light rail facilities/systems.

Ms. Markle explained that the purpose of moving ahead with the proposed amendments is that Sound Transit will begin the design of Shoreline’s stations and garages sometime between January and March of 2016. Designers will need to know which development standards apply to the design in order to meet local codes. There must also be a process in place to allow light rail facilities/systems as a use in all zones in which they will be located.

Ms. Markle advised that the proposed amendments are scheduled for public hearing before the Planning Commission on January 21st, and it is anticipated the City Council will take action on February 29th. Additional amendments related to trees, parking, multi-modal access, and construction management will come before the Commission in early 2016. However, they are not crucial to the early design work and can be delayed to allow for more coordination with Sound Transit. These amendments will come before the Commission in February, with a goal of having them adopted by the end of April.

Ms. Markle requested feedback from the Commission regarding the proposed SUP Process, with the Hearing Examiner being the hearing body and decision maker. She also requested feedback on the proposal to use the commercial design standards as the starting point for regulating light rail facilities/systems, with the SUP being used to deviate from the standards if necessary to accommodate the essential public facility.

**Public Comment**

**Janet Way, Shoreline,** said she was present to speak on behalf of the Shoreline Preservation Society. She expressed her belief that the City Council should be both the hearing and decision-making body on matters related to the light rail station facilities/systems. She referred to the chart provided in the Staff Report to outline the different options and voiced concern that the cons that were listed for Option 3 (open record hearing before City Council) are a mischaracterization of the public interaction. The majority of the public comments have been extremely respectful, thoughtful and honest. She emphasized that Sound Transit coming to Shoreline is a big deal, and the public should have an opportunity and be invited to participate in the process. She felt Option 3 would be the best process for allowing this to occur. Another option would be for the Planning Commission to hold the public hearing.

**Planning Commission Discussion**

Commissioner Montero commented that the parking garage and station will have a fairly small footprint, and the process should be no different than for any other commercial development. Typically, when a SUP is required, the application goes before the Hearing Examiner, who takes public comment and makes the final decision. He does not believe the Planning Commission and/or City Council have the tools or the necessary background to make these decisions. It would also slow the process down considerably. Commissioner Moss-Thomas also voiced support for the SUP requirement, but said she does not yet have an opinion about which process model would be most helpful.

Chair Scully said another option would be to make light rail facilities/systems a conditional use within the existing zoning categories through which the light rail area runs and then rezone the un-zoned lands to R-6 and treat the development like any other structure. Commissioner Maul pointed out that the bulk of the issue will be the design of the station and garage, both of which would be located in the MUR-70’ zone. He said he supports using the commercial design standards as a starting place, with the flexibility to deviate as necessary via a SUP.

Commissioner Maul said it seems logical that there needs to be the ability for public input, and the Hearing Examiner process can be intimidating. He is not sure allowing the Hearing Examiner to make the final decision makes sense, and the application should end up before the City Council at some point. However, he cautioned against a process that takes longer than necessary.

Vice Chair Craft asked if it would be possible to do an overlay that would allow the City to use the Commercial Design Standards that have already been adopted. This could also include flexibility to deviate from the standards, as necessary. Chair Scully cautioned against creating a drawn-out process for a garage and station that should be treated like any other building. An open record hearing before the City Council will take considerable time, and it will not necessarily be a constructive process. He expressed his belief that the City can obtain better input from the public by simply having conversations rather than a legal proceeding.

Commissioner Maul commented that the Commercial Design Standards are good and could be directly applied to the design and construction of a parking garage, but the station may have other issues that need to be addressed via a SUP. Chair Scully concurred. Commissioner Moss-Thomas pointed out that the garage and station will be different than standard commercial development because they will generate a high volume of vehicular traffic that may not be adequately addressed by the existing parking standards for commercial design. She agreed that it is important to have citizen input, and she is concerned about having the Hearing Examiner make the final decision. While the station and garage will be commercial buildings, they will also be public facilities, which put them into a slightly different category than other commercial development.

Commissioner Mork referred to the chart listing the pros and cons of each of the process options and requested clarification about why the Council would be prohibited, under the Appearance of Fairness Doctrine, from discussing the matter with citizens or Sound Transit outside of the hearing process. Chair Scully explained that because the process would be quasi-judicial, the Council would be similar to a court, and everything that happens has to be on the record and no outside conversation would be allowed. He expressed his belief that the more formal the process, the harder it is to get citizens engaged.

Chair Scully suggested that another option would be to build criteria into the code for light rail facilities/systems, and then use the Development Agreement process for specific applications. Director Markle reminded the Commission that the City Attorney has advised against using the Development Agreement process. She emphasized that they are working on a different and larger public process with Sound Transit for the design of the station, which will start in January with a local event. This is a legislative type of process where citizens can talk about whatever they want in terms of how the stations, garages and facilities will look and feel. Sound Transit will conduct three open houses where they will show the station, garages and facilities at 30%, 60% and 90% completion and solicit feedback from the public. The City Council will be able to make a recommendation to Sound Transit by letter relative to the design based on citizen input.

Director Markle explained that using an overlay approach does not allow the City the ability to condition the project to address issues that may or may not be covered in the City’s existing code. It would be very difficult and time consuming to write language that would allow to the City to condition the project using current code. Chair Scully summarized that the overlay approach would be impractical given the timeframe. Director Markle said staff has spent considerable time exploring a variety of options with the City Attorney.

Commissioner Moss-Thomas said she supports a type of SUP process that would follow some type of standards, but also allow for some deviation. Sound Transit is planning to have a fair amount of public engagement and opportunities for open houses, and Planning Commissioners could attend and consider submitting their own comments to Sound Transit. The Planning Commission is not the group that knows all of the ins and outs of how to build a rail station effectively, and neither is the City Council. She would like the public engagement to continue, and the SUP allows the City to impose important conditions.

Commissioner Maul agreed that public input in the design process is important, and the SUP seems a logical tool to allow flexibility to take public comment on Sound Transit’s design and morph it into something that is a compromise. He asked if the station and garage projects could be approved by staff, just as any other building permit or design approval process. Director Markle answered that an “administrative review” was one of the options identified on the chart in the Staff Report. However, because an administrative procedure does not require a public hearing, staff is not recommending that option. Commissioner Maul asked if it would be possible to implement an administrative process that includes a public hearing.

Commissioner Maul summarized that it appears the Commission is supportive of staff’s recommendation to make the light rail stations and their facilities approvable in un-zoned areas, starting with the Commercial Design Standards as a foundation and using the SUP process to establish additional criteria. Commissioner Moss-Thomas said the bigger question is how best to engage the public in the process. While Sound Transit will have its own public process, what they take away from it may be different than what the citizens of Shoreline see as important. The City has no way of knowing if Sound Transit’s public process will be adequate to address the City’s concerns.

Commissioner Malek expressed his belief that Sound Transit’s public process should not exclude the City. Director Markle clarified that Sound Transit, as the applicant, would present its proposal to the hearing body and explain how it meets the criteria for an SUP that would allow it to deviate from the code requirements. The public would have an opportunity to participate and give testimony, as well. Regardless of who hears and decides the application, the public could still be engaged as much as they want to be. The question is whether the Hearing Examiner, Commission or Council should be the hearing body.

Director Markle recalled that after a lengthy discussion, the City Council decided to utilize the three public open houses that Sound Transit does for all of their projects at 30%, 60% and 90% design, as well as a Shoreline “kick-off” open house that would be led by City staff with support from Sound Transit. The City-sponsored event is scheduled for January 27th from 6:00 to 8:30 p.m. in the common area of Shorewood High School, and will provide citizens with an opportunity to share their ideas and concerns. The City’s open house will be followed by three open houses sponsored by Sound Transit, at which the designs will be updated and presented for additional feedback. Each of Sound Transit’s presentations will be followed by a three week comment period, and it is likely the City Council will write a letter to Sound Transit after each of the public meetings, outlining how the project does or does not meet the mark of the design principles.

Commissioner Moss-Thomas suggested that the Commission could host a public comment period following each of Sound Transit’s three presentations. She felt that citizens might be more comfortable presenting their concerns and ideas to the Planning Commission, and the comments received could help inform the City Council of what letter they would want to send to Sound Transit.

Director Markle briefly reviewed the SUP process and agreed to provide additional background information. She explained that the SUP typically occurs early before the design is set in stone, and the applicant is required to submit a preliminary site plan that identifies building squares, parking location, and the proposed uses. The applicant must identify the code requirements they cannot comply with and explain how their request for deviation is compatible with the decision criteria. The decision maker would then assess whether or not the application hits the mark. Staff will prepare a report that looks at the details of the application and provides information to the Hearing Examiner relative to how the application meets or does not meet the criteria and what conditions should apply. Staff usually works with the applicant to align on the conditions, but sometimes staff proposes conditions that the applicant finds onerous. The City should not lose sight of its opportunity to condition a project as necessary in order to provide buffers, amenities, etc.

Commissioner Mork asked what options are available if the final decision made by the Hearing Examiner does not address the City and/or citizen’s concerns. Chair Scully said the only option is to appeal the decision to the court. Director Markle emphasized that the SUP must occur early in the design process and typically takes place right after the 30% design, which will provide enough information for the Hearing Examiner to see where the buildings will be located, the type of landscaping, materials, parking, etc. However, staff is also working on a code amendment that would tie at least one of the subsequent permits to some concurrence by the City to ensure that the project meets the design guidelines to some degree.

**DIRECTOR’S REPORT**

Director Markle announced that the City is collecting applications for the Planning Commission until December 31, 2015.

**UNFINISHED BUSINESS**

There was no unfinished business.

**NEW BUSINESS**

**Terms Expire for Three Commissioners**

Chair Scully announced his resignation effective December 18, 2015. He encouraged those whose terms expire soon to reapply and continue to serve on the Commission. He also encouraged them to invite other citizens to apply for the vacant positions.

Commissioner Moss-Thomas asked if the City Council has provided any feedback on her suggestion that they appoint an alternate member to the Commission. Director Markle said she has not received any further direction.

**Last Planning Commission Meeting for Council Member Scully**

The Commissioners thanked Commissioner Scully for his service and leadership on the Commission and wished him success as he serves as a City Council Member. It was noted that Vice Chair Craft would serve as Chair until elections for new officers can occur.

**REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS**

There were no reports or announcements by Commissioners.

**AGENDA FOR NEXT MEETING**

There was no discussion about the next meeting’s agenda.

**ADJOURNMENT**

The meeting was adjourned at 8:50 p.m.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Keith Scully Lisa Basher

Chair, Planning Commission Clerk, Planning Commission